

# Brief Analysis of Legal Conflicts and Countermeasures in Enterprise Marketing Activities

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**Abstract:** The marketing activity is a very important link in the enterprise management. To a certain extent, it also determines the survival and development of an enterprise. Some legal problems in marketing activities often cause inevitable losses to enterprises. Clarifying and avoiding possible legal problems in each link of marketing activities can reduce many unnecessary losses of enterprises and enhance their competitiveness in the market. This paper analyzes the legal conflicts that may exist in the marketing activities of enterprises and puts forward countermeasures to make enterprises improve their market competitiveness and status with better legal awareness and different marketing strategies.

**Keywords:** Enterprise; Marketing; Legal Conflict; Countermeasures

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## 1. Introduction

Nowadays, with the continuous development of China's socialist market economy, the market has become a decisive factor in resource allocation. As the basic cell of economy, enterprise plays an irreplaceable role in economic development. In particular, various types of private enterprises have sprung up like mushrooms, which injects new vitality into China's economy. As an indispensable part of enterprise development, marketing, to some extent, also determines the survival and development of an enterprise. Some problems in marketing activities often cause inevitable losses to enterprises. With the advancement of the rule of law in China and the growth of citizens' awareness of rights protection, an enterprise will often become the target of public criticism because of the legal loopholes in its marketing activities, thus causing damage to its corporate image and facing large losses<sup>[1,2]</sup>.

As products in the market become more and more diversified, the marketing methods of enterprises become more and more various. However, many enterprises only focus on how to maximize profits while ignoring many possible legal problems in marketing. In this way, it is easy for enterprises to face legal proceedings, which is not conducive to the long-term development of enterprises and the stable development of the economy. If an enterprise wants to occupy a place in the current competitive market environment, it must pay attention to the legitimacy of its marketing activities to avoid legal risks and achieve stable growth<sup>[3]</sup>.

## 2. Analysis of legal conflicts in enterprise marketing activities

In the modern marketing concept, marketing activity strategy is divided into four parts, namely, product strategy, price strategy, channel strategy and promotion strategy. In order to maximize the interests of enterprises in marketing, four links are indispensable. In these four links, due to the negligence of enterprises and marketing personnel, frequent

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doi: 10.18686/fm.v5i3.2494

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ly, there are some legal conflicts.

## **2.1 Analysis of legal conflicts of product strategy**

As the marketing foundation, the product makes the marketing activity starting point and the foothold. Product strategy has a huge impact on the whole marketing campaign.

### **2.1.1 The quality of products is shoddy**

When many enterprises manufacture produce, the quality of products produced is often uneven and the rate of defective products is relatively high for various reasons. And in order to reduce cost and expand benefit, some enterprises can carry on certain packing of a few quality slightly inferior products, which are disguised as good products to put into the market. This practice violates the relevant provisions of Article 32 and Article 39 of the Product Quality Law. Moreover, if the amount is large and the impact is greater, it may also violate the “crime of producing and selling fake and inferior products” in the Criminal Law and face punishment.

### **2.1.2 Patent right of the product design infringement**

Product innovation is an important factor to determine the competitiveness of an enterprise. However, when designing products, many enterprises often imitate some popular products in the market both in function and appearance design. According to the Patent Law, patent rights are protected in three ways: inventions, utility models and designs<sup>[4]</sup>. As long as the existing products on the market have applied for relevant patents and a larger degree of imitation appears, it infringes the patent rights of the original products. Therefore, what waits for the enterprise will be a huge civil compensation.

### **2.1.3 Product trademark infringement**

A category of products on the market often mislead the public through the slight modification of some famous brand trademarks, in order to increase their sales. Some even directly attach the trademarks of other enterprises to their products for sale. According to the Trademark Law, such practices violate the exclusive right to use the registered trademark of the original product, and if the operating amount is relatively large, the enterprise will face huge compensation.

## **2.2 Analysis of legal conflicts of price strategies**

Price strategy has the effect of “turning rubik’s cube” in marketing activities. When making price strategy, enterprises should not only consider various conditions of themselves, but also make timely adjustment according to market conditions. But more importantly, they should strictly abide by relevant laws and regulations<sup>[5]</sup>.

