

Revisiting Consumer Protection Law for Single-Purpose Commercial Prepaid Cards in China

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Abstract

Single-purpose commercial prepaid cards refer to prepaid vouchers issued by operators and are limited to payment for goods or services within the enterprise or within the same brand franchise system. It not only promotes consumption, but also has a strong financing function. However, if the issuance of single-purpose commercial prepaid cards is not well regulated, it may damage the rights of consumers and disrupt market order. However, the Administrative Measures for Single-Purpose Commercial Prepaid Cards of the Ministry of Commerce. However, the law is outdated making it difficult to meet the needs of a diverse and changing practice. The objective of this study is to explore the existing laws and regulations concerning consumer protection for single-purpose commercial prepaid cards in China. Besides that, this study recommends a unified law for single-purpose commercial prepaid cards in China. The findings of this study will practically contribute to the improvement of regulations for consumer protection of single-purpose commercial prepaid cards in China.

Keywords: Prepaid Card, Consumer Protection, Commercial Law, Single-Purpose

Introduction

In recent years, with China's economic and social development and the gradual improvement of residents' income and living conditions, the public's consumption demand has been increasing and enriched, coupled with the booming of e-commerce and the increasing popularity of fast payment, people's consumption preferences are also changing. Prepaid cards are one of the fastest-growing payment methods for meeting consumers' financial needs (Liyanage et al., 2024). Single-purpose commercial prepaid cards (hereinafter referred to as "single-purpose cards") are favored by merchants and consumers due to their convenient and quick characteristics, have become an important means of payment. These prepaid cards are preloaded with a specified sum of money, and people can use them for a variety of things (Almuhammadi, 2020). For example, shopping and gift-giving. The single-

purpose cards are closed-loop commercial prepaid cards, which can only be utilized to buy from an identical group of sellers. For instance, one can use single-purpose cards to buy products from a particular store chain.

In recent years, the single-purpose card consumer market has been increasingly developed in China and is widely used in catering, residential life, and other industries. From large chain enterprises and large supermarkets to small barber shops and gyms, single-purpose cards provide a new financing method that can finance enterprises in a short period of time and bring benefits. It can also bind long-term consumer groups, increase the stickiness of customers, and form a fixed source of customers (Guo & Zhang, 2021), providing a financial guarantee and a strong driving force for enterprises to achieve development in the increasingly fierce market competition. For consumers, they enjoy the preferential policies given by merchants while getting the convenience of payment, achieving a win-win to a certain extent for consumers and enterprises. In addition, single-purpose cards can also be used as a tool for enterprises to issue employee benefits and business gifts, and people also use these cards as gift options, they choose them for gifting during special occasions (Toh, 2021). Therefore, single-purpose cards have developed rapidly since their emergence in the Chinese market. With the increasing card issuance scale, the use of single-purpose cards has become a common phenomenon in society (MOFCOM, 2020).

Single-purpose cards should have become an important force in promoting social consumption, and in fact, they have indeed played a certain role. However, with the penetration of prepaid consumption into all walks of life, the prepaid card market has not flourished as ideally but has produced a lot of chaos and triggered many risks. First, issuing single-purpose cards is a low-threshold, zero-cost, short-term financing method through which enterprises can accumulate capital and rapidly realize expansion. However, some enterprises rely too much on marketing and lack hard power, and their risk resistance is poor. Once the capital chain is broken, they will not only be unable to fulfill their delivery obligations but will also be incapable of refunding the prepayment. In addition, some enterprises reduce the quality of goods or services and do not fulfill their obligations as agreed after consumers purchase prepaid cards. What's more, some enterprises run away with the money, and consumers can only suffer a dumb loss (Lei, 2023).

What follows is a high number of consumer complaints. The 2023 Prepaid Consumption Consumer Rights Protection Report released by the China Consumers Association on March 12, 2024, pointed out that complaints about prepaid card consumption remain high, and prepaid card issues have become one of the top ten public opinion hotspots in consumer rights protection (China Consumers Association, 2024 March). The Beijing Municipal Administration of Government Services (2024) released the 2023 Beijing 12345 Citizen Service Hotline Annual Data Analysis Report. As shown in Figure 1, prepaid consumption, with a number of 313,000 complaints, was among the top five categories of problems reflected in Beijing's market management in 2023.

