

# Analysis of the Legal Effect of Minors' Tipping Behavior in Online Live Streaming

Minyan Huang

Shanghai University of Political Science and Law, Shanghai, 201701, China

## ABSTRACT

The rise of online live streaming has been accompanied by a younger user base, continuously giving rise to the issue of irrational tipping by minors. Due to their immaturity and lack of financial awareness, they often make large tipping without consent, resulting in family property losses and legal disputes. The misleading behavior of some unscrupulous live streamers further complicates the issue. Therefore, an in-depth study of the relevant legal issues is not only instructive for judicial practice and industry standards but also of great value in building a healthy online environment and safeguarding the rights and interests of minors.

## KEYWORDS

Live streaming; minors; Tipping behavior; Legal effect; Capacity for civil conduct; Guardianship responsibility

## 1 Introduction

In the context of the continuous deepening of "Internet plus", online live streaming has rapidly emerged as an important component of the digital cultural industry, characterized by its instantaneity, interactivity, and entertainment value. As a key profit-making method for platforms and hosts, the live streaming reward mechanism, while promoting industrial development, has gradually exposed legal and social issues arising from irrational tipping by minors. Due to their immature mental development and weak financial awareness, minors often make large-scale tipping that exceeds their cognitive and behavioral capabilities, which can easily lead to family property losses and give rise to civil disputes. Such behavior not only involves the determination of behavioral validity and the judgment of contract effectiveness, but also entails multiple legal disputes such as platform liability, lack of guardianship, and difficulties in providing evidence. Although China's Civil Code, Law on the Protection of Minors, and E-commerce Law have made principled regulations on minors' online behavior, there are still practical difficulties in the live streaming reward scenario, such as inconsistent identification standards, blurred legal responsibility boundaries, and inadequate industry supervision mechanisms. Therefore, it is necessary to systematically sort out the legal nature and validity identification path of minors' live streaming reward behavior, and combine judicial practical experience to build a collaborative governance system from multiple dimensions such as legislative improvement, judicial guidance, administrative supervision, and industry self-discipline, in order to promote the standardized development of the live streaming industry and effectively safeguard the legitimate rights and interests of minors.

## 2 The Concept and Characteristics of Tipping Behavior in Live Streaming by Minors

### 2.1 Definition of Minors' Tipping Behavior in Online Live Streaming

"Online live streaming tipping by minors" refers to the behavior where minors, while watching online live streams, recharge through live streaming platforms, exchange real currency for virtual currency or virtual gifts, and then give them to streamers or use them to purchase specific services. This behavior essentially constitutes a property disposal through electronic payment. Due to the immaturity of minors in terms of cognitive ability, judgment, and self-control, their tipping behavior is easily influenced by various factors such as live streaming content, inducements from streamers, and peer influence, leading to irrational consumption. Inappropriate online live streaming tipping by minors usually refers to those tipping behaviors that exceed their cognitive ability and are inconsistent with their age and intelligence level, especially those involving large amounts, high frequencies, or a clear lack of rationality. Such behaviors may not only lead to the improper loss of family property but also have a negative impact on minors' own values and consumption attitudes.

### 2.2 Main Characteristics of Tipping Behavior by Minors

The tipping behavior of minors exhibits five primary characteristics: subject specificity, behavioral virtuality, uncertainty of intention expression, irrational consequences, and complexity of legal relationships. Due to the limited civil capacity and cognitive abilities of minors, their tipping motivations are diverse, thus involving the intertwined legal relationships of multiple parties.

## 3 Analysis of the Legal Nature of Minors' Tipping Behavior in Online Live Streaming

Currently, there are two prevailing viewpoints in academia regarding the nature of online tipping contracts: the service

contract theory and the gift contract theory. Scholars who support the service contract theory argue that in online live streaming tipping, the tipping behavior of users is not gratuitous, but rather a payment in exchange for the performance services provided by the live streamer. This viewpoint emphasizes the compensatory and reciprocal nature of the tipping behavior, suggesting that there is a causal relationship between the tipping and the provision of services by the live streamer.

