

The Investigation about How to Protect the Internet Insurance Consumers' Rights and Interests

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Abstract. The protection of insurance consumers' rights and interests has always been a subject of concern to the supervision departments and experts. In recent years, some progress has been made in the protection of the insurance consumers' rights and interests in China. However, with the vigorous development of internet insurance, it is especially necessary to protect the rights and interests of the insurance consumers. This paper analyzes the status quo of the protection of insurance consumers and the main types and causes of the infringement of the consumers' rights and interests, and further expounds the measures to protect the internet insurance consumers' rights and interests. Only protecting the rights and interests of internet insurance consumers can promote the healthy development of internet insurance, which is conducive to the sustained and steady development of the insurance industry in China.

The Definition of Internet Insurance Consumers and the Current Status of Their Rights and Interests Protection

The Definition of Internet Insurance Consumer. Being different to the traditional agent model, the internet insurance is an emerging model by using the internet as a marketing and sales channel. It refers to the economical behavior of insurance companies or new third-party insurance websites in terms of operation and management by using internet and e-commerce technology as a support tool to provide their services such as insurance information consultation, insurance planning, application, payments, underwriting, contracting, insurance information inquiries, preservation changes, renewal payments, as well as claims and claim payment and so on. In recent years, the internet insurance premium income rises rapidly, for instance, in 2016, 117 insurance organizations carried out the internet services, and the contracted premium reaches 234.797 billion. [1] Since the flourished development of the internet insurance relies on the strong support from internet consumers, the internet insurance needs to protect the consumer rights and interests so as to make its future brighter.

Referring to our existing state law, the internet insurance consumer can be defined as a natural person, a legal person or other organizations as they use internet platform to consume insurance products and services including insurance contracting and payment provided by legal insurance operators, they could be applicants, the insured, and beneficiaries except those who can negotiate the premium or revise the contract clauses with insurance companies. According to the new version of "Consumer Rights and Interests Protection Act", "insurance consumers" only refer to the individual who consume and accept insurance services for their living needs, therefore, a legal person, other organizations and the individuals who consume investment insurance products are also included, which widens the range of insurance consumers to be accordance with the range of complaint acceptance defined in "The measures of Insurance complaints management". The article 4 in "Financial Consumer Protection Act" issued in Taiwan area says "the definition of financial consumer in this act refers to the

individual who receives the financial products or services provided by financial industry, and excludes the following two types of individuals, namely, professional investment organizations and some nature or legal persons who obtain certain capital capability or professional skills.” Therefore, we can define the internet consumer as following: the internet consumer refers to the individual, except the professional investment organization and some nature or legal person who obtains certain capital capability or professional skills, who receive the internet insurance products or services provided by insurance companies. [2]

The Current status of Insurance Consumer Rights and Interests Protection. As the fact that the insurance product is an operational- risk product, the insurance company operation needs scale effect to meet law of great numbers and spread risk. The current commission system induces part of insurance agents to mislead the insurance applicants and exaggerate the insurance product benefits with untrue promises for the sake of their own. Meanwhile, the smaller insurance companies with weaker strength expand blindly, their own capacities can’t match the business scale growth, and the after-sales services are not good enough, all those factors cause it hard to guarantee the applicants’ benefits effectively, and damage the consumer’s confidence on the insurance products and the companies, even this industry. Therefore, it is the biggest barrier for insurance industry development to damages the applicant’s benefits severely.

In the version of insurance law revised in 2009, a number of clauses regarding consumer rights and interests protection are added. In order to protect the consumer rights and interests, and further more to promote the healthy and steady development of the insurance industry, the insurance inspection bureau takes a series of measure as following:

On October 14, 2011, China insurance regulatory commission officially sets up the bureau of insurance consumer rights and interests protection.

On January 7, 2012, in the national insurance inspection working conference, the chairman of China insurance regulatory commission addressed there still exists “the three disagreements” in the insurance industry. He says in order to optimize this situation, the insurance industry should emphasize and promote the insurance inspection, prevent the systematical and regional risks, improve the service quality and the image of the insurance industry.

