

Identification of Unfair Competition in Short Video Data Handling

Ziqi Song

*School of Law, Capital University of Economic and Business, Beijing, China
32025100068@cueb.edu.cn*

Abstract. In the era of the digital economy, unfair competition disputes in short video data handling occur frequently. The standards of legislative form identification and judicial essence identification conflict, resulting in different judgment standards and vague behavior expectations. The single form identification is easy to give rise to data monopoly and abuse of private rights. While the single substance identification has the problems of difficulty in providing evidence and loss of order in discretion. There is a fundamental conflict between the two in terms of value orientation, applicable logic, and interest focus, which makes it difficult to take into account the needs of data protection and circulation. This paper follows the multiple values of the anti-unfair competition law, the dual attribute theory of data rights and interests, and the principles of public interest priority, scene differentiation, form and substance complementarity, and operability. Finally, a three-level dual fusion identification framework of "preliminary screening of formal elements, core judgment of substantive elements, and final verification of interest measurement" will be constructed. The framework can balance the rights and interests of platform data, market competition efficiency and public interests, unify the judgment standards, and provide stable and landing normative guidance for the regulation of unfair competition in short video data.

Keywords: Short Video Data Handling, Unfair Competition, Data Rights Protection, Identification Rules

1. Introduction

In the digital economy, short video data is a collection of content information and user interaction data formed by the platform after collection and processing and is the core competitive resource of the industry. Unfair competition disputes caused by data crawling, unauthorized aggregation and other handling behaviors are rising year by year. In 2024, the number of unfair competition cases involving data concluded by the national courts in the first instance was twice that of 2021, and short video data handling was the cause of high-frequency cases. After the revision of the anti-unfair competition law in 2025, the supreme law issued No. 262, guiding case, which will be included in the key regulations and clarify the guidance of judicial protection of data rights and interests.

The current legislation takes technical measures and agreement as the core of the form identification standard, while the judicial practice takes material damage as the key of judgment. The conflict between the two causes the boundary of the market subject to be fuzzy [1, 2]. The

existing research is divided into two paths: formal and substantive identification. Formal identification presumes illegality by external rules, which is easy to form platform technical barriers. The core of substantive determination is the effect of competition, and there are problems such as difficulty in adducing evidence and fuzzy standards [3, 4]. The academia has not formed a consensus on the rationality of technical measures, and the research on the root causes of conflict and fusion rules is insufficient, which is difficult to meet the needs of unified adjudication and strengthening data protection.

Based on the conflict between legislation and justice, this study integrates the data protection requirements to build the binary fusion identification rules of short video data handling. It makes up for the logical defects of data competition identification, unify the judgment standards. It also takes into account the competition order and data rights protection and help the development of short video industry.

2. Practical dilemma and conflict analysis of identification path

The illegitimate identification of short video data handling can be divided into two single paths: formal and substantive identification. Both have inherent defects. Multiple conflicts lead to difficulties in judicial application. The essence is to build compound recognition rules without combining the attributes of short video data and industry needs.

2.1. Identification path practice dilemma

2.1.1. Practical dilemma of formal identification path

The formal determination is based on technical management measures, data acquisition agreements, and triple authorization rules, and follows the deductive logic of "violation of formal rules is presumed to be illegitimate", without examining the effect of substantive competition [5, 6]. Although this path can provide clear behavior guidance, it has "formalism" defects: first, it takes technical measures such as anti-crawler systems, password protection, and robots protocol as the basis for absolute prohibition, which is easy to lead to data monopoly and hinder data circulation and innovation [3]. The second is to directly identify the violation of the unilateral standard terms of the platform as unfair competition [4]. It causes the rule of private rights to be made public, which violates the relativity of contract and the purpose of legislation. The third is to extend the triple authorization rule to all short video data, increase the cost of public data circulation, and inhibit the rational use of data [3].

This path overprotects the vested interests of the platform and ignores the substantive impact of the competition order, which is contrary to the core goal of the anti-unfair competition law to maintain fair competition.