Scholars who support the gift contract theory believe that tipping is a gift to the live streamer, representing a behavior where users voluntarily and uncompensatedly give their property to the live streamer out of personal preference. The tipping behavior aligns with the characteristics of gift contracts, namely gratuitousness, voluntariness, and unilateralism. Furthermore, the uncertainty of the tipping amount, the voluntariness of tipping, and the indirect consideration relationship between tipping and specific services further support the rationality of the gift contract theory.

The author believes that defining online live streaming tipping as a gift contract can more accurately reflect its behavioral essence and legal connotation. Firstly, from the perspective of behavioral patterns, users can watch for free, and tipping is voluntary, which embodies the gratuitousness and voluntariness of gift. Secondly, from the perspective of legal relationships, the anchor is not obligated to perform compulsorily, and users do not obtain additional rights after tipping, which is consistent with the unilateral nature of gift contracts. Furthermore, from the perspective of economic essence, the arbitrariness of tipping amounts, the non-compulsory nature of the behavior, and the lack of a clear consideration relationship between tipping and services all support the establishment of the gift contract theory from different levels.

## **4 Analysis of the Legal Effect of Minors' Online Live Streaming Tipping Behavior**

### **4.1 General Principles on the Validity of Tipping Behavior by Minors**

According to the Civil Code, the civil capacity of natural persons is divided into three categories: full civil capacity, limited civil capacity, and no civil capacity. Minors are classified as persons without civil capacity (under the age of eight) and persons with limited civil capacity (over the age of eight but under the age of eighteen) based on their age and intellectual status. The legal effect of tipping behavior under different states of civil capacity also varies.

#### **4.1.1 Reward Behavior of Individuals Without Civil Capacity**

According to Article 20 of the Civil Code, minors under the age of eight are persons without civil capacity, and their legal representatives shall act on their behalf in civil legal acts. Therefore, in principle, the act of tipping independently performed by a person without civil capacity is an invalid civil legal act and shall have no legal effect from the beginning. Regardless of the amount of the tip or whether it is voluntary, the legal representative may claim that the act is invalid and request the return of the property.

#### **4.1.2 Rewarding Behavior of Persons with Limited Capacity for Civil Conduct**

Article 19 and Article 145 of the Civil Code define minors over the age of eight as persons with limited capacity for civil conduct, stipulating that they may independently engage in civil legal acts that are purely for profit or that are appropriate to their age and intelligence. Other acts require the consent or ratification of a legal guardian. Under this legal framework, the ultimate validity of tipping behavior performed by persons with limited capacity for civil conduct depends on whether it falls within the category of "appropriate to their age and intelligence" or whether it has obtained the prior consent and subsequent ratification of a legal guardian.

### **4.2 The Judgment Criterion of "Being Appropriate to Age and Intelligence"**

In practice, determining whether the tipping behavior of individuals with limited civil capacity is "appropriate to their age and intelligence" poses a challenge for judicial decisions. Simply judging based on the size of the tipping amount is evidently too mechanical and arbitrary. Instead, a comprehensive consideration should be given to various factors such as the minor's cognitive ability, the amount and frequency of tipping, the source and history of property disposal, as well as the motivation and context of the tipping.

Firstly, minors should have basic understanding of their tipping behavior, that is, recognizing that they are disposing of property and understanding the potential consequences of property loss that may arise from tipping. If a minor makes a tip due to their young age, unfamiliarity with online operation procedures, or curiosity, and is unaware afterwards that they have disposed of property, it should be determined that they lack the necessary understanding of the behavior, and the tipping behavior is not appropriate for their age and intelligence.

