

Identification of the Legal Nature of the Behavior of Webcasting Reward and Analysis of the Nature of the Fraud of Inducing Reward Class

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Abstract: With the advent of the Internet era, webcasting has become a way for some people to make quick money, in which the audience's reward for the anchor has become an important source of income for the anchor. The rapid rise of the live broadcasting industry has made the number of network live broadcasting crimes rising, and the crime of the anchor inducing the audience to reward has become a new type of network fraud. However, there are differences in the legal profession on the identification of the nature of the behavior of network live streaming type of reward, such as whether or not there is a quid pro quo or what kind of quid pro quo, and whether or not there is a direct agreement between the anchor and the user at the time of rewarding, and so on. The root of the problem is that there are differences in the determination of the legal relationship. Based on this, this paper will define the rights and obligations between the user, anchor, live platform tripartite relationship and the legal nature of the network live reward behavior and reward fraud crimes to analyze and identify, and according to the different groups oriented to put forward reasonable preventive countermeasures.

Keywords: webcasting, network fraud, network live reward.

1. Introduction

With the continuous development of Internet technology, the scale of China's live broadcasting industry continues to expand. According to the 2024 China Network Audiovisual Development Research Report, as of December 2023, the scale of China's network audiovisual users amounted to 1.074 billion, with a utilization rate of 98.3% among Internet users [1]. The total number of short video accounts on platforms mainly for online audiovisual business amounted to 1.55 billion. By the end of 2023, the number of professional network anchors in China had reached 15.08 million [1]. The continuous expansion of the live broadcasting industry has allowed the development of a new industry on the network, and live broadcast rewarding has gradually become an important profit model and source of income among live broadcasting platforms as well as anchors. The so-called network live broadcast bounty refers to the behavior of users in the process of watching live broadcasts, purchasing virtual gifts by recharging the virtual currency of the platform, and giving these virtual gifts to the anchor. On the one hand, users are able to autonomously reward their favorite anchors according to their own meanings, and the non-compulsory consumption mode can not only increase the fun of live

broadcasting and the interactivity between anchors and users, but also satisfy the substantive interests of anchors and platforms. On the other hand, live-streaming reward behaviors have also led to numerous issues, including underage rewards and inducements to invest or engage in fraudulent schemes, which are not uncommon. Cases of similar nature frequently result in differing judicial precedents. In this context, accurately defining the legal nature of online live-streaming reward behavior, as well as conducting a legal analysis of fraudulent reward inducements, is crucial to devising preventive countermeasures and solutions to guide the healthy development of the online ecosystem. This has become a pressing issue.

Based on this, this paper will analyze the different doctrinal views of the legal profession on the behavior of network live streaming reward, further sort out the relationship between the relevant subjects of live streaming reward, and identify the legal nature of the live streaming reward and the implementation of fraud through the inducement of reward type of behavior.

2. Determination of the Legal Nature of the Behavior of Webcasting Reward

2.1. The Nature of the Webcast Reward Contract

Network live reward behavior involves three main parties: the live-streaming platform, the user, and the broadcaster. Within this tripartite framework, disputes arising from live rewards are common in domestic practice, but the existing legal framework struggles to resolve the controversies it causes. There are differing views in academia and judicial practice regarding the legal nature of network live reward behavior, with three main representative perspectives: the service contract theory, the network consumption behavior theory, and the gift contract theory.

The service contract relationship theory holds that a service contract relationship is established between the user and the anchor. The so-called service contract refers to the contract with service as the subject matter. This view in the academic community points out that webcasting has performance attributes and instant interactivity. Webcasting is a service to the audience and the anchor provides performance services to the user through the platform, and the user pays for the service in the form of rewarding virtual gifts [2]. This view emphasizes the direct legal relationship between the anchor and the user, and regards the reward as the performance of the service contract. However, it is difficult to fully explain the voluntary and non-consensual nature of the rewarding behavior and the arbitrariness of the reward amount.

Network consumer behavior that the reward behavior depends on the recharge behavior, the user through the live platform to buy reward props and the formation of the service contract relationship, but in the reward anchor and the user does not have a direct agreement relationship [3]. For example, in the case of *Mr. Yu v. Mr. Cheng, Beijing Mor Technology Co., Ltd.* unjust enrichment dispute, the court held that the user exchanges the platform props in the network platform and then rewards the anchor, which is based on the user agreement signed between the user and the platform. It accepts the platform to provide the service on the basis of the technology, operation, and maintenance, and obtains the interaction and fulfillment in the process of voluntary rewarding in the network platform, which is essentially based on the process of the live broadcasting platform between the user and the live broadcasting platform. It is such a consumption behavior of the service contract rather than gift behavior [4].