### **2.2.1 Overpriced**

In order to make high profits, enterprises often take some measures on the price. For example, deliberate price gouging in some special periods. If the product is not sold according to the original price, it will be sold at a markup. The pricing of the product does not follow the principles of fairness, legality and good faith, and the pricing is far beyond the actual value of the product. These practices violate the relevant provisions of the Price Law.

### **2.2.2 Dumping at low prices**

According to China’s “price law” and “anti-unfair competition law” regulation, price dumping refers to improper price competition behavior of people who are engaged in manufacturing and selling of goods or legal person, other organizations or individuals that provide paid services, for the purpose to exclude competitors or monopolize the market by selling goods below cost. In order to expand the market share of their own products, some enterprises even use the price far below the cost price to compete with peers, called “price war”.

## **2.3 Analysis of legal conflicts of channel strategy**

From the perspective of marketing, distribution channel refers to all the links and ways that goods pass from the producer to the final consumer. Many enterprises only focus on the production and sales of products and often ignore the problems in the channel<sup>[6]</sup>.

### **2.3.1 Too many distribution levels**

In recent years, in order to carry out market expansion, many enterprises sold some of their products in multiple sales levels, and each of them has a different price. The lower level can get the goods from the higher level. Through this way of distribution, it is very likely to violate the “criminal law” in the relevant provisions on pyramid selling.

### **2.3.2 Middlemen default**

Today, there are many middlemen who earn profits through large-scale acquisition and sales of various products in the market. For example, export trade is usually conducted by some export trading companies that sign contracts with various producers to acquire a large number of goods and sell them to overseas markets through export trade. In recent years, after receiving the commodity of producer, a few middlemen often use a variety of reasons to default payment for goods, which violates of “contract law” relevant provisions.

## **2.4 Analysis of legal conflicts of sales promotion strategies**

Sales promotion plays a very important role in expanding product sales and establishing brand and corporate image, but enterprises often violate laws and regulations related to sales promotion.

### **2.4.1 False propaganda**

In order to sell their products, enterprises often exaggerate the advantages of their products in publicity. Some even directly publish false advertisements to cheat and mislead consumers. The Anti-Unfair Competition Law and the Advertising Law have long prohibited such practices.

### **2.4.2 To induce consumers to sign up**

In order to sell products, many enterprises often use a variety of means to induce consumers in the sales promotion, so that they will sign sales contracts with enterprises, which can constrain consumers. And “contract law” clearly says that it is invalid to conclude contract with cheat and duress means.

### **2.4.3 Bundle sales**

When selling products, in order to promote some products with poor sales, enterprises often adopt the strategy of bundling sales, which consists of two products. Consumers must buy two products at the same time. According to the relevant provisions of the Anti-Unfair Competition Law, products may not be sold against the will of the buyer or with other unreasonable conditions attached.

### **2.4.4 Refusal to “three guarantees”**

To avoid product overstock and improve economic efficiency, a lot of enterprises often will use the method of discount reduces price promotion. As a promotion method operator often uses, it is basically applicable to seasonal product. A lot of operator regular meeting will take this as an excuse to exempt from bear “3 packets” obligation, namely the product that discount does not enjoy the 3 packets of responsibility like commodity of normal price, and procrastinate intentionally or refuse unreasonably. According to article 14 of the Law on the Protection of Rights and Interests of Consumers, business operators may not make unfair or unreasonable provisions for consumers<sup>[7]</sup>. Accordingly, the regulation that the products in a discount do not execute 3 packets is invalid, unfair, and unreasonable.

## **3. Countermeasures against legal conflicts in enterprise marketing activities**

The main purpose of an enterprise is to make profits, and the marketing activity is an indispensable link in the enterprise activities. In its marketing activities, we must abide by the law in good faith, which will not only avoid a lot of direct legal conflicts and losses, but also improve their corporate image to attract consumers to buy their products.