On January 18, 2012, China Insurance Regulatory Commission issued “the Notification of Guaranteeing Insurance Consumer Rights and Interests”, which sounds the trumpets for solving the difficulties related to auto insurance claims and life insurance sales misleading.

On April 26, 2012, China Insurance Regulatory Commission initiates a hotline for consumer complaints with the phone number 12378 to establish a quick and convenient channel for insurance consumer to make complaints.

On November 14, 2014, in order to further promote the work of insurance consumer protection, China Insurance Regulatory Commission formulated “The Opinions of Strengthening the Insurance Consumer Rights and Interests Protection”.

On May 19, 2015, China Insurance Regulatory Commission carried out an operation named “Showing Swords Operation” and notified the typical cases in the operation.

On May 15, 2017, China Insurance Regulatory Commission issued “the Notification of continuing to carry out showing swords operation for striking the behaviors damaging insurance consumer rights and interests”, and gathered the strength to prevent the behaviors damaging insurance consumer rights and interests.

In order to improve the insurance service, the public images of insurance industry to consumers, and protect consumer rights and interests, China Insurance Regulatory Commission and all local insurance regulatory bureaus actively implement this operation, and carried out a series of new actions rapidly.

Those actions include insurance knowledge education, further information disclosure, smooth complaint channels, better investigation and handling mechanism, more powerful inspection and punishments and so on. However, the show in consumer minds is not easy to be removed in a short of time, it's still a tough task to eliminate the phenomenon that consumers are not satisfied with this industry.

The Main Types of internet Insurance Consumer Rights and Interests Violation

Insurance Consumer Private Information Violation. The 29th clause in newly issued "Consumer Rights and Interests Protection Act" shows it's the first time that our government confirmed the consumer enjoys their personal information rights. From the civil law's perspective, the internet insurance consumer's personal information rights include four aspects as following: the right to know, the right to decide, the right to control, and the right to claim. To be more detailed, the first right is to identify the collecting way, range and purpose for personal information; the second right is the consumer can accept or refuse their personal information to be collected; the third right is the consumer has the right to control how their personal information be used; and the fourth right is the consumer has the right to claim the legal protection when their personal information right are violated. By big data mining and analysis, the business process of the internet insurance is established with the internet characteristics. While for the reason that the internet has its own defects, and there exists a number of potential technological security risks such as the virus attacks, and hacker attacks, therefore, in all process of personal information transferring, saving, and usage on internet, it always has the risks of information leak and lose. If there's any problems during the internal management, the employee can steal the customer's information by intranet easily, which makes the internet insurance to bring great challenges to the insurance consumers.

The Insurance Consumer Knowing Rights Violation. Because the insurance products contain a lot of professional terminologies which are not understandable easily even if the important words are explained specially in details, it's still quite hard for the ordinary consumer to fully understand their meanings. In the traditional way, the sales can explain to the consumer face to face, but in the internet environment, the insurance consumer make deals with the insurance company via the internet platform in which the product introduction and transaction process are preset, therefore the information about the product is standard and simple, which limits insurance consumer to get more knowledge they might be interested. As the development of the mobile terminal, it brings the customer more convenient service experience, and at the same time, due to the insufficient product presentation in the limited web pages, it hinders the customer to learn about the product information fully. Meanwhile, there're other even more challenging problems also damaging the consumer's right of information, for example, the prospective earnings of the investment insurance products are exaggerated as their uncertainty are hid instead; the cancellation fee of insurance and hesitant-period notification are not informed clearly; and the customer are induced to purchase unsuitable products and so on.