The theory of gift contract relationship holds that the behavior of network live streaming reward should be characterized as a gift behavior, which belongs to a kind of civil law. After watching the live broadcast, the user voluntarily expresses his love and support for the anchor by offering a reward, and the behavior is non-compulsory and arbitrary. The performance of the anchor will not be different because of the user's reward, so the nature of the legal relationship formed between the user and the anchor for the gift contract relationship. For example, in the case of *Mr. Zeng v. Mr. Ke, Mr. Wang*

gift contract dispute, the court held that the reward is spontaneous, and there is no obligation set for the anchor at the time of the reward, which is essentially a single service contract [5]. Webcast reward is gratuitous and non-consensual, and its intention is to increase the emotional needs of each other, so it belongs to a kind of gift contract. This view is more in line with the actual situation of live reward, can reasonably explain the reward behavior of voluntary and non-consensual.

The main difference between the above views lies in whether there is a quid pro quo in the behavior of network live streaming bounty, and only by clarifying the relationship between the rights and obligations of the live streaming platform, the anchor and the audience can we better analyze the essence of the behavior of network live streaming bounty.

2.2. Legal Relationship of the Subjects of Direct Broadcast Reward Behavior

2.2.1. Anchors and Users

With the increase in the number of users of various platforms such as Shake, Shutter, there are more and more people stationed on the platform to provide users with rich and colorful content, on the one hand, anchors provide viewers with rich and diversified live content, and on the other hand, the user's bounty also provides the anchor with income. Anchors have the obligation to broadcast on time, protect users' privacy, and output safe and healthy live content, while users also need to fulfill their obligations to respect the right to perform and the right to the human dignity of anchors. In general, users watch live broadcasts on live platforms without the restrictions of registered membership and mandatory consumption, and have a certain degree of choice as to which live channel to enter. At the same time, strangers to each other users and anchors establish a bond of emotional connection through the reward. Although the audience's reward for the anchor can increase the anchor's income, the reward behavior is not a quid pro quo relationship. The essence of the quid pro quo relationship is the two parties to pay the obligation to rely on the relationship between the two parties, and live reward is not in the "users spend money to reward the anchor, so the anchor with richer content back to the user" this kind of "one-on-one" behavior and other mandatory provisions.

2.2.2. Anchors and Live Streaming Platforms

The contractual relationship between the anchor and the live platform is an important layer of legal relations between the two, the relationship between the network anchor and the live platform can be roughly divided into two kinds. The first if the network anchor and the platform has obvious personal and economic subordination, should be recognized as labor relations, some network anchors use the platform to provide the account for live broadcasting, workplace, live time, live location and even live content by the platform, labor compensation is also distributed by the platform, such cases between the two sides have obvious personal and economic subordination, should be considered that the two sides have a labor relationship. This kind of situation has obvious personal and economic subordination between the two parties, and should be regarded as the existence of labor relationship. Such as shopping platform on some sales anchor, its work content and income are determined by the platform, and the platform labor relations. The second kind of network anchor and the employer does not have a subordinate, live earnings of the two sides in proportion to the distribution, for the cooperative relationship. This kind of situation network anchor has a greater degree of freedom, the platform is only granted the anchor in the platform of the live broadcast authority, in addition to comply with the network live broadcast industry series norms, the anchor is not subject to live platform provisions of the live broadcast time, the total amount of labor and other management constraints, and do not engage in the live broadcast platform arrangements for other labor tasks.

2.2.3. Users and Live Streaming Platforms

Generally speaking, the industry chain of webcasting is divided into three links: content provision, content distribution and content viewing, on the one hand, the live broadcasting platform provides viewers with a series of comprehensive services such as virtual coin recharge services, viewing services, technical services, etc [6]. On the other hand, users can also choose whether to accept free general services or paid privileged services according to their needs, and they can also make rewards according to their wishes and enjoy special Services. On the whole, as a non-compulsory service, rewarding is fully in line with the economic conditions and psychological needs of different users, and has a considerable degree of freedom.

2.3. Determination of the Legal Nature of Live Broadcast Rewarding Behavior

To sum up, the network live streaming rewarding behavior should be characterized as gift behavior in legal nature. First of all, the user rewarding behavior is voluntary and non-consensual, the user can decide whether to reward and the amount of reward according to their own will, and the anchor's performance will not be changed as a result. Secondly, the anchor through the user's reward to obtain economic gain and popularity gain, and the user through the reward to obtain the anchor special service and physical and mental pleasure, the two sides formed a de facto gift relationship.

