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Original Paper

Legal Characterization and Liability Allocation in Minor Live-Streaming Tipping in China

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Abstract

With the rapid development of China's live-streaming economy, legal disputes arising from minors' tipping behavior on live-streaming platforms have been increasing. Related issues mainly focus on the legal characterization of tipping behavior, the validity assessment of minors' declarations of intent, and the allocation of responsibility among platforms, streamers, and guardians. Under the current framework of the Civil Code of the People's Republic of China, significant interpretive tensions remain regarding these issues. In particular, as algorithmic recommendation mechanisms increasingly intervene in user decision-making, the traditional assessment approach centered on civil capacity has revealed certain limitations in application. Through normative analysis and a review of typical cases, combined with platform governance and algorithmic influence mechanisms, this paper reconstructs the legal relationship structure of live-streaming tipping behavior. The study finds that judicial practice has gradually tended to characterize live-streaming tipping as an online service contract relationship rather than a pure gift relationship. However, in the context of minors, reliance solely on capacity rules cannot fully explain the authenticity of declarations of intent, as algorithmic recommendations and immersive interactions significantly strengthen behavioral inducement effects. Meanwhile, the boundaries of responsibility between platforms and streamers remain relatively ambiguous in practice, and existing youth modes and identity verification mechanisms are easily circumvented, resulting in limited effectiveness in risk prevention. Based on this, from the dual perspectives of institutional and technical governance, this paper proposes strengthening platform algorithmic governance and risk control obligations to improve protection rules for minors' online consumption and provide theoretical support for regulatory policies.

Keywords

minor protection, live-streaming tipping, liability assumption, platform liability, civil capacity

1. Introduction

Against the backdrop of the rapid development of the digital and platform economies, the live-streaming industry has become an important component of China's internet economy. Meanwhile, as a significant group of internet users, minors participate extensively in activities on live-streaming platforms, and their tipping behavior has triggered numerous legal disputes and widespread public concern. In judicial practice, three major controversies surround minors' live-streaming tipping behavior: first, whether the legal nature of tipping should be characterized as a gift contract, sales contract, or online service contract relationship (Zhang, P., & Yao, Z., 2023, pp. 54-62); second, whether declarations of intent made by minors at different stages of civil capacity are valid; and third, how to define the boundaries of responsibility and risk allocation mechanisms among platforms, streamers, and guardians. Due to inconsistent application standards across jurisdictions in specific cases, a certain degree of divergence in adjudication still exists in practice. This paper focuses on discussing the responsibilities and obligations borne by live-streaming platforms. Existing research primarily relies on the traditional civil law framework for analysis, particularly the provisions of the Civil Code of the People's Republic of China regarding civil capacity and contract validity, in order to characterize tipping behavior legally. However, this interpretive approach has gradually revealed limitations in the context of digital platforms. The nature and boundaries of platforms' responsibilities as technological intermediaries have not yet been adequately clarified, and the extent of their supervisory obligations still requires further definition (Zhang, P., & Yao, Z., 2023, pp. 54-62). Based on this, it is necessary to re-examine minors' live-streaming tipping behavior from a more comprehensive perspective by incorporating factors of platform governance and technological mechanisms into the existing civil law framework, thereby reconstructing the relevant legal relationships structurally. From a theoretical perspective, this helps address deficiencies in civil legal interpretation under the digital economy; from a practical perspective, it contributes to unifying judicial adjudication standards, clarifying platforms' risk control obligations, improving protection systems for minors' online consumption, and providing references for optimizing regulatory policies. Based on the above problem awareness, this paper aims to systematically analyze the legal nature of minors' live-streaming tipping behavior, explore the responsibilities and obligations borne by live-streaming platforms, and attempt to construct a responsibility allocation framework incorporating algorithmic influence factors, thereby providing theoretical support for relevant judicial practice and institutional improvement.