2.1.2. Practical dilemma of substantial identification path

The core of substantive determination is whether to cause substantial competition damage, and it follows the inductive logic of "presumption of illegality from damage". The formal compliance, but substantial damage can still be identified as unfair competition [4]. This path fits the essence of unfair competition, but it is difficult to operate: first, the identification of substantive substitution takes user substitution as the core, does not distinguish between data types and use scenarios, only takes the amount of data as the standard, and ignores the purpose of use [7]. The second is to equate the market competition ethics of "get for nothing" with business ethics and reduce the free space for

competition [8]. The third is the lack of operating rules; the judges' discretion is too large, the difference of judgment results is obvious, and it is difficult to provide evidence for material damage, which increases the cost of safeguarding rights on the platform.

2.2. Identification path conflict analysis

First, the value orientation conflict. Formal identification focuses on protecting the control right of platform data and the certainty of rules and respects the labor input of the platform [3, 4]. The essence identification focuses on maintaining the vitality of market competition and public interests and pays attention to the overall competitive efficiency. The two are not dynamically balanced according to the data type and scenario, and lack of priority standards, which leads to one-sided judicial practice [4, 5, 7]. Second, the logical conflict of application. The formal identification is deductive logic, based on Article 13 of the Anti-Unfair Competition Law revised in 2025, and the illegitimacy is presumed by clear rules [6]. The identification of essence is inductive logic, without fixed premise, and requires comprehensive identification of factors such as competition damage and business ethics [4]. A single application is easy to fall into formalism or referee confusion. Third, interests focus on conflict. The form identification tends to protect the individual interests of the platform, taking labor input and commercial interests as the primary consideration [6]. Substantive identification gives priority to safeguarding the overall interests of the market, public interests and consumer welfare [9]. In practice, it is difficult to balance, and a single path cannot adapt to the multiple attributes and judicial needs of short video data.

3. Dual fusion identification framework

There are inherent defects in the path of single form identification and substantive identification, which can not adapt to the attribute characteristics and industry governance needs of short video data. Only when the two kinds of paths are organically integrated can build logical self consistent and practical recognition rules.

3.1. Theoretical basis and core principles

The dual fusion identification framework of short video data handling is supported by the multi value theory of anti unfair competition law, the dual attribute theory of data rights and interests, and the collaborative governance theory of digital economy. Combined with the characteristics of the short video industry, four principles are established: first, public interest comes first. The core of the anti unfair competition law is to maintain public competition order. Data governance needs to balance the rights and interests of the platform and the public value of data circulation, and prevent the platform from forming a data monopoly by borrowing rules [1]. Second, scene differentiation. At present, the mainstream view of "classified protection and scenario regulation" has been formed in the study of unfair data competition. We should distinguish between public data and non-public data, commercial data and personal information, competitive use and innovative use, and set different protection intensity respectively to avoid "one size fits all" identification [3-5]. The third is the principle of complementarity between form and substance. Mainstream studies are opposed to a single applicable path, advocating that formal rules provide behavior expectations, and substantive judgments ensure fairness and rationality, to make up for the defects of a single path [3-5]. Fourth, operability. In view of the difficulties in providing evidence, large amount of discretion, inconsistent judgment and other issues, we can achieve the same judgment in similar cases and stabilize the

expectation of behavior by clarifying the judgment criteria, quantifying the consideration indicators, and using technical tools [3, 4].

3.2. Specific construction of dual fusion identification framework

3.2.1. Screening rules for rationalization of formal requirements

The screening of formal requirements is a review of the rationality and legitimacy of technical management measures, data acquisition agreements, and triple authorization rules. Rationality is based on necessity, non-discrimination and proportionality; that is, rules are only necessary to protect legitimate rights and interests, without equal discrimination, without exceeding reasonable limits, without excluding or restricting competition [1, 3-5]. Only legal and effective formal rules are used as the basis, excluding monopoly and discriminatory rules set by the platform. First, review of technical management measures. On the premise of rationality and non-discrimination, we are opposed to taking technical management measures as the only premise for anti-illegality of business data, and the technical measures that excessively interfere with the independent control rights of operators lack legitimacy [5]. If technical measures go beyond the scope of necessary intervention, it is against the theory of competition law. The Beijing Higher People's Court held that the discriminatory technical measures were invalid in the case of unfair competition between Baidu and 360. Therefore, only the non-discriminatory technical measures set by the platform to protect non-public business data and user personal information can be used as the screening basis. Second, data acquisition protocol review. It is necessary to distinguish the types of data acquisition protocols, because the anti-unfair competition law is a public law, and its goal is to protect the market competition order and public interests, but agreement disputes belong to the scope of private law regulated by the contract law [5]. The unilateral standard terms of the platform do not have the effect of anti-unfair competition law due to the exclusion of competition, restrictions on fair use and other issues. Only the dual service exclusive data authorization agreement formed by the platform and the third party through fair negotiation can be used as the screening basis. Third, the triple authorization rule applies. Triple authorization is an important basis for the collaborative work of data protection and competitive rights [10]. The triple authorization rules need to limit the applicable scenarios, and universal prior authorization is not required for public data [6]. This rule is only applicable to the field of short video non-public personal information, and has no effect on public commercial data. After screening, the behavior that meets the formal requirements enters the substantive judgment link, and the behavior that does not meet the formal requirements directly excludes the identification of unfair competition. In the case of Douyin v. Shubao, Shubao's app broke through the non-discriminatory technical measures of Douyin and did not sign a legal data authorization agreement. Moreover, non-public information is not subject to the triple authorization rule, which meets the formal requirements.

