

Legal Boundaries of Security Obligations in Online Ride-Hailing Services: Challenges and Regulatory Solutions

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Abstract: With the development of Internet technology and the improvement of people's living standards, the demand for personalized services for mass transportation travel has gradually increased, and diversified travel modes have also emerged. Ride hailing services have become an important mode of transportation for young people due to their convenience, speed, and comfort. However, in recent years, incidents of passengers' personal safety being violated have emerged one after another with the rapid development of ride hailing platforms. Due to the lack of clear regulations on the legal status and security obligations of ride hailing platforms in relevant laws, it is difficult to protect the personal rights and interests of passengers. This article discusses the security obligations of ride hailing platforms based on practical cases and laws and regulations.

1. Introduction

With the rapid development of Internet technology and sharing economy, online car hailing emerged as an emerging industry. The emergence of ride hailing services has changed people's traditional mode of transportation and provided a new and convenient mode of transportation for the public. Users can download relevant ride hailing apps on their mobile phones and book a ride anytime and anywhere according to their needs. For young audiences, ride hailing services are convenient and fast, saving time and improving resource utilization, making it a worthwhile choice for transportation. However, as ride hailing services become increasingly common in people's lives, a series of safety hazards are gradually emerging. The laws and regulations related to the ride hailing industry, such as the "Interim Measures for the Management of Online Reservation Taxi Operation Services" issued by the Ministry of Transport in 2016, currently have a certain lag and cannot adapt well to the development status of the ride hailing industry. There are no clear legal provisions regarding the legal status and security obligations of ride hailing platforms, making it difficult to protect the rights and interests of ride hailing passengers.

The online car hailing platform mainly uses Internet technology to gather the collected user information together and send it to the platform's cooperative drivers through the online network after integration. As a bridge between passengers and drivers, it provides services for passengers. The ride hailing platform is a crucial part of the ride hailing service process, and clarifying the security obligations of the ride hailing platform is of great significance for the operation and service of ride hailing as well as the personal rights and interests of passengers. [1]

2. Related Cases

In the process of gradually expanding the scale of ride hailing operations, there have been numerous safety incidents where passengers' personal rights and interests have been infringed upon. The following are the precedents of compensation for passengers' infringement liability by ride hailing drivers and their analysis.

Case Name: Infringement Liability Dispute between Xu Ying, Shu Jin, and Didi Chuxing Technology Co., Ltd

On October 30, 2018, Xu Ying arranged a ride on the Didi Chuxing Technology Co., Ltd. app to pick up her spouse at Terminal 3 of Wuhan Tianhe Airport, while Shu Jin received the order on the Didi Chuxing Technology Co., Ltd. platform. After arriving at the agreed boarding location, Shu Jin believed that the journey was short and requested the cancellation of the transportation service contract, leading to a dispute between the two parties. Shu Jin physically assaulted Xu Ying, resulting in her injury. After the accident, Xu Ying reported to the public security organs. Under the coordination of the public security organs, the two parties failed to reach an agreement. Therefore, Xu Ying filed a lawsuit with the court and requested that the court order Shu Jin and Didi Chuxing Technology Co., Ltd. to compensate for their medical expenses, lost wages, and apologize in accordance with the law.

The court believes that this case is a dispute over infringement liability. The right to physical health of citizens is protected by law. If a party causes harm to others due to infringement, they shall bear civil liability for compensation. If both parties are at fault, they shall bear civil liability according to their respective faults. In this case, Xu Ying placed an order for a ride hailing service on the Didi Chuxing app, while ride hailing driver Shu Jin received the order on the platform provided by Didi Chuxing. After arriving at the agreed boarding location, Shu Jin believed that the journey was short and requested to cancel the transportation service contract. As a result, a dispute arose and Shu Jin physically assaulted Xu Ying, causing her to be injured. Shu Jin is the infringer, and Xu Ying's failure to handle the matter calmly led to a dispute with Shu Jin, which was partly responsible for the occurrence and escalation of the incident. Based on the facts and the degree of fault of both parties, it is determined that Shu Jin shall bear 60% of the compensation responsibility for Xu Ying's economic losses, and Xu Ying shall bear 40% of the responsibility for her own losses. Didi Chuxing's information service platform is only responsible for publishing information and does not actively dispatch orders to car owners. Car owners are responsible for matching routes and accepting orders on their own. Didi Chuxing's information service platform charges information service fees for successfully matched orders. It is a one-stop travel platform that covers multiple services such as taxis, private cars, express trains, carpools, chauffeur services, and buses. Xu Ying advocates that Didi Chuxing should bear corresponding compensation liability in accordance with Article 34 of the Tort Liability Law of the People's Republic of China. However, Xu Ying failed to provide evidence to prove that Shu Jin was a staff member of Didi Chuxing and that Didi Chuxing's service platform did not proactively dispatch orders to car owners. Xu Ying's demand for Didi Chuxing to bear compensation liability lacks factual and legal basis.

