

学校编码：10384

分类号_____密级_____

学号：K1208020

UDC_____

厦 门 大 学

硕 士 学 位 论 文

电子商务中消费者隐私权保护研究

Research on the protection of the E-commerce
consumer information privacy

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论文提交日期： 2017 年 3 月

论文答辩时间： 2017 年 月

学位授予日期： 2017 年 月

答辩委员会主席： _____

评 阅 人： _____

2017 年 3 月

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内容摘要

我国电子商务势如破竹的发展带来了生活的更加便利，与此同时还伴随着消费者隐私信息的被不当泄露、随意利用、肆意篡改等问题，目前却无合法有效的手段予以规制，而且问题日趋严重，亟需引起全社会的关注。本文从阐述电子商务中消费者隐私权的概念出发，分析隐私信息范围及隐私权的内容及特征，辅以文献研究法、实例研究法和比较分析法，在研究国外较具代表性的欧盟、美国、日本保护策略的基础上，归纳总结保护策略的优劣及对我国的参考借鉴意义，同时立足我国电子商务中隐私权保护的实践，总结当前侵权主体呈现多元性、侵权行为增长趋势明显、侵权方式更加隐蔽等方面特点，剖析出现有立法保护、行业规制力度、消费者权益保护意识和维权能力、电商系统安全防护技术现有水平以及执法司法机关打击力度等方面的不足，并从完善相关立法、完善监管体系、完善技术支撑能力、提升消费者自我保护意识和能力，提出完善我国电子商务中消费者隐私权保护策略的对策建议。其中结合我国实际，在完善相关立法方面，提出明确电子商务中消费者和电子商务中消费者隐私权的概念、提高法律层级、推进立法精细化的建议；在厘清政府部门职能方面，提出理顺电子商务监管机制、制定个人信息保护国家强制标准、建立定时抽查巡检机制及咨询投诉举报体系；在推进电商行业自律方面，提出推动行业自律规范、建立电子商业网规体系、建立平台内检查监控、消费者纠纷解决机制以及推进行业诚信建设的建议。

关键词：电子商务；消费者；隐私权保护。

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ABSTRACT

E-commerce in China has brought more convenience for our life with its robust development, and meanwhile accompanied with a series of problems, such as customers' private information is improperly disclosed, abused and tampered randomly. There are few legal and valid measures to regulate, while such problems is becoming serious that should arouse concerns of whole society immediately. This paper states the concept of customers' private rights, and analyses the scope of private information and the characteristics of private information in terms of E-commerce with data analysis, instance analysis and comparative analysis assisted. Under the basis of studying comparatively representative protection tactics in Europe, the USA and Japan, the paper sums up the advantage and disadvantage of protection methods for our reference, and summarizes various infringement subjects, obviously increasing infringement trend and more hidden infringement methods. Moreover, it analyses different shortcomings in nowadays' legislative protection, regulation power in industry, the awareness of customers' private rights and their capability, present level of E-commerce system security protection techniques and crackdown power of law enforcement and judicial organs so as to propose proper suggestions for customers' private rights protection in our E-commerce by improving relevant legislation and supervision systems. In combination of reality in China, it proposes the concept of protecting customers and their private rights, enhancing legislative level, promoting explicit legislation in concrete E-commerce, improving technical supporting ability and enhancing consumer awareness and ability to protect themselves. In the aspect of clarifying governmental function of each sectors, it comes up with suggestions of specifying governmental supervision mechanism, setting up national compulsive standards, establishing timing spot check and routing inspection mechanism, consultation, complaint and report system. In terms of promoting electricity industry self-discipline, put forward to promote self-discipline standard system, establishment of electronic business network rules, establishing the platform monitor check, consumer

disputes settlement mechanism, and promoting the industry the good faith construction proposal.

Key word: E-commerce; Customers; Private rights protection.

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