2. Theoretical Background

First, several core concepts require clarification. Regarding the definition of minors' tipping behavior toward streamers, the minor live-streaming tipping contract referred to in this paper denotes the legal relationship formed when a person with limited civil capacity or a person without civil capacity recharges virtual currency through a live-streaming platform and makes payments to a streamer (Zhang, P., & Yao, Z., 2023, pp. 54-62). Theoretically, its nature is mainly disputed among the service contract theory, gift contract theory, and sales contract theory. Given the diversification of the live-streaming industry, this paper tends to adopt the service contract theory, under which tipping constitutes a consideration payment by users to obtain differentiated services rather than a pure gift or simple currency transaction (Di, X., 2022, pp. 84-98). Second, regarding the responsibilities borne by platforms, this paper argues that platform governance responsibility refers to the special supervisory obligations that live-streaming platforms, as internet service providers and technology operators, should assume in the context of minors' tipping. Whether minors' live-streaming tipping behavior is valid requires reference to relevant theoretical foundations. According to Article 19 of the Civil Code of the People's Republic of China: Minors above the age of eight are persons with limited civil capacity. They shall have their civil legal acts performed by their statutory agents or with the consent or ratification of their statutory agents; however, they may independently perform civil legal acts that are purely beneficial or appropriate to their age and intelligence. Minors' contracting capacity is therefore subject to the dual restrictions of age and intelligence; accordingly, the validity of an act requires comprehensive consideration of age, intelligence, and ratification by the statutory agent. In the digital environment, a dynamic adaptation standard should be introduced, conducting scenario-based assessments that incorporate factors such as consumption amount, frequency, and content complexity. Meanwhile, according to Article 18 of the Provisions on the Administration of Algorithmic Recommendation Services in Internet Information Services: Algorithmic recommendation service providers that provide services to minors shall fulfill their obligations for minor online protection in accordance with the law, and facilitate minors' access to information beneficial to their physical and mental health by developing modes suitable for minors' use and providing services tailored to minors' characteristics. However, algorithmic ethics and legal norms concerning platforms' social responsibilities remain relatively ambiguous. Questions such as what constitutes a mode suitable for minors and what specific services should be provided still require further clarification and improvement (Luo, M., & Su, M., 2020, pp. 44-46).

3. Literature Review

3.1 Research on the Validity of Minors' Live-Streaming Tipping Contracts

There are divergent opinions in academia regarding the legal characterization of minors' live-streaming tipping behavior, with current disputes mainly centering on the theories of validity and invalidity. The principal basis for the validity-pending theory derives from Article 145 of the Civil Code: "Civil legal acts performed by persons with limited civil capacity that are purely beneficial or appropriate to their age, intelligence, and mental health conditions are valid; other civil legal acts performed by them become valid upon consent or ratification by their statutory agents." This provision indicates that the validity of civil legal acts performed by persons with limited civil capacity should be determined based on multiple conditions and ratification by statutory agents. Li (2024) notes that most minors' online tipping behavior is completed without guardian supervision, and that live-streaming tipping constitutes a novel form of internet economic behavior; therefore, whether minors possess sufficient capacity to recognize the nature of their actions remains debatable. In practice, courts, considering minors as a vulnerable group, tend predominantly to rule that such contracts are not fully valid. Proponents of the validity theory, such as Pan and Luo (Pan, H., & Luo, T., 2018, pp. 92-99), argue that tipping behavior stimulates streamers' active performances and interactions, thereby satisfying users' spiritual and emotional needs. Blanket denial of validity, therefore, would be detrimental to the development of the digital economy. Cai (2012, pp. 76-77) further points out that while protecting the legitimate rights and interests of minors, the interests of bona fide merchants should also be protected in order to maintain sound economic order, and thus such contracts should generally be deemed valid. By contrast, proponents of the invalidity theory, such as Pan (2023, pp. 59-66), argue that minors are in a period of rapid intellectual development, lack mature autonomous judgment capabilities, and are more likely to pursue self-expression impulsively. Moreover, despite the existence of real-name verification mechanisms in current online transactions, the non-contact nature of the internet makes the separation between tipping subjects and registered subjects relatively common. In live-streaming tipping, streamers' appearances and voices may also be fabricated through beauty filters or voice-changing technologies, thereby inducing irrational consumption by minors. Additionally, Tu (2023, pp. 15-23) argues that according to Article 171 of the Civil Code, where an actor performs agency acts without authority, beyond the scope of authority, or after the termination of authority, and such acts are not ratified by the principal, they shall not be effective against the principal. Accordingly, minors' use of guardians' mobile phones for live-streaming tipping should be directly characterized as unauthorized agency, rendering the contract invalid.

