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Research on the Disciplinary Management Behaviors of E-commerce Platforms — Taking Xianyu Platform as an Example

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Abstract. The punitive management behaviors of e-commerce platforms are unilateral, compulsory measures such as account suspension, function restrictions, and credit deductions. Using the Xianyu platform as an example, these behaviors fall into four types: property-based, conduct-based, reputation-based, and qualification-based sanctions. Their legitimacy derives not from public authority or private rights, but from a new "private power" rooted in contractual consent, data control advantages, direct authorization under China's E-Commerce Law, and the extension of public governance functions. However, platforms risk abusing discretion, lacking public participation, and facing inadequate supervision. To address these issues, a multi-dimensional regulatory approach should be adopted: standardizing standard clauses to ensure procedural justice, following digital due process to improve internal governance, and introducing external mechanisms like the proportionality principle, stronger administrative supervision, and proper judicial intervention. A dynamic balance between platform autonomy and user rights is essential for a healthy platform economy.

Keywords: e-commerce platforms, punitive management behaviors, private power, Xianyu platform, procedural justice

1. Introduction

As the digital economy grows, e-commerce platforms play an increasingly prominent role. By aggregating users and resources, platform operators use their rule-making power to gain dominance over other platform entities. Platforms both make and enforce market rules; this dual identity blurs the line between commercial and public actors and fuels disputes. In practice, internal rules like account suspension, function limits, and credit deductions materially affect users' property rights and business autonomy.

Yet judicial practice and civil law scholarship largely treat such punitive actions as "private remedies" rooted in commercial contracts. However, platforms' monopolistic control over data, along with advantages in algorithms, rule-making, and resource allocation, gives them de facto dominance over users. How to legally define this dominance, justify punitive actions, and protect user rights are urgent theoretical and practical challenges.

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2. Overview of platform punitive management behaviors

According to Article 9 Paragraph 2 of "E-commerce Law" the definition of an e-commerce platform includes the characteristics of neutrality, ofitability, publicness, dominance, and sharing. According to mainstream theories, the concept of platform punitive management behaviors can be summarized as: platform operators, by leveraging the platform's rule system, such as platform agreements and platform rules, impose unilateral, mandatory, and punitive behaviors on non-compliant users [1]. Specific features are as follows:

First, autonomy. The norms on which e-commerce platforms base their penalties are formulated by themselves, demonstrating the self-management authority of the platform as a private entity. Second, unilateral nature. The platform has the discretion to determine whether a user has violated the rules and what kind of punishment to impose. Users have no room for negotiation. Third, mandatory nature. Once the platform announces a penalty decision, it immediately has legal binding force on the user. Fourth, punitive nature. The adverse consequences imposed by the punitive measures exceed the "filling-in principle" of contract law and have dual purposes of sanction and warning. Fifth, public nature. Platform penalties fall within the scope of private autonomy, but they actually play a similar role to public supervision.

3. The source of the legitimacy of e-commerce platform punitive management behaviors

3.1. The characterization of the platform's punitive management rights

Exploring the legitimacy of e-commerce platforms' punitive management behaviors means examining their rights basis. The public/private rights dichotomy, based on political state vs. civil society, poorly fits the Internet era [2]. Platforms are neither public authorities wielding state violence nor ordinary private entities like companies. As profit-driven private actors, their dominance comes from technological architecture and data monopoly—termed "private power".

Public power is the state's monopoly on legitimate violence: "the state monopolizes the legitimate use of violence as a means of domination" [3]. It is backed by state coercion and derives legitimacy from constitutional and legal authorization. Platform punitive actions lack these features. Platform regulation of users stems from commercial agreement, not political delegation. Digital platform power arises from structural position and information advantages, not legal authorization [4]. Although platform disciplinary measures are mandatory, they lack the ultimate guarantee of state violence; non-compliant users are merely excluded from the platform. Therefore, platform disciplinary actions do not constitute public power.

Private rights are legal behavioral qualifications and freedoms, characterized by equality and negotiability. Rights holders may choose not to exercise their rights or may negotiate with the counterpart. In contrast, platform disciplinary actions are mandatory and non-negotiable. The platform has discretion to determine violations and penalties, leaving users no room for negotiation. The adverse consequences exceed the "compensation principle" of contract law and serve dual purposes of punishment and warning. When facing such measures, users cannot change the outcome through negotiation and must passively accept it.