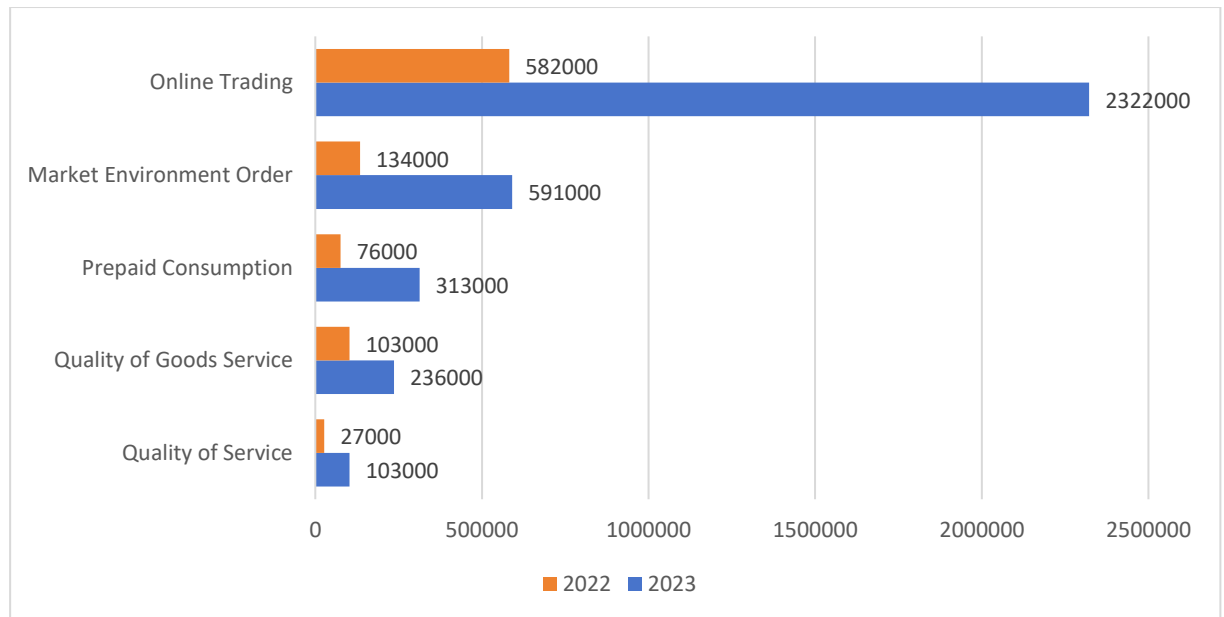


Figure 1. The Top Five Categories of Issues Reflected in Market Management in 2023 (unit: pcs.) Source: Beijing Municipal Administration of Government Services, 2024

According to the Analysis on Complaints Received by National Consumer Associations in 2023 released by the China Consumers Association on April 2, 2024, as shown in Figure 2, among the top ten complaints in the service field in 2023, many services are related to prepaid card consumption. The report points out that the main reason for the large number of complaints in training services, fitness services, and catering services is the group complaints triggered by merchants running away after consumers handled prepaid cards (China Consumers Association, 2024 April). Through the analysis of complaint data in recent years, it can be found that prepaid consumption has become a major complaint in recent years (Lei, 2023).

