E-Commerce in China and Germany
A Sino-German Comparative Analysis

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Preface by Mr. Zhou Bohua,
Minister of the State Ministry for Industry and Commerce

‘Sincere friendship is where my friend agrees to my ends as I agree to his.’ – Johann Wolfgang von Goethe. Premier Wen Jiabao once used this famous quote by Goethe to describe the relationship between China and Germany. He said, ‘It is my belief that the Sino-German relationship is now at such a sincere, dynamic and fruitful stage.’ The official release of the study on E-Commerce in China and Germany – A Sino-German Comparative Analysis certainly marks one of the recently-accomplished achievements in witnessing such a friendly relationship.

The emergence of online commodity trading (or e-commerce) has a great bearing on people’s livelihood, on the transformation of our development mode, as well as on national innovations. As such, it brings about new situations and new challenges to market regulation. The State Council has assigned the duty of supervising and managing ‘online commodity trading and relevant service activities’ to the State Administration for Industry and Commerce (SAIC), requiring that the administrations for industry and commerce at all levels unify their guiding thoughts, transforming their supervisory ideologies and innovating their supervisory modes. To this end, SAIC brought forward the Principle of “Two Promotes and Two Maintains” – promote the development of online commodity trading and relevant service activities and promote in particular its healthy development; maintain the legitimate rights and interests of consumers and maintain the legitimate rights and interests of online business operators. On July 1st, 2010, SAIC promulgated the Interim Measures for the Administration of Online Commodity Trading and Relevant Service Activities. One year after its promulgation, further progress has been made in the online commodity trading sector with the relevant service activities further regulated and the protection of consumers’ rights strengthened. In this sense, online commodity trading has become a not-to-be-neglected factor in China’s social and economic development and an increasingly important and indispensable force in the global e-commerce community.

Its emergence is also a prominent sign of technological modernization and economic globalization. The distinctiveness of information flow, capital flow and commodity flow, as well as the commonalities of privacy protection, fair trade and payment risks, are regarded as common problems to be solved immediately for further growth of the sector; they also present a common research topic to be addressed by market regulators around the world. Needless to say, mutual exchanges, mutual cooperation, and learning from each other, may lead to a win-win situation for all. Acting in accordance with the Agreement between the People’s Republic of China and the Federal Republic of Germany on Technical Cooperation (2008), the two sides launched the “Consumer Protection and Product Safety Programme”, a joint effort of China and Germany, whereas SAIC acts as the Chinese implementing agency for the component of ‘Consumer Protection’ and GIZ as the German implementing agency on the behalf of the Federal Government of Germany. And this gave rise to the study on E-Commerce in China and Germany – A Sino-German Comparative Analysis, a key research project jointly developed and actively implemented by both sides. Starting from a year ago, thanks
to the cooperative efforts of the Department of Market Regulation of SAIC, China Society of Industry and Commerce and GIZ, the said research was successfully carried out in four stages by the experts and researchers from a number of prestigious Chinese and European universities and research institutions. Their expertise covers a wide range of disciplines of interest to the research, including management, technology, law and regulation, credit risk, marketing, advertising and consumer behavior. Sound exchanges and effective cooperation have contributed to useful explorations and meaningful results. During the process of ‘overhauling and regulating market economic order, and perfecting the social credit system of a modernized market economy’, China could benefit from the experiences of Germany and the EU, whereas the latter could also draw on the experiences of China in such aspects as strengthened legislation and enforcement in online commodity trading supervision. It is the conclusion of this research that: ‘Notwithstanding numerous differences between the Chinese and German (the EU) systems, we can still see, after making a careful and in-depth analysis, a clear trend of convergence of the two systems’. As Premier Wen Jiabao stressed, ‘We should make use of e-commerce to provide a fair and convenient online platform for communicating with each other, an authentic and trustworthy platform for retrieving logistics and warehousing information and a credible platform for making payments. E-commerce has unlimited potential for development.’ It is my belief that this is also a shared goal for the market regulators across China, Germany and other countries in the EU. Furthermore, the fact that the research is concluded in the form of a joint final report and published in both the Chinese and English languages, in itself, is a meaningful gesture.

As the saying goes, the Flower of Practice always blossoms, and the Tree of Theory keeps perennial green; but only a more thorough theory helps safeguard better scientific practice. It is my sincere wish that the official release of this report will contribute to providing a solid basis for e-commerce development practices in China, Germany, and the EU as a whole, and to making it a new starting point for future theoretical studies and academic exchanges of both sides in the field of online commodity trading regulation.

Preface by Mr. Zhou Bohua
Dear readers,

As a consequence of the commercialization of the internet, the world of the consumer has experienced a fundamental change. The ubiquity of the internet involves several evident advantages. In the digital age virtual traversing of national boundaries has become an event of seconds. The internet allows consumers and entrepreneurs to communicate and exchange products worldwide without leaving their computer at home and therefore contributes to a continuous expansion of international trade.