Platform power belongs to private power. Max Weber defined power as "the probability that a certain actor within a social relationship will be in a position to disregard the opposition of others and implement his own will [5]." "Private" means the power holder is a private entity; "power" means it can impose dominant actions on others. In form, platforms exercise "quasi-legislative", "quasi-administrative", and "quasi-judicial" powers, shaping an organized private order. In means,

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platform governance is unilateral and coercive. In actor, platforms are profit-driven commercial organizations. Therefore, platforms' punitive management behaviors are neither public power nor private rights, but a new type of private power.

3.2. Contract and user concession

First, platform management authority over users derives from signed service agreements. When registering, users must accept platform-provided agreements such as the "Xianyu Community User Service Agreement" and "Xianyu Community Management Regulations". These agreements are unilaterally drafted by the platform, repeatedly used for unspecified users, and non-negotiable—falling under "standard terms" as defined in Civil Code Article 496. Such rules are legally binding if they do not violate mandatory laws or public order and morals, and if the platform has fulfilled reasonable notice and explanation obligations. Platforms typically present agreement links via checkboxes or pop-ups, requiring users to "Read and agree" before use. A user's click of "agree" constitutes acceptance, forming a service contract.

Second, the contractual relationship also arises from user demands. When users find that others' content on the platform infringes their legal rights, they may file a report. To maintain user trust, the platform must promptly take measures to mediate such disputes. If content infringes intellectual property, personality rights, or other lawful interests, the infringed party may notify the platform to remove it. After taking reasonable and necessary actions promptly, the platform may be exempted from corresponding joint liability.

3.3. Platform's data control advantage

The rapid development of the digital economy has made data a new production factor besides land, labor, and capital. Platforms, relying on their technological advantages, collect, store, and analyze a large amount of user data, which can directly influence and control users' behaviors, and can also directly take certain actions against users through algorithms. This has become a de facto dominant force. This data control advantage provides the source of power for platforms to implement punitive actions.

First, data collection. The collection of user data by platforms is usually based on the "clicking to agree" of the privacy policy or user agreement by users. Once users click to agree, the platform has the right to collect their identity information, location information, transaction records, browsing history, chat content, etc. Based on this continuous and comprehensive data collection, platforms can monitor users' behaviors in real time, identify violations, and make disciplinary decisions. Therefore, the right to data collection constitutes the factual premise for platforms to exercise disciplinary power.

Second, data analysis. Data analysis technology enables platforms to transform scattered and fragmented user behavior data into discretionary judgment bases. More and more social activities will be collected, captured, and recorded as data, and then classified, stored, and processed by digital systems [6]. By comparing and analyzing historical data, the platform can identify activities such as fraudulently soliciting orders and reviews, false transactions, and malicious refunds; by analyzing user profiles, the platform can make differentiated treatments for first-time violations and repeat offenders, as well as intentional and unintentional violations.

Third, data blocking. Platforms can technically restrict access, capture, and use of data by users and third parties, thereby achieving exclusive control over data resources. Courts often rule that using technology to capture others' data harms interests and disrupts market order. In Dianping v.

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Baidu, the court held that Baidu's use of search technology to capture and fully display Dianping's information beyond the necessary limit violated the balance-of-interests principle; such conduct may deter market entities from investing in information collection, disrupt the normal industrial ecology, negatively affect competition order, and potentially harm future consumers [7]. Thus, platforms' restrictions on data capture reflect their power of data blocking.

3.4. Direct authorization from the "e-commerce law "

Firstly, the law's protection of the intellectual property rights of platform enterprises provides a legitimate basis for their exercise of management rights. "The collection of platform data, the design of algorithms, and the operation of the platform all highly rely on digital technology. Most of these digital technologies involve intellectual property and trade secrets. To prevent real risks such as data privacy leakage, technical plagiarism, and copyright infringement, laws and regulations will protect the 'legal monopoly' of digital platforms within reasonable limits."

Secondly, the law grants the platform specific management authority, providing a direct basis for its exercise of such authority. Article 29 of the "E-commerce Law" stipulates that if an e-commerce platform operator discovers that the commodity or service information within the platform is in violation of the law, "they shall take necessary measures in accordance with the law and report to the relevant authorities". This authorization for such measures enables the platform to implement penalties such as warnings, removing products, restricting business operations, and even closing accounts for users who violate the rules. The nature of these measures is no longer merely private law autonomy but rather takes on some aspects of public regulatory functions. Moreover, this article only grants the platform management authority in specific circumstances, and such authorization is limited, only targeting specific illegal situations, rather than providing a general authorization and recognition for the platform's disciplinary management actions.