3.2.2. Refined judgment rules for substantive elements

The judgment of substantive elements focuses on the two core standards of substantive substitution and business ethics. Avoid subjective identification through fine rules. First, the identification of substantive alternative standards. The substantive substitution standard should adopt the principle of loose application, make a broad identification of the competition relationship, and comprehensively determine multiple factors. The competition relationship in the digital economy should be identified in a broad sense, not limited to direct competition. As long as the behavior affects the traffic, trading

opportunities and competitive advantages of the original platform, it also constitutes a substantial substitution [4]. The case of Chongqing Radio and Television v. Netease clarified six considerations, such as the use of immediacy and the degree of close competition. At the same time, it emphasizes the purpose of data use. If it is used for innovative purposes rather than homogeneous substitution, it will not be recognized as material damage [3]. Second, the identification of business ethics standards. Business ethics should adopt market competition ethical standards independent of social ethics. The business ethics attribute of data crawling behavior shall comply with the business agreement of the industry [11]. Business ethics is not equal to social ethics, which should be considered in combination with industry practices, market efficiency and innovation incentives [9]. The business ethics judgment of the short video industry needs to examine whether the behavior complies with the applicable norms of industry data, whether it damages the innovation atmosphere, and whether it takes into account the interests of platforms and consumers. Acts that violate the business ethics of the industry are considered to be illegitimate. After judgment, the acts that constitute substantial competition damage enter the interest measurement link, and those that do not constitute it are directly recognized as legitimate acts. In the case of Shuaiyin v. Shuaibao, Shuaibao app grabbed a large number of Shuaiyin content and homogeneously spread it, forming a substantial substitution, and violating the business ethics of the industry, which constituted substantial damage.

3.2.3. Quantitative balance rules of interest measurement

The core of interest measurement is to balance the individual interests of the platform and the overall interests of the market. It is necessary to analyze the relationship between competition and the overall interests of the market. We should adopt a multiple-interest balance and quantify it to achieve dynamic balance [12, 13]. First, the individual interests of the platform are quantified from the dimension of labor input. Considering the commercial value of video data, overall input cost, traffic loss and other indicators, comprehensively evaluate the actual loss of the platform [4]. Secondly, the overall interests of the market are quantified from the dimension of innovation contribution, and the impact on the overall competition order and innovation vitality of the market is comprehensively evaluated by considering the innovation effect of data use, the participation in industry competition, the improvement of consumer welfare, and the value of data circulation. Third, formulate dynamic balance rules. Comparing the quantitative value of labor input on the platform with the quantitative value of innovation contribution, if the individual interests of the platform are damaged but the data handling behavior brings significant innovation value, the behavior is not justified. If the interests of the platform are damaged and a homogeneous malicious substitution is formed, it does not produce any innovative value and is deemed to be illegitimate. If the interests of both parties have no significant impact, the comprehensive judgment shall be made in combination with the subjective intention of the behavior. In the case of Shuaiyin v. Shubao, this behavior had no innovation value, failed to improve consumer welfare, destroyed the order of fair competition, inhibited industry innovation, and was finally determined to constitute unfair competition.