Insurance Consumer Free Choice Right Violation. In the financial service field, the consumer are more and more demanding personalized and humanized products, which makes the 24-hour online bank quite popular. However, the business object of insurance industry is risks which embody a kind of uncertainty, and is also different to the same or different people in the different period of time or environment. In the traditional way of sales, the risk can be handled much easier by face to face sales cause the sales can react quicker and easier according to the customer personal situation. Meanwhile, the internet insurance fully relies on the information provided via the internet, which causes it hard to identify the reliability of the collected information, and also make it unrealistic to require only one side being honest. [3] At the same time, one preset insurance product is sold in the entire country; it can't

cater to different demands from different groups of people, and ignores their interests.

The Cause Analysis of Insurance Consumer Rights and Interests Violation

The Defection of Law. It exits the imbalance between the rapid development of insurance industry and the relevant regulations are behind the social needs. Since the reform and opening-up policy was implemented, the insurance industry, as an important service industry in tertiary industry, has been keeping rapid growth, as well as the premium income. However, some unpleasant issues appears increasingly such as the misleading during the insurance product sales and the claim issues between the insurance applicant and the insurance company, which damages the consumer rights and interests significantly. However the reality is the relevant law and regulations issued by the government are far behind the social needs, and the systematic protection mechanism is still needed to be improved, for instance, the current version of “Consumer Rights and Interests Protection Act” excludes the insurance consumer. The insurance issue mainly occurs in the process of sale, underwriting, conservation, settlement of insurance claims, therefore the insurance inspection bureau issued a series of regulations to protect the consumers, however the all kinds of regulations appear in different files, which lacks the systematisms and integrity, which makes it difficult for consumers to utilize the relevant regulation in a fast and efficient way to protect their rights and interests. Meanwhile, all sorts of organizations and bureaus, such as the bureau of consumer rights and interests protection and the insurance industry association, were established quite late and have insufficient experience and operation instructions, which in fact makes negative impact on the protection of those rights and interests.

The Extensive Operation of Insurance Companies. In the times of planned economy, the insurance subject was quite simple and sole, therefore the operation target and behavior of insurance companies had the strong characteristics of planning with few attention to protect the consumer rights and interests. After that, insurance companies operated the commercialization of restructuring, as a result, the insurance object increases gradually, the competitive mechanism is formed as well, and insurance companies gradually pay more attention to the protection of their consumer rights and interests. Nevertheless, most of insurance companies still run their business in an extensive way, due to the rapid increase of insurance objects, the diversification of their ownership structure and types, and the dog-eat-dog market circumstances, part of insurance companies hold the business concepts of pursuing short-term profits and pay excessive attention to the speed and scale of business development. With the business orientation that premium is first, two major phenomena appear. First, the problems include the performance evaluation index are mainly about the premium income, the internal management control has defects, and the service doesn’t meet the standard. Second, the product design is not innovative, and the product homogenization phenomena occur quite commonly, products provided don’t meet the demand by consumers, and the product design is not reasonable, for example, the improper clauses about insurance liabilities, exclusions and compensation process make the insurance coverage limited and exclude part of liabilities, which directly violates the consumer rights and interests.

Wrong Concepts and Misunderstanding from Consumers. Insurance is to make people’s life better. By suitable arrangements, consumers can enjoy the benefits such as reasonable life plan, security, health, and earnings and so on; it’s a way to prevent the changes in life more than to change the life itself. Unfortunately, many consumers misunderstand the meaning of insurance and think insurance can meet all their demands, which means they are aware what they need actually. In other words, such insurance is based on irrational expectations that the insurance earning is as high as that of stocks and its risk is as less as that of deposit, which cause many issues in the claim phase.

Meanwhile, consumers have limited knowledge about insurance and related state regulations, as

well as the complaint handling process, which leads to ineffective protection for their rights and interests, for example, some consumers claim the rejection explanation by insurance companies isn't reasonable, and it's an excuse instead of a true reason for the sake of the insurance company, but in fact, the most common issue is like this: for the insurance consumer didn't fulfill the duty of disclosure when they sign the insurance contract, which leads to a result that the insurance company rejects their claim according to the contract, some consumers don't follow the legal process of complaints handling, instead, they claim the insurance company is not honest and trustful and even take some irrational actions to protect their "rights", which definitely harm the rights and interests of their own and also the social reputation of the insurance company.