3.5. Extension of public governance functions

Firstly, from the perspective of government governance, the legitimacy of the platform's disciplinary power stems from the supplementation of government governance of digital platforms. In the context of continuous technological iteration and upgrading, constrained by factors such as technological reserves, human resource allocation, and financial strength, government departments' regulatory and governance capabilities for digital platforms have shortcomings. Based on this issue, the government, through the promulgation of administrative regulations and the formulation of departmental rules, moderately delegates some regulatory responsibilities to digital platforms, allowing them to fulfill the management and supervision duties of platform users. Leveraging its technological advantages and data control capabilities, the platform can identify problems at lower costs and solve them flexibly.

Secondly, from the perspective of economics, the legitimacy of the platform's disciplinary power is also reflected in the correction of market negative externalities. In the absence of platform control, platform operators may pursue maximum profits through activities such as fake orders, false reviews, and dissemination of false information, while consumers, due to information asymmetry, have difficulty controlling transaction risks in advance. Such factors can easily lead to situations where the platform undermines market order and fair competition. The platform exercises its disciplinary power to internalize negative externalities, making the violators bear the costs of their actions, thereby maintaining the overall transaction order.

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4. Potential risks of punitive management behaviors in e-commerce platforms

4.1. Platform abuse of discretion

During the implementation of punitive management behaviors, platforms enjoy considerable discretionary power, covering aspects such as identifying violations, assessing the severity of the situation, and choosing disciplinary measures. If this discretionary power lacks regulation by rules and procedures, it is prone to lead the platform to make decisions unfavorable to users, thereby infringing upon their legitimate rights and interests.

First, platform rules contain uncertain content. They include many undefined legal concepts, with interpretation rights held by the platform. Users can hardly determine the boundaries of their conduct or fully understand the terms. Some platforms may exploit this ambiguity to retain broad rights and extensive interpretive discretion. On Xianyu, vague terms like "serious circumstances" and "extremely negative impact" appear repeatedly, and the platform solely controls the specific standards. For example, harassment is divided into "general", "serious", and "extremely serious" levels, yet the platform provides no criteria for what constitutes each level. In practice, the interpretation of these vague concepts and the discretion to judge conduct naturally belong to the platform. To protect its own interests, the platform tends to make interpretations and decisions favorable to itself, potentially harming users' rights.

Second, the enforcement basis of platform rules is opaque. When enforcing rules, the platform relies on backend data and internal judgments to identify violations and impose penalties. The specific basis is not disclosed to users. Upon receiving a penalty notice, users are often told only that "a certain rule has been violated", without knowing the facts found by the platform or the completeness of the evidence chain. On Xianyu, Section 7 of the Regulations states that for "selling counterfeit or pirated goods", the platform may "based on common sense, judge and handle through product information and transaction vouchers". The "common sense" standard is highly subjective. The platform's cognitive and judgment process, logic, and basis remain unknown to users, let alone enabling them to raise valid defenses.

4.2. Absence of public participation

The formulation and revision of platform rules have an attribute of quasi-legislation, directly affecting the rights and obligations allocation of users within the platform. However, currently, platforms lack effective public participation mechanisms in the process of rule formation, making the rules reflect only the unilateral will of the platform and having problems of procedural legitimacy deficiency.

When platforms formulate or revise rules, they often lack transparency and do not disclose or fully disclose relevant rules, resulting in users and other stakeholders being unable to understand the operating rules and decision-making basis of the platform [8]. Article 34 of the "E-commerce Law" stipulates: "When an e-commerce platform operator modifies the platform service agreement and transaction rules, it shall publicly solicit opinions on its homepage in a prominent position, and take reasonable measures to ensure that all parties can express their opinions promptly and fully. The modified content shall be publicly displayed at least seven days before implementation." However, the notification procedure can only guarantee users' right to know, but not their right to participate. Even if users raise objections, the platform has no obligation to adopt them.

The platform service agreements are all drafted and modified by the platform operators unilaterally. Even if consumers and e-commerce operators are required to give up their rights and

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bear additional obligations, they have no choice but to comply [9]. If the user selects "Reject and Exit", it means giving up the cost of data accumulation on the platform. For users who are highly dependent on the platform, the exit cost is too high, and in fact, there is no real freedom to refuse.