This case is a typical infringement of rights by a ride hailing driver towards a passenger. The court found that an intermediary contract was established between the ride hailing platform and the driver, and they are not responsible for the driver's infringement. By comparing this case with other cases of infringement liability in ride hailing services, we can obtain the following information. Firstly, there is no clear legal provision regarding the legal relationship between ride hailing platforms and ride hailing drivers. Therefore, there is no unified recognition among courts at all levels in the case law. However, from the issue of whether Didi Chuxing needs to bear compensation liability in this case, it can be seen that in the judicial practice of determining cases of infringement of ride hailing services,

it is important to define the legal relationship between ride hailing platforms and drivers and allocate liability for infringement. Secondly, the legal status of ride hailing platforms varies among different levels of people's courts, from carriers to intermediaries. The legal status directly affects the judgment of liability for ride hailing platforms. For example, in this case, the court determined that the ride hailing platform was the intermediary in the case and therefore did not need to bear any liability for compensation. At the same time, the judgments of people's courts at all levels on cases of infringement by ride hailing drivers on passengers show that the court's determination of the infringing liability subject and the type of liability are inconsistent due to the unclear legal status of ride hailing platforms and the legal relationship between ride hailing platforms and ride hailing drivers, which cannot achieve judicial standardization.

Relying solely on agreements between platforms and users cannot determine the legal status of ride hailing platforms. Experts and scholars believe that according to Article 37 of China's Tort Liability Law, platforms should bear the obligation of security protection. This law does not exclude ride hailing platforms, therefore, ride hailing platforms should be recognized as security obligated persons. If the relationship between ride hailing platforms and ride hailing drivers is recognized as an intermediary contract legal relationship, it is easy to provide convenience for ride hailing platforms to evade responsibility in accidents. Given the weak subordinate nature between the platform and the driver, and the reasonable analysis of the responsibility that the driver should bear, the information service contract relationship between the ride hailing platform and the driver is the most reasonable.

3. Issues Concerning the Security Obligations of Online Ride hailing Platforms

As of now, there are no regulations in China regarding the security obligations of ride hailing platforms, and there is no clear legal basis for courts to try cases of infringement liability in ride hailing in judicial practice. [2]The security obligations of ride hailing platforms can only refer to the relevant legal provisions of e-commerce platforms. Article 38 of the E-commerce Law stipulates: "For goods or services that are related to the life and health of consumers, if the operator of an e-commerce platform fails to fulfill the obligation to review the qualifications of the operators on the platform, or fails to fulfill the obligation to ensure the safety of consumers, causing harm to consumers, the operator shall bear corresponding responsibilities in accordance with the law." This law stipulates the security guarantee obligation of network service providers and provides certain legal support for the development of e-commerce platforms. However, as a type of online service platform, whether ride hailing platforms are suitable entities to undertake security obligations is not clearly stipulated by law. Although China's laws do not differentiate ride hailing platforms from other online service platforms, as ride hailing is a mode of transportation that involves both traffic safety and passenger personal safety, ride hailing platforms should be distinguished as special platforms. Firmly controlling the boundaries of the security obligations of ride hailing platforms is of great significance for their own development and the protection of passengers' personal rights and interests.

At present, there are two main issues regarding the legal norms and implementation of the security obligations of ride hailing platforms in China.