3. The Nature of the Live Broadcast Induced Bounty Fraud Type of Behavior Identified

3.1. Overview of Live Streaming Induced Reward Scams

Live broadcast-induced reward fraud, refers to the anchor or the anchor gang using fraudulent means, through fictitious facts, to conceal the truth of the method to induce users to reward behavior. Fictitious facts refer to misleading users to make rewards or consumption by exaggerating, creating a false atmosphere or spreading untrue information, thus making users think that giving gifts or rewards is very necessary. Concealing information, on the other hand, generally involves concealing important information about the gifts and rewards, such as the actual value and limitations on their use, thereby inducing users to make rewards and spend money.

3.2. Live Streaming Induced Bounty Fraud Behavior Constitutive Elements

Subject element: the subject is a natural person with the capacity for criminal responsibility, including the anchor, operating groups, etc. The anchor uses his identity and influence to commit fraud, and has a greater influence on society.

Object elements: inducement fraud class behavior infringement of the object is the user's property ownership, the fraudulent user based on the wrong understanding and "voluntary" on the anchor reward, thus causing property losses.

Subjective element: the anchor group knows that such acts will lead to the loss of the user's property, to illegally appropriate public or private property, and with the subjective intent of knowing.

Objective element: the anchor and his gang used fraudulent methods to cheat fan users of large amounts of rewards, infringing on the property ownership rights of fan users.

3.3. Determination of the Nature of Live Broadcasting Induced Reward Type of Behavior and the Possible Legal Offenses Involved

The act of inducing rewards by webcasting does not constitute a direct violation of the law under normal circumstances. The purpose of marketing itself is to induce people who have no intention to consume, therefore, inducing consumption is to some extent a means of marketing. However, this

kind of induced behavior must be carried out within the framework of law and morality, and must not violate the legitimate rights and interests of consumers.

Depending on the subject, different behaviors may lead to different violations of legal interests. Take minors as an example, usually minors will spend money on the platform to buy some virtual gifts, usually to the favorite game anchor to reward the anchor for the promised game props and equipment, at this time between the formation of a service contract relationship between them and the anchor. However, some minors are incapable of civil behavior, and because of their young age, they are usually not considered to have the ability to distinguish between right and wrong [7]. According to the Law of the People's Republic of China on the Protection of Consumer Rights and Interests, consumers have the right to choose goods or services independently, and it is generally believed that minors are unable to act independently when they are induced to do so. Therefore, when judging the effectiveness of their rewarding behavior, it is necessary to consider a combination of factors.

If the live streaming reward is induced fabricating facts or concealing the truth, it violates the relevant provisions of the Price Law of the People's Republic of China, according to the relevant provisions of Article 14, Paragraph 4 of the Price Law of the People's Republic of China: operators shall not engage in the following unfair price practices: using false or misleading price means to induce consumers or other operators to enter into transactions with them. At the same time, if such inducement leads to consumers falling into incorrect cognition and disposing of their property, it shall be characterized as fraud. According to Article 266 of the Criminal Law of the People's Republic of China: If the amount of fraudulent public or private property is relatively large, the penalty shall be fixed-term imprisonment of less than three years, criminal detention or control, and or a single fine; if the amount is huge or there are other serious circumstances, the penalty shall be fixed-term imprisonment of more than three years and less than ten years, and a fine; if the amount is particularly huge or there are other particularly serious circumstances, the penalty shall be fixed-term imprisonment of more than ten years or life imprisonment and a fine or confiscation of property.

Network live streaming induced class fraud patterns are numerous and endless, thus triggering all kinds of legal problems involving different legal offenses. Taking the 2023 Shanghai live bounty money laundering case as an example, the suspect anchor Li and others helped Mr.Yu and other people to transfer illegally collected funds, in August 2018 to June 2020 to use the network live platform to collect the stolen money by accepting rewards, and through the withdrawal of cash, transfers and other ways of laundering the reward funds, as a way for the suspects to clean and transfer the stolen money, thereby completing a series of operations of "money laundering"[8]. "Money laundering" series of operations. In this case, the suspect Mr.Li and other suspects through the stolen money into virtual currency reward form of money laundering, seriously undermining the financial order, according to the relevant state laws and regulations, in order to disguise, and conceal the destruction of the financial management order crime, financial fraud proceeds of crime and the source and nature of the proceeds generated by the provision of funds account, through the transfer of funds or other payment and settlement, suspected of money laundering offenses. At the same time, this "self reward" behavior is also suspected of false propaganda, misleading consumers, because the head of the anchor live room there are a lot of viewers, may be stimulated to carry out more rewards.