However, in spite of all these prominent advantages, the business model 'e-commerce' bears a multitude of risks, too. Resulting from the anonymity of the internet, consumers shopping online are exposed to dangers like fraud and deceit. Providers often handle the data of their users carelessly and irresponsibly and sometimes even intentionally misuse them for their own purposes. Misuse-of-data scandals often contribute to a fundamental distrust in online services. At the same time, many users still do not pay enough attention to online security while engaging in e-commerce activities.

Consumer surveys show that consumers are still largely unaware of their rights and legal protection in online business. A corresponding lack of trust fueled by data scandals in the online environment is amongst other reasons seriously hampering the online economy’s development. Strengthening consumers’ trust in shopping online is the only way of guaranteeing the continuous development of the global commodity and service market via internet. Only if consumers see their rights protected in an adequate manner, they will take up an active role in the market. Thus, building up consumer confidence is the key for triggering purchase decisions.

At the same time, business operators will only implement new and innovative business practices and thereby contribute to an overall positive economic development if their investments are made in a stable and reasonably regulated environment. The establishment of an appropriate regulatory framework is therefore a main interest of all market participants. Correspondingly, governments all over the world are facing similar challenges in creating an environment of trust in order to tap the full market potential of the internet.

In light of these prominent opportunities and challenges, I am very pleased to present the Sino-German comparative study on e-commerce. The study was initiated by the Chinese State Administration for Industry and Commerce (SAIC) and the German Ministry for Food, Agriculture and Consumer Protection. Both ministries are currently engaged in adjusting the legal framework of the e-commerce market.

Preface by Mrs. Ilse Aigner, Federal Minister of Food, Agriculture and Consumer Protection
The regulation by laws is a fundamental pillar of the European and German consumer protection system. With regard to the Chinese reform of the legal framework of consumer protection in e-commerce this study is intended to provide a profound comparative analysis of the legal framework of consumer protection and the regulation system in the field of e-commerce in China and Germany. It clearly points out similarities as well as differences in the regulatory approaches of China and Germany.

In Germany, the protection of consumers traditionally enjoys a high status. It is generally acknowledged that modern consumer policy goes hand in hand with a successful economic policy. Starting point of the European and German consumer policy is the belief that consumers should be put into a position to act self-determined when engaging in market activities. This modern model of the consumer builds on the idea that individual market participants know best what is in their own interest.

The aforementioned, however, does not mean that the consumer should be left on his own or does not need any protection. Essential prerequisite for a reasonable consumer’s behavior is to supply the consumer with relevant purchase information. Well-informed consumers gain trust in the market and promote competition. The aim of consumer policy is to create a market environment in which consumers and business operate at eye-level.

In the digital world, governments are facing particular challenges to achieve this goal. Consumers buying products online often find themselves exposed to a lack of information resulting from the distance between the contracting parties. Consumers in the European Union therefore enjoy a series of rights that are relevant to the digital environment. Several information duties for entrepreneurs offering products on the internet and a right to withdrawal for consumers are integrated in EU directives.

A legal framework is however not the only instrument in order to establish a smooth e-commerce environment. The European Union and Germany also support the self-regulation of the internet, alternative dispute resolution and projects for consumer information. While the European framework for the e-commerce market is relatively advanced, new business models in the digital world require permanent adjustments. Since many consumer rights were introduced in different directives before the commercialization of the internet, German and European legislators are currently concerned with a revision of the legal framework for consumer protection in e-commerce. For this purpose, the study will make a valuable contribution.

The European Directorate General for Health and Consumers set up ‘The Digital Agenda for Europe’. This agenda is Europe’s strategy for a flourishing digital economy by 2020. It outlines policies and actions to maximize the benefit of the Digital Revolution for all. The aims of this agenda appear to resemble in large parts the Chinese agenda for e-commerce set out in China’s latest five-year guideline. China and Germany will therefore both profit from the experience exchange in the context of this study.

In the name of the Federal Ministry for Food, Agriculture and Consumer Protection, I would like to express my sincere thanks to SAIC for its interest in cooperating with Germany. The study is a further prominent cornerstone in the Sino-German cooperation between equal partners and should serve as a role model for follow-ups.

Preface by Mrs. Ilse Aigner
Preface by Mrs. Ilse Aigner

Special thanks also go to the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH for carrying out the study on behalf of the Federal Ministry for Economic Cooperation and Development (BMZ). Two workshops organised by the GIZ in Beijing and Berlin laid down the foundation for the successful cooperation. On this occasion, the experts introduced their national approaches and worked out similarities and differences. A study tour introduced German ministries and organizations dealing with consumer protection in e-commerce to the Chinese delegation and provided a further forum for the exchange of ideas.

Finally, I would like to thank the Chinese and German experts for their profound analyses.
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