The Lack of Punishment System for Good Faith Violation. Good faith principle is the fundamental base for insurance industry development, which is determined by the characteristics of insurance itself, and it should be top priority and fully applied in highest standard. But to be frankly speaking, there indeed exists some unpleasant phenomena in the progress of this industry such as the cheat and misleading, untrue propaganda, violation of promises, bad services and so on, which surely damage the insurance consumer rights and interests. Meanwhile, the concepts and value orientation held by inspection bureaus are far behind the reality, one common question is which side they should protect when the insurance consumer complaints the insurance company. In the end, due to all those unpleasant problems, namely, the sales misleading, barriers of claims and obstacles of complaints, the reputation of insurance industry was damaged significantly and the public trust for this industry was fading away. The root cause is the lack of punishment system for good faith violation, which causes the insurance companies with good faith and operating legally don't get motivated and make profits, in the contrast, the punishment for those unfaithful insurance companies are quite inessential while their unfaithful business operations bring huge profits, which causes the cost of faithful behaviors is far more than the cost of unfaithful behavior. As a result, some insurance organizations and their employees hold a ignorance attitude on the management of unfaithful behaviors, which disturbs the insurance market environment, damage the rights and interests of consumers, ruins the reputation of insurance industry and its employees, far worse, implicate the healthy and sustainable development of this industry.

The Specific Counter-Measure for Protecting the Internet Insurance Consumer Rights and Interests

In order to fulfill the targets by 2020 raised in the file named "The State Council's Multiple Opinions about Promoting the Development of the Modern Insurance Service Industry ", it's important for insurance companies to set internet insurance business as their key pillar during the progress. Meanwhile, it also faces the competition among the insurance companies and the competition between the insurance industry and other financial sectors, such as banking, securities, and trust business. Only by taking tangible actions to protect their internet consumer rights and interests, the internet insurance companies can enjoy the strong support from their consumers. Based on the cause analysis about the internet insurance consumer rights and interests violation, several counter-measures can be deployed as following:

The Improvement of law system and Internet Insurance Consumer Rights and Interests Protection Mechanism. Based on the characteristics of insurance consumer rights and interests protection and the core principle of protecting the consumer rights and interests, the government revised "Consumer Rights and Interests Protection Act", which defined the relevant regulations in terms of legislation. On the other hand, the government can learn from other country's experience in this area and formulate a specific law, for example, "The Financial Consumer Rights and Interests Protection Act". The objective is to change the situation of information asymmetry between the

insurance companies and insurance applicants, to make clear definition about all aspects which may damage consumer rights and interests, and to improve the legislation feasibility based on the characteristics of this industry. Furthermore, the government can issue the relevant judicial explanation about the insurance consumer rights and interests protection regulated in “Insurance Law”, raise the legal liability of insurance consumer rights and interests violations, and improve the legislation of insurance consumer rights and interests protection, meanwhile, the government also can summarize the regulations and files issued one after another concerning the insurance consumer rights and interests protection based on the insurance business process so as to facilitate the judicial practice. On July 22, 2015, the government issued “The Temporary Management and Inspection Measures about the Internet Insurance”, which is undoubtedly a beneficial news for internet insurance consumers.

The Transformation of Insurance Company Development and the Protection Measures for Internet Insurance Consumers. The decision-making management should abandon the obsolete development concepts that growth equals to development, and adopt scientific development concepts that mean the insurance companies put more emphasis on consumer rights and interests protection, as well as plan and execute long-term development strategy. Meanwhile, the insurance company should consider those performance indexes in greater portions, such as the service quality, customer complaints, and unfaithful behaviors and so on, to have more harsh punishment. In order to deploy a tangible punishment system, the insurance company, especially all local branches, should identify the clear punishment standard involving the relevant employees who violate consumer rights and interests, and set up a series of regular inspection plan to check and follow the status.