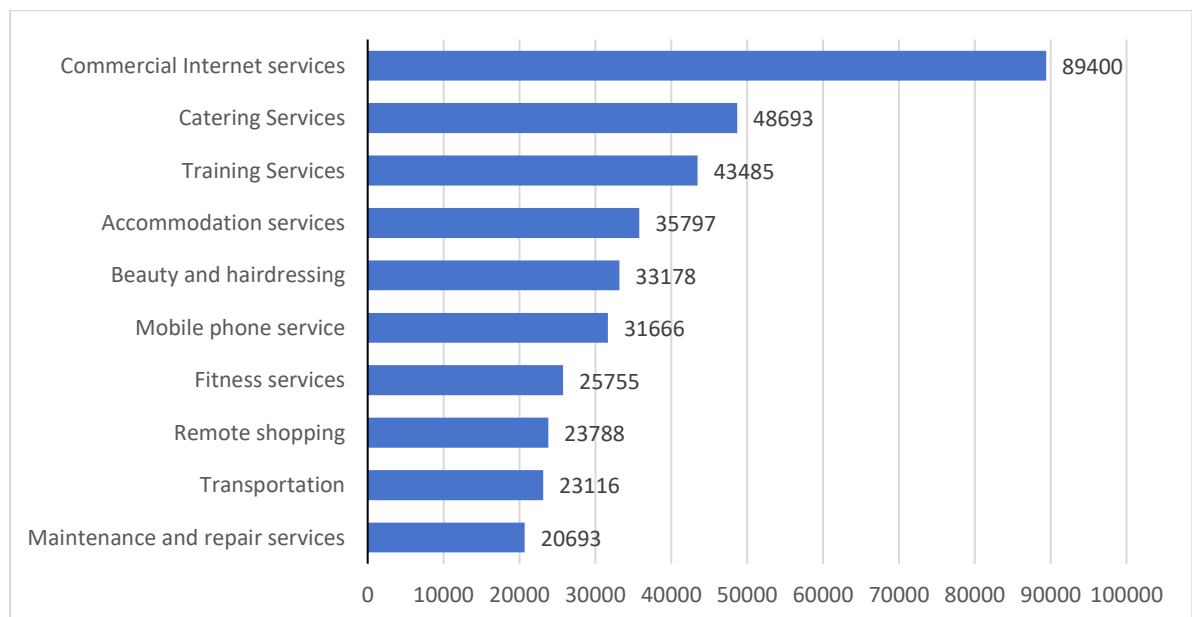


Figure 2. Top 10 Complaints in Service Segments in 2023 (unit: pcs.) Source: China Consumers Association, 2024 April

Problems arising from single-purpose card consumption not only seriously damage the rights and interests of consumers and are not conducive to the healthy development of single-purpose card consumption, but also reflect a series of problems in the legal supervision of single-purpose card consumption under Chinese law. China's single-purpose card consumer protection urgently needs improved legislation.

Against this background, the legal supervision of single-purpose card consumption must be strengthened. China currently does not have a national unified law specifically for single-purpose cards. The supervision of single-purpose cards is mainly based on the Administrative Measures for Single-Purpose Commercial Prepaid Cards (hereinafter referred to as the "Administrative Measures") issued by the Ministry of Commerce of the People's Republic of China (hereinafter referred to as "MOFCOM") in 2012 (MOFCOM, 2012). Administrative Measures not only have a low legal level but also have many omissions in their specific provisions, making it difficult to cope with the complex and changing market, and coupled with limited regulatory resources, this has led to the lack of supervision of single-purpose cards in practice. Since the promulgation of Administrative Measures, there has been no strong regulation of single-purpose cards. Disputes still occur frequently in this field, and they have been listed on the annual hot spots of complaints announced by the China Consumer Association for years (China Consumers Association, 2021). Especially after the outbreak of COVID-19, the operating conditions of livelihood industries such as catering, fitness, entertainment, and beauty salons are not optimistic. The operating conditions of many small and medium-sized enterprises that issue single-purpose cards have taken a sharp turn for the worse, with a large number of defaults on prepayments (China Consumers Association, 2020). In this context, it is necessary to study the legal regulation and consumer protection issues of single-purpose cards so as to provide theoretical references for strengthening the regulation of single-purpose cards and further protecting the rights and interests of consumers.

Therefore, the objective of this study is to explore the existing laws and regulations concerning consumer protection for single-purpose commercial prepaid cards in China. Besides that, this study recommends a unified law for single-purpose commercial prepaid cards in China.

Methodology

This study will adopt a qualitative research approach. When embarking on a study of the complexity of consumer protection mechanisms for single-purpose cards, the choice of a qualitative research design is critical. At the heart of qualitative research lies a deep understanding of how individuals or groups subjectively interpret and construct their social reality (Creswell & Creswell, 2017). The value of qualitative research is heightened when confronted with this research topic, full of legal, economic, social, and psychological nuances and the deep logic of rule-making. Its strength lies in its ability to capture the multidimensional complexity of this phenomenon through rich descriptions and narratives (Patton, 2023).