4.3. Inadequate supervision

When exercising disciplinary power, the platform combines fact-finding, rule interpretation, and penalty decisions without effective oversight, making it easy to abuse private power without timely correction. Externally, market regulators under the "E-commerce Law" focus mainly on platform qualifications and consumer complaints, rarely intervening in specific user penalties. Cyber information authorities manage online content but lack clear review power over disciplinary measures. The industry and information department oversees the internet industry but cannot assess the substantive legitimacy of platform actions. Though multiple departments appear to provide comprehensive oversight, each covers only a fragment, leaving platform disciplinary management a regulatory blind spot.

Although the Xianyu platform sets an appeal channel, the regulations clearly stipulate that "if the appeal is overdue or the appeal is not accepted, the violation handling will not be suspended or revoked", users still need to bear the disciplinary measures that have been made during the appeal period, which is actually "penalizing first, then providing relief later". Even if there are contractual, self-governing norms, and legal authorization norms as the basis, legal power may still be abused due to the unequal relationship formed by the power of fact [10]. In terms of rule enforcement, this contradiction manifests as follows: The platform acts both as the enforcer of the rules and the arbiter of disputes, making it difficult to achieve effective supervision.

5. Regulatory approaches for punitive management actions by e-commerce platforms

5.1. Regulating standard clauses

The basis for punitive management actions by e-commerce platforms is the user agreements and management rules formulated unilaterally by the platforms. These agreements and rules are "pre-drafted for repeated use" and are considered as standard clauses. Although standard clauses help improve transaction efficiency, their unilateral nature and non-negotiability raise doubts about the legitimacy of the punitive management actions of e-commerce platforms. Therefore, they should be regulated in terms of their formulation and implementation.

Platform rules and user expression forms may restrict users' free will, and rules may improperly exempt platform liability or increase user burdens. To address these issues, standard clauses can be regulated as follows: First, strengthen procedural justice in rulemaking. Platform rules should be formulated and modified through effective user participation. For important rules, listen to and respect public opinion and establish democratic safeguards. For modifications of standard clauses, add content to "enhance the consensual nature of the standard clauses and reduce their power [11]." Second, improve the presentation of standard clauses. Network companies should enable users to read clauses, not just see them. They can design varied forms and require specific consent—e.g., users click "agree" after each commitment, avoiding blanket consent from a single click [12]. Third, conduct judicial review of standard clauses. Courts should apply public law principles to assess clause rationality. If a platform fails to follow basic procedural justice or clearly violates substantive justice like proportionality, courts should actively seek substantive legal grounds and rule in favor of

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users. Using judicial decisions' signaling function, courts can define the boundaries of platform rule validity and guide platforms to regulate rule-making.

5.2. Adhering to procedural justice

Effective internal governance is an important source of the legitimacy of platform power and is also the fundamental way to prevent and reduce the abuse of punitive power. Platforms should establish fair, transparent, and predictable governance rules and punitive procedures to protect user rights, win user trust, and achieve sustainable development.

Firstly, in the formulation of rules, platforms should follow the principle of democratic participation to ensure the openness and democracy of the rule-making process. Article 32 of the "E-commerce Law" stipulates: "E-commerce platform operators shall follow the principles of openness, fairness, and impartiality to formulate platform service agreements and transaction rules." Article 34 stipulates: "E-commerce platform operators shall publicly solicit opinions when modifying platform service agreements and transaction rules." When formulating or modifying rules that affect users' core rights and interests, platforms should provide users or merchants with online channels for participation, and publicly disclose the voting or proposal results of the rules in real time, so that public opinions can be truly respected and reflected. Platforms should also enhance the transparency of the operation of platform private power and choose effective information disclosure channels to accept public supervision.

Secondly, regarding punitive procedures, platforms should adopt digital due process as a procedural safeguard to limit platform power. Article 36 of the E-Commerce Law requires platforms to promptly publicize measures such as warnings, suspension, or termination of services taken against violators under platform rules. To prevent abuse of platform power, strict due process obligations must be established. Parties should have the right to participate in the exercise of platform public power to ensure legitimate outcomes, including the right to a hearing and to present a defense. Before an adverse decision is made, the platform must hear the parties' views. Moreover, the exercise of digital public power should be transparent. In public power contexts, algorithm transparency is essential to protect parties' basic rights such as equality and freedom. Core elements include disclosing algorithms' basic principles and ensuring they are comprehensible to stakeholders. Additionally, parties should be granted rights to algorithm explanation and refusal.

5.3. Strengthen external supervision

Since the platform and the users are in an unequal position in fact, applying private law cannot fully regulate the platform's private power. Moreover, as a public infrastructure, the platform actually undertakes the public function of maintaining the order of the online market, and the disciplinary power it exercises has unilateral, mandatory and dominant characteristics, similar to the exercise of public power. Therefore, principles of public law can be borrowed to regulate the platform's private power.