4. Live Induced Reward Fraud Prevention Countermeasures

4.1. Strengthening the Platform's Regulatory Responsibilities

The live broadcast platform, as a direct participant in the behavior of webcast rewarding, must assume the corresponding regulatory responsibility. It should build a strict internal management system, improve the regulatory mechanism, ensure comprehensive monitoring of the anchor and user

behavior, timely detection and crack down on any form of fraudulent behavior such as induced reward and false propaganda. At the same time, the platform should strengthen user education and guidance, enhance the user's ability to identify fraudulent means, set up clear reward risk tips and confirm the process, to protect the legitimate rights and interests of users from infringement. In addition, the platform also needs to actively cooperate with law enforcement departments, industry associations and other parties to share information, collaborate, form a synergy, and jointly create a healthy, safe and orderly network live environment, so that live rewarding become a channel for the spread of positive energy, rather than a hotbed of fraudulent behavior.

4.2. Strengthening the Reform of the User Identification System of Webcasting Platforms for Minors

Minors' physical and mental development is not yet mature, and their self-protection ability is poor, which makes them more vulnerable to induced online reward fraud than adults. Usually, minors will spend money on the platform to buy some virtual currency or virtual gifts, etc., by rewarding the anchor to get the emotional value or the game equipment and props promised by the anchor. In order to prevent minors from engaging in improper rewarding behavior as well as avoiding them from being subjected to fraud, the webcasting platform, as the provider and participant of the live rewarding behavior, has the responsibility and obligation to carry out strict identity verification and supervision of the users. From a technical point of view, network live broadcasting platforms need to construct high-precision intelligent identification systems, such as face recognition, etc., to ensure the effective identification of minors when rewarding large amounts of gifts [9]. This kind of high-precision identification system can not only improve the accuracy of user identification, but also avoid the problem of high human and material costs caused by relying on traditional supervision. At the same time, the platform needs to build a set of intelligent and automated supervision systems. Through the deep integration of deep learning and other artificial intelligence technologies, it can realize real-time monitoring and intelligent analysis of live content, quickly capture and effectively intercept any inappropriate content involving minors, including undesirable live broadcasts and illegal reward behavior, thus cutting off the chain of dissemination of undesirable information at the source. This transformation path is not only a key step towards the healthy and sustainable development of webcasting platforms, but also an active practice of the responsibility of protecting minors on the Internet, contributing to the construction of a greener and healthier network ecology.

4.3. Strengthening Laws and Regulations

At present, there are still gaps and deficiencies in China's network system, and the self-regulatory mechanism of network platforms is not perfect, so it is urgent for the national legislature and relevant departments to supplement and improve the relevant laws. For example, minors or their guardians have the right to request the revocation of unreasonable reward behavior, the development and improvement of relevant laws and regulations to clarify the legal nature of the reward behavior, the relationship between rights and obligations and legal responsibility. In addition, the government and relevant departments also need to increase supervision and take more active and effective measures to guide the network live broadcasting industry towards the standardization and professionalization of the development of the road, to ensure that it can become a solid backing for the healthy growth of minors while promoting the dissemination of culture and enriching people's lives.

Network live streaming reward as an emerging network entertainment way in the rich user entertainment experience at the same time also brought a series of legal problems. In this paper, by combing the viewpoints and analyzing the legal relationship between the network live streaming reward and induced reward fraud made the legal nature of the identification, and put forward the

prevention of induced reward fraud countermeasures, to provide experience and solutions for such cases. In the future, with the continuous improvement of the legal system I believe that the webcasting industry can provide users with a safer and better quality network experience.

5. Conclusion

Network live reward as a fusion of entertainment and interaction of the emerging model, in greatly broaden the user entertainment boundaries, activated the potential of digital consumption at the same time, but also quietly bred a series of legal challenges and moral dilemmas that can not be ignored. Due to the network live reward behavior involved in the user, the anchor and the platform between the rights and interests of the parties. It is very easy to be some lawless elements to induce reward fraud or provide the convenience of money laundering and other criminal activities. Therefore, in order to ensure the benign development of the network live market and to curb the occurrence of network live reward fraud, clarifying the legal obligations of the main players, users and platforms, as well as to make a specific legal characterization of the behavior of online live streaming bounties is such a crucial thing. In this paper, by combing the views and analyzing the legal relationship between the network live streaming reward and induced reward type fraud behavior to make the legal nature of the identification, and put forward the prevention of induced reward type fraud countermeasures, for such cases to provide experience and feasible solutions. In the future, with the continuous improvement of the legal system, the author believes that the webcasting industry can provide users with a safer and better quality network experience.

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