Qualitative research is suitable for new phenomena or progressive infancy areas. In this study, prepaid card consumption is a new field that has become increasingly popular in recent years. Prepaid card markets are dynamic, with evolving technologies, regulations, and consumer behaviors. And single-purpose card consumption is a current hot issue. The legal

supervision and consumer rights protection systems are not perfect and mature. Based on this, this study is more suitable for qualitative research. This research method allows us to gain insight into the multidimensional nature of consumer protection for single-purpose cards at every level, from legal policy to individual behavior to market response.

In the study of consumer protection law for single-purpose cards, textual data were obtained from laws and regulations on single-purpose card regulation and consumer protection and theoretical literature. This study used content analysis to analyze the collected data. Content analysis can reveal how consumer protection regulations are articulated in official documents. Through content analysis, the researcher can systematically analyze and interpret the legal texts, regulations, and legal theories of single-purpose card consumer protection, revealing the legal significance, logical relationships, value orientations, and problems in legal practice. Through content analysis, the researcher can gain an in-depth understanding of the connotation and extension of legal texts, reveal the evolution and differences of the legal system for single-purpose card consumer protection, explore the problems and challenges in legal practice, and provide strong support for the research on single-purpose card consumer protection law.

Discussion and Findings

Table 1

A List of Laws and Regulations related to the Supervision of Single-Purpose Commercial Prepaid Cards in China

List of laws and regulations related to the supervision of single-purpose commercial prepaid cards in China			
Nature of legal documents	Implementation date	Publishing subject	Title of legal document issued
Law	January 2021	National People's Congress (NPC)	Civil Code of the People's Republic of China
	March 2014		Law of the People's Republic of China on the Protection of Consumer Rights and Interests
	November 2021		Personal Information Protection Law of the People's Republic of China
	January 2019		Electronic Commerce Law of the People's Republic of China
Administrative Regulations	July 2024	State Council	Regulation on the Implementation of the Law of the People's Republic of China on the Protection of Consumer Rights and Interests
Departmental Rules	June 2010	People's Bank of China	Administrative Measures for the Payment Services Provided by Non-financial Institutions

	May 2011	People's Bank of China, Ministry of Supervision, Ministry of Finance, Ministry of Commerce, General Administration of Taxation, General Administration for Industry and Commerce, Prevention of Corruption Bureau	Opinions on Regulating the Management of Commercial Prepaid Cards
	September 2012	Ministry of Commerce of the People's Republic of China	Administrative Measures for single-purpose Commercial Prepaid Cards (for Trial Implementation)
	July 2015	Ministry of Commerce of the People's Republic of China	Administrative Measures for single-purpose Commercial Prepaid Cards (Revised Exposure Draft)
Local Regulations	January 2019	Shanghai Municipal People's Congress Standing Committee	Provisions of Shanghai Municipality on the Administration of Single-purpose Prepaid Consumer Cards
	April 2019	Shanghai Municipal People's Government	Implementation Procedures for the Management of Shanghai Single-Purpose Prepaid Consumption Cards
	April 2021	Jiangsu Provincial People's Government	Administrative Measures for Prepaid Cards in Jiangsu Province
	June 2022	Beijing Municipal People's Congress Standing Committee	Administration Regulations for Single-Purpose Commercial Prepaid Cards in Beijing Municipality
	May 2023	Beijing Municipal Commission of Transport	Administrative Measures for the Filing of Single-purpose Prepaid Cards in the Transportation Industry of Beijing Municipality

	September 2023	Beijing Municipal Commerce Bureau	Implementation Procedures for Beijing Single-purpose commercial prepaid Card Filing and Prepaid Funds Management (for Trial Implementation)
	August 2022	Gansu Provincial People's Congress Standing Committee	Administration Regulations for Single-Purpose Prepaid Consumer Cards in Gansu Province
	August 2023	Department of Commerce of Gansu Province	Implementation Rules of the Administration Regulations for Single-Purpose Prepaid Consumer Cards in Gansu Province (for Trial Implementation)