3.2.4. Guarantee mechanism

Build the core mechanism of three dimensions of technology, subject and industry, and solve the problems of difficult proof and subjective judgment in judicial determination. First, technological tool empowerment. Develop an unfair competition identification system for short video data. Using big data and blockchain to realize data traceability, quantify the effect of competition, and fix the

evidentiary materials, to solve the problems of difficult evidentiary and subjective judgment. Second, multi-subject coordination. Establish a formal rule review organization composed of platforms, industry associations and market supervision departments. Review the rationality of platform technical measures and data acquisition agreements to avoid abusing private rights rules to set up discriminatory barriers. Third, industry self-discipline. The industry association shall formulate the industry self-discipline convention, clarify the legal boundaries and disciplinary measures to make up for the legal lag, and reduce improper data handling from the source.

4. Conclusion

Based on the analysis of the practical dilemma and the root causes of the conflict between the form and essence of short video data handling behavior, supported by the multiple values of the anti unfair competition law, the dual attributes of data rights and interests, and the theory of digital collaborative governance, and following the principles of public interest priority, scene differentiation, form and substance complementarity and operability, this paper constructs a three-level binary fusion identification framework of "preliminary screening of formal elements, core judgment of substantive elements, and final verification of interest measurement". The framework integrates the reasonable rules of the two identification paths and discards the one-sided judgment of a single dimension. The screening of formal elements preserves the certainty of rules and eliminates unreasonable rules. The substantive judgment adheres to the effect orientation and reduces subjectivization. The interest measurement realizes the dynamic balance between the platform and market interests. As a whole, it can effectively solve the problems of inconsistent standards, strong subjectivity and imbalance of interests in the current judicial identification, realize the multiple coordination of rule certainty and competitive vitality, platform interests and public interests, data protection and data circulation, and provide the applicable judgment rules for the identification of unfair competition in short video data handling.

In the future, the industry trend can be combined to enrich the scene, and the indicators can be refined through case empirical analysis. Promote the connection between the framework and the judicial application of the "commercial data articles" of the anti-unfair competition law, provide specific guidance for judicial practice, and help the standardized development of the short video data elements market and the reasonable protection and efficient circulation of data elements in the digital economy.

References

- [1] Anti-Unfair Competition Law of the People's Republic of China (revised in 2025). Retrieved from <https://www.pkulaw.com/chl/1d79285621ad7295bdfb.html?keyword=Anti unfair competition law& way=listview>
- [2] Supreme People's Court of the People's Republic of China (2025). Retrieved from <http://gongbao.court.gov.cn/Details/860f4b42c173681223b39e087c80b8.html>
- [3] Zhou, X.P. (2023) Research on the identification rules of unfair competition in data crawling. *NTU Law*, (2), 87-102.
- [4] Yin, J.G. (2024) The goal adjustment and path optimization of data capture behavior regulation. *Modern Law*, 46(3), 158-172.
- [5] Yuan, B. (2024) Rethinking and reshaping the normative structure of "commercial data articles" in the anti unfair competition law. *Ningxia Social Sciences*, (5), 131-143.
- [6] Diao, Y.Y. (2021) The protection of anti unfair competition law involving the collection of work data on Internet platforms. Published in China, (9), 24-28.
- [7] Zhang, S.L. (2023) On the protection of data set against unfair competition law. *Journal of Henan University of Economics and Law*, 38(5), 57-67.

- [8] Zhai, W. & Liu, Y.N. (2021) The legitimacy boundary of public data crawling behavior from the perspective of anti unfair competition law. *Price Theory and Practice*, (8), 69-73+149.
- [9] Wang, X.L. (2025) The system improvement and application coordination of Anti Unfair Competition Law in the field of Digital Economy -- from the perspective of the third amendment of China's anti unfair competition law. *Jinan Journal (Philosophy and Social Sciences Edition)*, 47(7), 42-57.
- [10] Zhang, V.Y. & Gong, J. (2018) The economic characteristics of data competition in China's digital economy. *Competition Policy International*, 14(1), 1-10.
- [11] Liu, R. (2023) Analysis of the path to protect enterprise data rights and interests in China (Unpublished master's thesis). Wuhan University.
- [12] Yang, Z. (2023) Discussing data ownership disputes and data protection from data crawling practices. *International Journal of Frontiers in Sociology*, 5(4), 125-134.
- [13] Zhang, Q.W. & Wu, S.H. (2022) Anti unfair competition law regulation of enterprise data crawling: a comparative study based on the cases of China and the United States. *Technology and Law (Chinese and English)*, (1), 80-90.