Secondly, the amount of tipping is an important reference factor in judging whether an action is appropriate, but it should not be the sole criterion. On the one hand, the size of a single tip should be comprehensively judged in conjunction with factors such as the local economic development level, family economic status, and the daily consumption habits of minors. On the other hand, the frequency of tipping also needs attention. If minors make multiple small tips, and the cumulative amount is large, it is not appropriate to simply regard multiple tipping behaviors as a whole

and deny their validity. Instead, it is necessary to examine whether each individual tipping behavior is within a reasonable range. For minors with better economic conditions and more daily pocket money, if their tipping amount is comparable to their daily consumption level, it should not be easily deemed inappropriate.

Again, if the property used by minors for tipping comes from their freely disposable pocket money, New Year's money, etc., and their guardians do not interfere with their use of property in daily life, then the act of minors using these properties for tipping is more likely to be deemed as appropriate for their age and intelligence. Conversely, if minors use large sums of family funds, guardians' accounts, etc. for tipping, such behavior usually exceeds their normal cognitive and dispositive abilities.

Lastly, the context and motivation behind the tipping behavior are crucial factors in assessing its appropriateness. If the tipping is an impulsive action induced by the live streamer, encouraged by peers, or driven by specific marketing strategies, its appropriateness is questionable; whereas if the tipping is based on genuine appreciation for the content and voluntary support, its appropriateness may be stronger.

### **4.3 Ratification and Acquiescence by Legal Representatives**

When a tipping behavior performed by a person with limited capacity for civil conduct is deemed to be incompatible with their age and intelligence, the validity of such behavior is pending, and its effectiveness depends on whether the legal guardian ratifies it. The legal guardian's ratification can be explicit or implicit. In practice, as such disputes often arise in situations where the legal guardian refuses to ratify, determining implicit ratification has become a difficult point in judicial practice.

#### **4.3.1 Recognition of Implied Ratification**

During the period when a guardian lives with a minor, they bear the responsibility of supervising and managing the minor's online usage behavior. If the guardian informs the minor of the payment password or, after learning that the minor has engaged in tipping behavior, fails to take effective measures such as changing the password or strengthening account management to stop it, it may be deemed as implied consent or indulgence of the relevant behavior. In this case, if the minor tips again, the guardian's claim that the behavior is invalid may be difficult to support. In judicial practice, there have been judgments that adopt this viewpoint, holding that the guardian who fails to properly keep account information and payment passwords should bear corresponding responsibility for the minor's tipping behavior.

#### **4.3.2 Reasonable Definition of Guardianship Responsibility**

While guardians undoubtedly bear the statutory duty of guardianship, the boundaries of their responsibility should not be infinitely expanded. Given the convenience, concealment, and technical complexity of online services, requiring guardians to implement round-the-clock, seamless supervision is often difficult to achieve in practice. Therefore, when determining whether a guardian's behavior constitutes implied ratification, a cautious attitude must be adopted, and it is not appropriate to simply presume implied consent merely because the guardian failed to stop it immediately. Courts should comprehensively consider multiple factors such as the guardian's cognitive level, objective supervision conditions, and whether remedial measures are actively taken afterwards, in order to reasonably define the scope of their responsibility.

### **4.4 Platform Responsibility and Burden of Proof Allocation**

#### **4.4.1 Regulatory Responsibility of Live Streaming Platforms**

As a network service provider, the live streaming platform bears the primary responsibility for preventing irrational tipping by minors. According to Article 74 of the "Protection of Minors Law", the platform must establish an anti-addiction mechanism and effectively implement measures such as real-name authentication, facial recognition, limits, and cooling-off periods. This is its legal and social responsibility that must be fulfilled. If large-amount tipping occurs due to the absence of these measures, the platform must bear the corresponding legal responsibility.

#### **4.4.2 Reasonable Allocation of Burden of Proof**

The allocation of the burden of proof directly determines the adjudication outcome of disputes over tipping by minors. Following the principle of "who advocates, who bears the burden of proof", the minor party often finds itself in a difficult situation of proving the identity of the tipping subject and the lack of consent. Therefore, the judiciary should intervene in a timely manner to correct the imbalance: either by appropriately lowering the standard of proof for the minor party, or by reversing the burden of proof in specific circumstances, requiring the platform to provide evidence that the tipping was made by an adult or with consent, thereby ensuring substantive justice.