3.2 Research on Platform Responsibility and Governance Mechanisms

Regarding the responsibilities and obligations platforms should bear, current academic discussions mainly present two viewpoints. The first is the theory of contractual obligations and security protection responsibilities. Cheng and Fan (2019, pp. 1-15) advocate that platforms bear pre-contractual obligations, including duties to inform and warn minors, as well as technical obligations to implement necessary risk-prevention measures for transactions. At present, the most common practice is the use of standard terms to fulfill the duty of notification; however, this approach has failed to effectively solve the problem in reality, as most users simply agree perfunctorily and such terms do not constitute effective constraints on minors. Platforms therefore bear heightened duties of care and social responsibility. If platforms fail to fulfill their obligations and minors' families consequently suffer economic losses, the platforms may be considered at fault and should bear corresponding compensation liability. Cai (2024, pp. 69-71) similarly argues that live-streaming platforms, as intermediaries for tipping transactions, bear security protection obligations. Given their technological advantages, they are under a greater obligation to conduct strict user reviews and maintain transaction order within the live-streaming industry. If platforms fail to fulfill these review and supervisory obligations, causing losses to minors' families, they should bear property restitution liability. The second viewpoint is the theory of presumed-fault tort liability. Tang (2022, pp. 84-86, p. 135) proposes that live-streaming platforms, as internet service operators serving the public, possess unique advantages in network control technology and therefore bear responsibility for protecting the interests of minors. According to Article 1165 of the Civil Code, where an actor infringes upon another person's civil rights and interests and causes damage due to fault, the actor shall bear tort liability. If live-streaming platforms fail to fulfill their duties of care and security protection as pre-contractual obligations, they may therefore be deemed to have committed tortious conduct.

3.3 Research Evaluation and Outlook

In summary, existing research has produced fruitful results at the theoretical level, yet several deficiencies remain. First, the definition of contract nature remains ambiguous. Most studies simply characterize live-streaming tipping as either a gift contract or a sales contract, failing to adequately address factors such as streamers' inducement and minors' mental capacity. Second, research on platform responsibility remains fragmented, lacking sufficient demonstration of the transformation of platforms from safe-harbor providers to gatekeepers. Third, empirical research is relatively scarce, and typological analysis of judicial adjudication rules remains insufficient. Future research should therefore focus on constructing contract theories compatible with the diversified nature of live-streaming tipping, promoting the transformation of platform obligations from passive exemption to active governance, and providing stronger theoretical support for improving the legal system for the online protection of minors.

4. Analysis

4.1 Consensus and Contradictions in the Legal Characterization of Live-Streaming Tipping Contracts

Regarding the legal nature of live-streaming tipping behavior, academia mainly presents three viewpoints: the gift contract theory, the service contract theory, and the sales contract theory. The gift contract theory, represented by Chen and Cheng (2025, pp. 212-223), argues that live-streaming tipping possesses the characteristics of gratuitousness, unilaterality, and non-reciprocity, thereby conforming to the essential features of a gift contract. However, this theory encounters difficulties in explaining the exchange relationship between streamers' live-streaming activities and users' tipping behavior. Substantively, it tends to negate the labor value generated through streamers' performances and fails to provide a legitimate basis for the commission fees charged by platforms. The sales contract theory characterizes the recharge behavior as a transfer of ownership of virtual property, which can partially explain the nature of virtual currency transactions. Nevertheless, this theory cannot fully encompass the emotional interaction and entertainment attributes underlying tipping behavior. Moreover, it excludes streamers from the contractual relationship and fails to properly address the distribution of interests among platforms, streamers, and users. The service contract theory currently represents the mainstream academic position. Pan (2025, pp. 210-212) systematically argues for the emotional labor exchange attribute of live-streaming tipping and advocates incorporating such behavior into the framework of online service contracts. However, this theory also faces certain limitations (Fan, M., & Yang, Y., 2024, pp. 131-142). Streamers retain considerable autonomy over their live-streaming content, and tipping behavior does not always correspond to a fully equivalent reciprocal exchange relationship with live-streaming services. The author therefore argues that no single theory can comprehensively explain the complex legal structure of live-streaming tipping behavior, as each theory contains inherent limitations that are difficult to overcome independently. Accordingly, a dual-layer structural analysis should be adopted when characterizing the nature of live-streaming tipping contracts. At the first level, the recharge relationship between minors and platforms should be defined as an online service contract. At the second level, minors' tipping behavior toward streamers should be differentiated according to specific circumstances: ordinary tipping may be characterized as a gift contract, whereas tipping accompanied by specific streamer obligations should be further classified as a service contract relationship.

4.2 Balancing Minor Protection and Platform Legal Interests and the Evolution of Platform Responsibility

In the current era of rapid internet development, the law should consistently protect the legitimate rights and interests of vulnerable groups. Whether minors possess sufficiently mature mental capacity remains subject to debate, and whether they can independently conduct live-streaming tipping behavior requires case-by-case analysis (Xiong, B., 2026, pp. 23-38). However, alongside the rapid development of China's platform economy and the continuous improvement of the socialist market economic order, the transactional security and legitimate commercial interests of platforms must also be protected. How to balance these competing legal interests has therefore become a crucial issue. Furthermore, at the level of platform governance responsibility, the specific nature of the responsibilities borne by platforms, whether tort liability, risk control obligations, or a hybrid form of responsibility, still requires further clarification (Deng, Q., & Guo, L., 2019, pp. 220-233). The legal characterization of contractual relationships between minors and live-streaming platforms likewise requires additional refinement in order to promote the transformation of platform responsibility from that of a neutral technological intermediary to that of a subject bearing active risk-control and supervisory obligations. At the normative level, future legal development should not remain confined to traditional contract law frameworks. Instead, reforms should gradually extend toward more refined consumer protection regulations and digital governance mechanisms, thereby adapting legal norms to the evolving realities of the platform economy.