### **3.1 Changes of the marketing concept and improvement the legal awareness**

The marketing concept of an enterprise directly determines its behavior in marketing activities. In order to maximize profits, traditional enterprises focus on whether they can meet the maximum interests in marketing, and pay little attention to the law. With the development of the times, law has become more and more a key point for enterprises to maximize profits. If an enterprise continues to carry out marketing activities according to the traditional concept, it is

easy to fall into a passive situation in today's law-oriented market, reducing its own income and increasing its own expenditure<sup>[8]</sup>. Therefore, in order to reduce risks and increase profits, legal conflicts in marketing activities should be avoided as far as possible. In order to avoid legal conflicts in marketing activities, first of all, enterprises need to enhance legal awareness with different marketing concepts and make legality a point that cannot be ignored in marketing activities. In this way, the status of law in marketing activities has been elevated to the strategic level, which is conducive to the stable development of enterprises.

### **3.2 Training on law popularization for the employees of the enterprise**

The key to marketing lies in people, and any marketing activity is carried out with people as the main body. The legal literacy of a marketer directly determines whether he will comply with the law when conducting marketing activities. If the marketers have no knowledge of the law, they are likely to break the law when conducting marketing activities, thus increasing the marketing cost of the enterprise. The whole process of marketing involves many factors like products, so the inculcation of legal knowledge is not enough to make up for this loophole. Therefore, it is very important to carry out legal education for all employees including marketing personnel. In this way, legal conflicts can be avoided to a certain extent in each link. Therefore, the legitimacy of marketing activities can be improved, and the marketing cost of enterprises can be reduced.

### **3.3 Better supervision of the marketing process**

In the whole process of marketing, some laws are often violated due to negligence. In order to sell their products faster, many enterprises generally do not control too much in some marketing links, especially in channels and promotions. Some may not be so formal marketing means, and the enterprise may let it, turn a blind eye. And a lot of legal problems often also can arise in these two links. In the long run, the legal problems piled up in marketing activities will increase, which affects the profitability of the company. Therefore, in order to avoid such risks, it is necessary to strengthen the supervision of the whole marketing process.

### **3.4 To employ special legal personnel**

In the past, in order to save costs, many enterprises did not set up special legal departments, and they did not consult special legal personnel for some legal problems. However, the current market is a legal market, and any legal conflict in the whole marketing process may cause the enterprise to face incalculable losses. Therefore, more and more companies set up legal departments and hire high-level legal talents to solve many legal conflicts for their enterprises. Employing specialized legal workers to participate in marketing activities and give advice for marketing activities can avoid legal conflicts in many marketing activities and maximize the interests of enterprises.

### **3.5 Enhancement of the innovation capability of enterprises**

Sometimes, there may be legal conflicts in the marketing activities of enterprises, which can be attributed to the lack of strong ability of enterprises, poor quality of products and lack of innovation. In order to increase their income, many enterprises will choose to imitation, copying and other ways to improve their product creativity, so as to win the favor of consumers. And that's how a lot of torts happen. To avoid this kind of circumstance, the first thing enterprises to do is to increase spending on product innovation and improve innovation ability with their original products and unique marketing model to attract customers, so that enterprises can not only avoid infringement of products, but also have their own core competitiveness and gain a foothold in the market.

### **3.6 Various marketing path of the enterprise**

Nowadays, with the rapid development of science and technology, the marketing methods of different enterprises are changing. Traditional off-line marketing and on-site activities can no longer meet the marketing needs of enterprises. More and more enterprises will choose to use the Internet platform for marketing. Some traditional enterprises that have a single marketing path are difficult to market their products well. In this case, in order to increase their income,

companies will choose to use some legal marketing methods to increase their sales. And if companies can take advantage of some new marketing models, they will sell their products better and reduce the risk of legal encounters. Moreover, the openness of information on the Internet platform further improves the fairness of market competition and reduces the occurrence of legal conflicts<sup>[9,10]</sup>.

## 4. Epilogue

In a word, the market has become more and more mature. The market no longer just requires that the product quality of the enterprise is better, but also requires that the various behaviors of the enterprise should conform to the law and the values of the masses. The competitiveness of enterprises is not limited to the quality of products any more, and their own corporate image is also an important link. If an enterprise violates the law, it will not only directly face the relevant compensation, but also greatly reduce its image in the society, thus affecting its own profits. In this competitive market environment, only enterprises with good product quality and the integrity of the law-abiding can go further and win a brighter future.

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