At present, Administrative Measures are the main basis for the legal regulation of single-purpose cards in China. The Civil Code and the relevant provisions of the Law on the Protection of Consumer Rights and Interests also play a role as the basis for the legal relations related to the prepaid card. The Personal Information Protection Law and the E-Commerce Law also play a role in protecting the rights and interests of single-purpose card consumers, although they do not directly regulate single-purpose cards. The Regulation on the Implementation of the Consumer Protection Law, as an administrative regulation, has provisions dealing with prepaid consumption. In addition, some local legislative or administrative authorities have innovatively refined regulatory methods and policies through local regulations, highlighting local characteristics. However, these regulations have their shortcomings, and the existing legal system cannot provide adequate protection for single-purpose card consumers. Regarding the Civil Code, at present, there is no specific legislation on single-purpose card consumption in the Civil Code. The civil legal relations arising from single-purpose card transactions can only invoke some basic principles and general provisions of the Civil Code, which are relatively general. The Civil Code does not provide special protection for the legal relationship or consumer protection of single-purpose cards.

The Law of the People's Republic of China on the Protection of Consumer Rights and Interests, as the basic law for consumer protection, plays a role in safeguarding the rights and interests of single-purpose card consumers. However, the Consumer Protection Law does not explicitly stipulate the consumption behavior of single-purpose cards, and only stipulates prepaid consumption in Article 53. Article 53 of the Consumer Protection Law also only expounds the basic principles of consumption contracts and does not make specific provisions based on the consumption characteristics of single-purpose cards.

The Personal Information Protection Law can play a regulatory role in issues such as personal information leakage and data security protection that occur when using single-purpose cards for transactions (Yang et al., 2020). To a certain extent, it can play a role in protecting the rights of single-purpose card consumers, but the role is very limited. Electronic commerce laws also apply to single-purpose cards, as single-purpose cards can also be used for online shopping. This law, extending consumer protection laws to online purchases, ensures that consumers have resources when faced with issues like phony goods, incorrect

information, or disputes with e-commerce platforms. But this law covers a very small area of protection for single-use cards.

The Regulations on the Implementation of the Consumer Protection Law released in 2024 also do not explicitly regulate single-purpose cards, but only regulate prepaid consumption in Article 22. Article 22 stipulates that the operator shall cease to collect advance payments if there is a significant business risk. But for the judgment of major business risks, there is no uniform standard. Article 22 also stipulates that if the operator decides to close down or relocate the service location, consumers have the right to request that the operator refund the unspent prepaid balance. However, in practice, when consumers claim to refund the unspent prepaid balance, the refund claim is often difficult to support due to the inability to provide relevant evidence. Therefore, the release of the Regulations for the Implementation of the Consumer Protection Law is good news for the protection of consumers of single-purpose cards, but it only involves one article, which responds to the problem of prepaid card issuers running away that has occurred repeatedly in practice, and there is no way to regulate other consumer protection and regulatory issues in the use of single-purpose cards.

Administrative Measures is a departmental rule issued by MOFCOM that specifically regulates single-purpose cards and is also the main basis for China's supervision of single-purpose cards. The Administrative Measures stipulate the filing, issuance, fund management, and legal liability of single-purpose cards (MOFCOM, 2012). The Administrative Measures were promulgated in 2012, nearly 10 years ago. In 2015, MOFCOM issued a revised draft of the Administrative Measures for public comments, but no substantive adjustments were made. It only deleted the "tax registration certificate and organization code certificate" in paragraph 2 of Article 15. The Administrative Measures have not been updated since they were issued, and there is already a distortion of information. The relevant regulatory measures identified in the Administrative Measures are seriously lagging behind the current state of development, and it is difficult to adapt to the new situation of single-purpose prepaid consumption, which is urgently in need of updating. There are many weaknesses in the Administrative Measures, such as the narrow scope of regulation under the Administrative Measures. Many industries and types of enterprises where single-purpose card disputes occur frequently are not within the regulatory scope of Administrative Measures (Jiang & LI, 2023). Existing regulations do not adequately regulate market access for single-purpose cards, which is mainly reflected in the fact that a lot of enterprises with poor credit or business conditions before issuing cards have entered the single-purpose card market (Liu, 2021). Existing regulations cannot solve the problem of the security of consumers' prepaid funds. The low bank deposit ratio of prepaid funds makes it difficult to guarantee the safety of prepaid funds, as the remaining large prepaid funds are actually controlled by the card-issuing enterprises. Existing regulations do not effectively regulate single-purpose card format contracts. In practice, there are many unfair terms in the single-purpose card market's format contracts that infringe on consumers' legitimate rights and interests (Wang & Zhang, 2021). Existing regulations cannot effectively deter and punish the illegal behavior of prepaid card operators. Administrative Measures, with *ex post facto* administrative penalties as one of the regulatory means, impose too little punishment on operators who illegally issue single-purpose cards (Xiang, 2024).