## **5 Regulatory Suggestions for Minors' Online Live Streaming Tipping Behavior**

### **5.1 Improve the Legislation on Online Live Streaming and Clarify the Applicable Legal Standards**

Currently, the legal provisions regarding online tipping behavior of minors in China are scattered across multiple laws

such as the Civil Code, the Law on the Protection of Minors, and the E-commerce Law, and have not yet formed a specialized and unified regulatory system. Therefore, it is suggested that in the future legislative or amendment process, clearer provisions be made regarding the legal nature of online live streaming tipping, the criteria for determining the validity of tipping behavior by minors, and the rights, obligations, and responsibility division of all parties involved, so as to provide clear guidance for judicial practice. In particular, it is necessary to refine the principle provision of "adaptation to the age and intelligence of minors" and clarify its specific considerations, in order to enhance the operability of legal application and the consistency of judgment standards.

## 5.2 Strengthen Platform Supervision and Implement Principal Responsibility

As the technology provider and beneficiary of online tipping, live streaming platforms must shoulder the corresponding social responsibility while enjoying commercial benefits. The platforms should establish a comprehensive protection system from three dimensions: before, during, and after the event. Before the event, strict real-name authentication and biometric identification technology should be employed to accurately identify and isolate underage users. During the event, tipping limits, consumption cooling-off periods, and exclusive modes should be set up to effectively restrain and control the risk of tipping behavior. After the event, it is necessary to strengthen the management of anchor behavior, severely crack down on any behavior that induces underage consumption, and form a closed-loop management system.

## 5.3 Clarify the Standards for Property Return and Optimize the Dispute Resolution Mechanism

Once the act of tipping by minors is deemed invalid or of uncertain validity, it will result in the legal consequence of property restitution. Determining the standard for restitution is not only related to fairness in individual cases but also involves balancing the interests of all parties. Therefore, it is necessary to carefully evaluate the specific circumstances of the tipping behavior, the faults of the relevant parties, and the responsibilities of the guardians based on the principle of fairness. From the perspective of source control, it is also necessary to promote live streaming platforms to establish efficient internal dispute resolution mechanisms, advocate for the pre-procedure of negotiation and mediation, effectively reduce the cost of rights protection, and achieve rapid resolution of disputes.

## 5.4 Strengthen Family Supervision and Enhance Minors' Online Literacy

Guardians bear the primary responsibility for guiding and supervising minors' online behavior. To effectively fulfill this responsibility, the following measures are recommended: Firstly, strictly keep payment accounts and passwords to prevent minors from easily accessing large amounts of funds; secondly, strengthen daily communication to guide them to develop rational consumption concepts and healthy values; thirdly, actively employ technical means such as parental control modes to impose necessary restrictions on minors' online consumption. At the same time, schools and society should work together to enhance minors' information discernment and self-management abilities through strengthening online literacy education, thereby curbing irrational tipping behavior at its source.

## 6 Conclusion

As a new consumption model in the digital era, online live streaming tipping has not only enriched the online cultural ecology but also brought new legal challenges. The dispute over the validity of tipping behavior by minors is essentially a manifestation of the tension between technological development, business models, and legal regulation. When handling such disputes, it is necessary to respect freedom of contract and autonomy of will, while also fully considering the special protection needs of minors and reasonably balancing the interests of all parties. Only by taking multiple measures such as improving legislation, strengthening supervision, clarifying responsibilities, and enhancing literacy, and building a multi-party co-governance system for online protection of minors, can we effectively curb the chaos of irrational tipping by minors, promote the sustainable and healthy development of the online live streaming industry, and create a clear and clean cyberspace for the healthy growth of minors.

## About the Author

Minyan Huang, female (born in April 1993), Han Nationality, Nantong Jiangsu Province, master's degree, Teaching Assistant, research direction: Law, ideological and political education.

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