Introduce the principle of proportionality. In civil legal relationships, if the positions and strengths of both parties are significantly different, the party in a disadvantaged position cannot truly exercise autonomy of will. At this time, the principle of proportionality can correct the unbalanced rights and obligations relationship and achieve substantive justice [13]. The principle of proportionality is divided into the principle of appropriateness, the principle of necessity and the principle of balance. The disciplinary management measures of the platform should have necessity, and the damage caused to the users should be controlled to the minimum extent. At the same time,

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the protection of users' rights and interests should be guaranteed while achieving the regulatory goals.

First, the principle of appropriateness requires platform disciplinary measures to help maintain order and transaction security. For example, removing products or deleting information for false postings directly eliminates falsehoods and ensures information authenticity—meeting appropriateness. Second, the principle of necessity (minimal harm) requires choosing the least harmful measure among available options. For first-time, non-malicious minor violations, warnings should precede account suspension. Yet platforms often impose "one-size-fits-all" penalties for efficiency and deterrence, risking violation of necessity. Finally, the principle of balance requires severity of measures to match violation severity. When judging proportionality, courts must separately consider protected versus infringed interests. If a platform protects other users' personal interests without special legal provisions, disadvantaged users should in principle receive more favorable protection.

Strengthen administrative supervision. In the face of the expansion of the platform's private power, the government should play its role in safeguarding public interests. The strengthening of administrative supervision is an important public law path to regulate the platform's disciplinary management behavior. Different from the post-event relief of the judiciary, administrative supervision has the characteristics of pre-emptive prevention and in-process control, and can more effectively restrain the exercise of platform power.

For public tasks in platform governance, direct government regulation consumes huge resources and is largely ineffective. Thus, administrative authorities should innovate supervision methods, shifting from direct intervention to "meta-regulation", that is, the regulation of regulation, which means that "the government through certain measures makes the process of self-regulation subject to its re-regulation." Specifically, the government should not directly set detailed disciplinary standards for platforms but require them to establish internal governance structures aligned with public law principles. For example, regulators may require platforms to file their disciplinary rules for review, assess their reasonableness, or conduct regular spot checks on disciplinary data to detect abuse. This approach respects platform autonomy while ensuring disciplinary actions serve the public interest.

Moderate judicial intervention. For platform's abusive private power-based disciplinary management behaviors, the court should act as a defender to safeguard the legitimate rights and interests of users. To maintain the stable operation of the platform economy and its vitality, and to reduce the burden and costs brought about by excessive public power intervention, judicial and administrative intervention in the platform economy should be restrained. However, relying solely on market regulation has the risk of failure and is difficult to curb the abuse of private power by platforms. "Private entities are increasingly fulfilling traditional public functions while escaping the strict scrutiny usually associated with the exercise of public power [14]." Therefore, the court should conduct necessary judicial review of the platform's exercise of private power.

First, judicial intervention should be limited. Courts should respect platform rules based on commercial judgment and selfgovernance. However, when rule formulation or implementation "does not follow basic procedural justice standards or clearly violates substantive justice standards such as the principle of proportionality", courts must actively intervene to evaluate legality and rationality. Second, review should focus on three aspects: first, content legality – whether rules violate mandatory laws, improperly exempt the platform from liability, or unduly burden users; second, content rationality – whether rules are objective, moderate, reasonable, unilaterally allocate rights and obligations, or improperly exploit the platform's control position [15]; third, procedural legitimacy – whether the platform fulfilled basic duties like public consultation,

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announcement, giving reasons, and appeal notification. Finally, when disciplinary actions implicate public interests, procuratorial organs may file public interest litigation. The Haidian District People's Procuratorate held that WeChat's youth mode violated the "Law on the Protection of Minors", infringed minors' rights, and legally supported a public interest lawsuit. This exploration offers a useful reference for regulating platform power via public interest litigation.

6. Conclusion

E-commerce platforms' punitive actions are essentially the exercise of "private power" rooted in data and rule advantages. A case study of Xianyu shows that this power risks abuse in both rule-making and execution. The root cause is the lack of procedural internal governance and external oversight. Thus, a multi-dimensional regulatory system should combine private law, public law, and internal governance. Private law provides a basic framework; public law offers value guidance to correct power imbalances; and improved internal governance internalizes the rule of law into platform operations. Only a dynamic balance between platform autonomy and user rights can lay a solid legal foundation for a healthy platform economy.

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