In addition, Shanghai, Jiangsu Province, Beijing, and Gansu Province have successively enacted local regulations specifically targeting single-purpose cards. In July 2018, the Shanghai Municipal People's Congress enacted the Provisions of Shanghai Municipality on the Administration of Single-purpose Prepaid Consumer Cards (hereinafter referred to as the "Provisions of Shanghai") (Shanghai Municipal People's Congress Standing Committee, 2018), which is the first local regulation specifically regulating single-purpose cards in China. This regulation jumps out of the framework restrictions of the Administrative Measures of MOFCOM and provides for many innovative regulatory and legislative attempts. In April 2019, the Shanghai Municipal People's Government issued the Implementation Procedures for the Management of Shanghai Single-Purpose Prepaid Consumption Cards as a complementary document to the Provisions of Shanghai and provided for more detailed provisions on specific regulatory measures. The Implementation Procedures of Shanghai are valid until April 30, 2024, and it makes practical sense to conduct a pilot (Shanghai Municipal People's Government, 2019). In May 2024, the implementation measures passed new revisions and entered a new five-year trial period.

In December 2020, the Jiangsu Provincial Government promulgated the Administrative Measures for Prepaid Cards in Jiangsu Province as the main basis for the supervision of single-purpose cards in Jiangsu Province. This rule further clarifies the idea of classified supervision, delineates the scope of key supervision objects, and at the same time increases the protection of single-purpose card consumers (Jiangsu Provincial People's Government, 2020). In November 2021, the Beijing Municipal People's Congress also issued the Administration Regulations for Single-Purpose Commercial Prepaid Cards in Beijing Municipality, which came into effect on June 1, 2022. Administration Regulations in Beijing focus on strengthening the protection of consumers through the allocation of rights and obligations and propose the establishment of a prepaid card service system and an information platform for the depository of prepaid funds. For the first time, it clarifies the circumstances under which a merchant needs to refund the balance of a prepaid card in one go, and the time conditions that need to be met for the refund. This indicates that the 7-day cooling-off period system in the field of single-purpose card consumption has been incorporated into local regulations (Beijing Municipal People's Congress Standing Committee, 2021). On May 30, 2023, the Beijing Municipal Commission of Transport issued the Administrative Measures for the Filing of Single-purpose Prepaid Cards in the Transportation Industry of Beijing Municipality, which specifically regulates the business activities of operators engaging in the Internet leasing of bicycles, motor vehicle repairs, driver training, and other transportation services in Beijing Municipality's administrative area, who issue single-purpose prepaid cards (Beijing Municipal Commission of Transport, 2023). On September 1, 2023, the Beijing Municipal Commerce Bureau, combined with the actual work, listed the prepaid card issuing enterprises engaged in the retail, catering, and residential service industries within the administrative area of the city as the management objects, formulated the Implementation Procedures for Beijing Single-purpose Commercial Prepaid Card Filing and Prepaid Funds Management (for Trial Implementation), which make specific provisions on the filing of prepaid cards by operators and the deposit of prepaid funds (Beijing Municipal Commerce Bureau, 2023). Beijing's legislative practice is cutting-edge and novel, but some regulatory measures are still relatively general, and the legal supervision work in practice still lacks guidance on the implementation of the detailed provisions.