4.3 Limitations of Platform Governance Models

Current theoretical and practical approaches to platform governance still exhibit several limitations. First, a significant gap remains between legal provisions and practical technological implementation. According to Article 27 of the E-Commerce Law of the People's Republic of China, e-commerce platform operators are required to verify and register the identity information of operators entering the platform and to regularly verify and update such information. Existing law therefore imposes obligations on platforms to conduct real-name authentication and identity verification in order to strengthen the protection of minors' personal and property rights (Xiong, B., 2026, pp. 23-38). However, substantial obstacles remain in fully translating these legal requirements into effective technical implementation. Second, difficulties persist regarding the allocation of the burden of proof. Article 62 of the E-Commerce Law of the People's Republic of China provides that e-commerce operators shall preserve original contracts and transaction records when handling disputes. Where operators lose, forge, alter, destroy, conceal, or refuse to provide relevant materials, thereby preventing courts or relevant authorities from ascertaining the facts, they shall bear corresponding legal liability (Deng, Q., & Guo, L., 2019, pp. 220-233). However, at the practical level, requiring guardians to prove both that the tipping behavior was conducted by a minor and that the platform's algorithmic mechanisms involved inducement remains extremely difficult. In cases involving minors, where platforms fail to fulfill reasonable identity verification obligations, such failures may, to some extent, result in contracts being deemed ineffective or in platforms being found liable for tortious conduct, thereby requiring them to bear corresponding adverse legal consequences. Nevertheless, questions concerning evidentiary standards and the allocation of the burden of proof remain controversial and insufficiently resolved in current judicial practice.

4.4 Directions for Innovative Breakthroughs

Based on the comparative analysis above, the author argues that future research should focus on addressing deficiencies in technical attribution mechanisms, improving legal norms in contract law, strengthening the protection of minors' legitimate rights and interests, and enhancing platform governance. These elements should collectively constitute the core direction for future institutional innovation. First, an obligation of algorithmic transparency should be introduced. This obligation should transcend traditional identity review responsibilities and establish a governance framework capable of balancing the legal interests of all relevant parties through the application of digital technologies and more transparent service agreements with minor users. Second, a graduated responsibility model should be constructed (Xiong, B., 2026, pp. 23-38). Under such a framework, responsibility between platforms and guardians would be dynamically allocated according to specific risk factors, such as transaction amounts and the intensity of inducement mechanisms. This approach would avoid overly rigid adjudication outcomes characterized either by full refunds or complete denial of restitution. Third, governance mechanisms should gradually shift from ex post remedies toward preventive governance. Instead of focusing primarily on post-hoc recovery of funds, regulatory attention should emphasize the prior embedding of technical safeguards, such as mandatory cooling-off periods for high-risk tipping behavior. Platforms may also establish differentiated contractual procedures for users and streamers in order to clarify mutual rights and obligations more effectively, thereby promoting substantive digital justice.

5. Conclusion

In the current era of rapid internet development, disputes concerning contract validity and governance responsibility arising from minors' live-streaming tipping behavior reflect the inadequacy of existing legal frameworks in addressing emerging digital business models. This study finds that minors' live-streaming tipping behavior may generally be regarded as defective in validity where excessive transaction amounts or content contrary to public order and good morals are involved. The core problem lies in the absence of targeted legal norms governing the novel and composite contractual relationship formed through live-streaming tipping, resulting in persistent gray areas regarding the determination of minors' civil capacity, the allocation of platform responsibility, and mechanisms for damage relief. As key technology providers and rule-makers, live-streaming platforms not only bear statutory obligations under laws such as the E-Commerce Law, but should also proactively assume higher standards of review and supervisory responsibility commensurate with their dominant commercial positions. Accordingly, future normative pathways should seek to clarify both the legal nature and validity standards of live-streaming tipping contracts at the legislative and judicial levels, while further refining the scope of platform supervisory obligations. Only through multi-party co-governance involving legal reform, industry self-regulation, technological advancement, and judicial coordination can an effective protection system for minors' rights and interests be established, thereby promoting the healthy, orderly, and sustainable development of the digital economy.

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