3.1 The legal provisions on platform security obligations are not specific

There is no corresponding legal regulation in China regarding the security obligations of ride hailing platforms, and the platform's security obligations are not specific. [3]The lack of specific and clear legal provisions can easily lead to the situation of "different judgments for the same case" when courts make judgments on related infringement cases. For example, although Article 38 of China's E-commerce Law stipulates the security protection obligations of e-commerce platforms, the scope of application of this law is only limited to damage to consumers' personal health, and does not specify

other types of infringement of e-commerce platforms. Therefore, there is controversy and doubt about whether ride hailing platforms are applicable to this law. If ride hailing platforms do not cause harm to passengers' personal health, then this provision cannot be applied. Meanwhile, as can be seen from the above case, there are also issues with the legal positioning and regulation of ride hailing platforms in China's current laws. The implementation rules for ride hailing services formulated by local governments also lack unified standards. Due to the unclear regulations of higher-level laws and the varying implementation rules in different regions, it is not conducive to various levels of departments handling infringement incidents of ride hailing services in judicial practice.

3.2 Lack of awareness of platform security obligations and responsibilities

The inadequate fulfillment of security obligations by ride hailing platforms is not only due to the lack of clear legal regulations, but also due to a lack of awareness of their own responsibilities. As a transportation information service platform that connects drivers and passengers, ride hailing platforms have the obligation to be responsible for the safety of passengers' travel. However, in the process of platform operation and development, its protection of user information and supervision of drivers have not been matched with its development speed, and many shortcomings have been exposed, resulting in a serious lack of awareness of its own security obligations and responsibilities. [4]The safe driving of ride hailing drivers is of paramount importance in ensuring the personal safety of passengers. However, according to observations of recent cases of infringement disputes involving ride hailing services, the probability of ride hailing drivers infringing on passengers is relatively high. Due to differences in education level, legal awareness, and living environment among ride hailing drivers, their personal qualities and law-abiding consciousness vary greatly, resulting in a lack of safety and legal awareness among ride hailing drivers, who have become one of the main groups of criminals. The lack of awareness of the responsibility for ensuring the safety of ride hailing drivers is an important reason for the occurrence of infringement liability disputes in ride hailing services.

4. Improve and standardize the safety obligation boundaries of ride hailing platforms

4.1 Clarify the legal positioning and security obligations of ride hailing platforms

The national legislative body should introduce relevant laws and regulations to determine the security obligations of ride hailing platforms, clarify the legal status of platforms, and local city governments should formulate implementation rules for ride hailing services in various regions based on administrative regulations and the specific development of the ride hailing industry in their respective areas. [5] The State Council should formulate administrative regulations for the ride hailing industry, namely the "Regulations on the Administration of Ride hailing Operation Services", which distinguishes the legal status of platforms under different operation modes of ride hailing, as well as the legal relationships between platforms and users. Formulating administrative regulations in the field of ride hailing services is conducive to more specific departmental rules and local implementation regulations. In addition, the Ministry of Transport should work with other departments to revise and improve the departmental regulations' Interim Measures'. Improve the legal status and security obligations of ride hailing platforms in the Interim Measures.

4.2 Improve the internal and external regulatory mechanisms for the security obligations of ride hailing platforms

The establishment of internal and external regulatory mechanisms for the security obligations of ride hailing platforms is conducive to the orderly fulfillment of platform security obligations. In terms

of external regulation, innovative regulatory models should be developed. The platform should utilize advanced science and technology to achieve convenient and effective external supervision, adopt APP online connection with passengers' relatives to share driving routes, and implement real-time supervision by traffic safety departments and other external supervision measures. In terms of internal supervision, the platform should adopt real-time and dynamic monitoring of drivers, reasonably regulate driving routes, and accept supervision from the public security department. Based on the above, the platform should also take into account the improvement of user information storage and the training of drivers' legal awareness, safety awareness, and professional ethics. Improving the storage of user information is beneficial for passenger users to extract ride information and data, and to obtain evidence and protect their rights in accordance with the law when they are violated. The lack of awareness of the responsibility for ensuring the safety of ride hailing drivers is an important reason for the occurrence of infringement liability disputes in ride hailing services. [6] Therefore, improving the legal and safety awareness of ride hailing drivers and establishing an internal assessment system for drivers is also a special form of internal supervision. The platform can use an internal assessment system to evaluate ride hailing drivers, assess their mastery of safety laws, and collect feedback from users to reward and punish them. Establishing an assessment system is one of the important methods to improve drivers' service awareness and quality.

5. Conclusion

As a key link in the process of ride hailing services, improving the relevant system of security obligations for ride hailing platforms is crucial for promoting the healthy development of China's ride hailing industry.

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