On June 2, 2022, the Gansu Provincial People's Congress Standing Committee passed and promulgated the Administration Regulations for Single-Purpose Prepaid Consumer Cards in Gansu Province (hereinafter referred to as the "Administration Regulations in Gansu") (Gansu Provincial People's Congress Standing Committee, 2022). In August 2023, the Department of Commerce of Gansu Province issued the Implementation Rules of the Administration Regulations for Single-Purpose Prepaid Consumer Cards in Gansu Province (for Trial Implementation) (hereinafter referred to as the "Implementation Rules in Gansu") as a complementary document to the Administration Regulations in Gansu. The Implementation Rules in Gansu require that the card issuance business activities be uniformly filed in the Gansu Prepaid Code, and the funds received in advance should be subject to full dynamic supervision in the Gansu Prepaid Code. The Implementation Rules in Gansu emphasize the filing obligations of operators and introduce online supervision as well as risk warnings for operators to promote the standardized and orderly development of the single-purpose prepaid card market. The rules are cutting-edge, but due to their low legal level, there are limitations in their applicable area. Article 28 of the rules provides for the rules to be implemented on a trial basis for two years from the date of issuance (Department of Commerce of Gansu Province, 2023). In summary, through the above discussion, we can find that there is currently no unified national law in China that specifically addresses single-purpose cards. The current regulatory system for single-purpose cards is inadequate and provides only limited protection for consumers.

Recommendation

In order to improve the consumer protection of single-purpose commercial prepaid cards in China, it is necessary to propose a unified law for single-purpose commercial prepaid cards in China. At present, China does not have a unified law specifically for single-purpose cards, and the existing relevant laws have limited protection for single-purpose card consumers. The Administrative Measures issued by MOFCOM in 2012, as the main basis for the regulation of single-purpose cards in China, are at a lower legal level. Moreover, the Administrative Measures are outdated, with many omissions, and are unable to effectively address the current consumer protection legal issues of single-purpose cards. Therefore, China urgently needs a new high-level law to regulate single-purpose cards.

What's more, in recent years, some newly enacted local legislation has introduced regulations that contradict the Administrative Measures in order to fit the needs of social practice, which has led to confusion in local law enforcement practices. For instance, Shanghai Municipality, Jiangsu Province, Beijing Municipality, and Gansu Province have issued local regulations specifically targeting single-purpose cards in 2018, 2020, 2021, and 2022, respectively. The latest local regulations in Beijing, Jiangsu, Shanghai, and Gansu provinces, although in line with practical needs and innovative, are not aligned with the Administrative Measures. This is because the regulations in Beijing, Jiangsu, Shanghai, and Gansu provinces are different, and as more local legislation emerges, more disagreements are bound to emerge (Xv & Han, 2023). While many enterprises issuing single-purpose cards are national chains with multiple branches across the country, consumers can use single-purpose cards for transactions in any of the stores after applying for the cards. If the regulations at the national level differ too much from those at the local level, it may lead to operators being at a loss in the face of complicated regulatory provisions or taking advantage of the differentiated regulatory measures in different places to circumvent their legal liabilities. Therefore, there

is currently a lack of a unified national law for the supervision of single-purpose cards. Considering the practical needs, it is necessary to improve on the basis of the existing rule system and promulgate a unified national law specifically for the supervision of single-purpose cards as soon as possible to provide a basic reference and basis for local legislation.

Conclusion

This study explores the legal issues and existing laws and regulations on consumer protection of single-purpose cards in China and finds that existing laws and regulations cannot solve the current legal issues of consumer protection of single-purpose cards in China, and the existing legal system still lacks a national unified law specifically for single-purpose cards. Based on the above situation, China's single-purpose commercial prepaid card consumer protection must improve legislation, and through legislation, a national unified commercial law for single-purpose commercial prepaid cards must be proposed to improve consumer protection and market supervision. This study is significant as it makes theoretical and practical contributions. Theoretically, this study enriches the theoretical research on the legal regulation of single-purpose card consumption. Additionally, this study is practically significant as it can help to clearly understand its legal regulatory system for consumer protection of single-purpose cards and refine the regulatory system to provide legal support for the competent authorities to implement the regulation.

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