There’re three aspects for insurance companies to take considerations. First, they should control the business process well in a strict way with a principle of overall process recorded and center-controlled. For instance, about the important clauses such as exception clause and exclusions, the introduction can be presented by various ways such as animation, video or websites, and there should be suitable period of time for the consumer to read and comprehend, most importantly, the insurance application must be based on the condition that the consumer clicks the bottom of reading. Second, they should manage and control the internet insurance service well, to be more specific, they need to provide easy and convenient online service, answering the consumer’s inquires, and achieving the service record as an evidence of their liabilities. The last not the least, they should manage and control the security of the information, which means they should strength the management for using and keep safe of their internet consumer information, and should not use those information for any business purpose without authorization. When issues with consumers come up, they should provide all relevant electronic information unconditionally.

The Improvement of Insurance Education System and Build Up Of Rational Consumption View. The diversity of risks and preciseness of contracts determine the complexity of insurance products, therefore, it’s not realistic or necessary for insurance companies to educate their consumer so as to make them fully understand their products and services because the key factor why the consumer decides to apply is not how much they understand this product or service but how much they trust them. Therefore, it’s better to build the confidence of the consumer on insurance industry and their products instead of considering how to popularize insurance products. Based on those considerations, the most efficient way is to set up an insurance education fund led by the government, and insurance companies invest on a proportion according to their business scale, then the fund can roll out various insurance education activities to initiate rational consumption views and foster their awareness and capabilities of rights protection. By doing so, the insurance knowledge can be popularized and introduced into the range of national basic education. Furthermore, as a rational insurance consumer, they should understand the risk demands of their own and choose the suitable products based on their financial capability, as well as study more relevant knowledge and regulations, and be familiar to the

common complaint channels concerning their own rights and interests so as to defend their legal rights more effectively and efficiently.

The Improvement of Orientation Mechanism and Evaluation Mechanism for Insurance Consumer Rights and Interests Protection. On one hand, by improving the management and inspection indexes, adding the evaluation indexes specifically designed for consumer rights and interests protection, and enriching the content and standard of evaluation, the insurance inspection bureau inspects and evaluates the insurance company regularly, and takes those outcomes as administration decision-making references. On the other hand, the insurance inspection bureau should establish a system of information disclosure to expose those typical cases that violate the consumer rights and interests to have a warning effect to those involved employees with public supervisions. It also should improve the punishment mechanism to make the unfaithful people punished severely, raise the cost of such behaviors and publish the blacklist of unfaithful people. At the same time, it should reward the faithful behavior and guarantee their rights and interests through the mechanism. Furthermore, it also can build up credit evaluation mechanism, which makes the consumer can evaluate the service level of different insurance companies objectively, therefore, it will promote the insurance pay more attention to their consumer rights and interests protection and their service quality and to set up scientific business operation concepts of sustainable development internal

The Platform Setup of Internet Consumer. The government should formulate a set of management model for the insurance inspection bureau to supervise the work of the insurance consumer rights and interests protection including a national-wide connected information tracking system of insurance consumer complaints, which would allow the inspection bureau to track the complaint cases from its very start and build up a database for handling those complaints. Those insurance organizations complained by consumers will be enrolled in the blacklist, so the consumer can identify and the government can take the counter-measures, meanwhile the government should reduce the complaint cost by continuous improvement of this mechanism. By online investigation, it shows 30% of interviewees think the complaint process is too difficult and complex, and 40% of interviewees think the most efficient way is to search for the help from media, which teaches us an important lesson that the government should build up a faster channel for the complaints solving to reduce consumer's cost. Gladly speaking, part of insurance association in some provincial and municipal governments lead and set up the attribution institution of insurance consumer rights and interests, as well as initiate the negotiation process, which brings positive impact for the consumer rights and interests protection. After that, such kind of organizations should be opened in counties and districts with more staff to make sure the consumer rights and interests protected timely.

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