

Legal Relationships and Restitution for Invalid Livestream Tipping

-- Spousal Disposition of Marital Community Property in a Platform-Based Transaction Structure

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Abstract

Livestream tipping involving marital community property is a layered platform transaction rather than a single legal relationship. This article reconstructs the relationships among users, streamers, platforms and intermediary agencies, and distinguishes internal matrimonial property effects from external transaction validity. It argues that invalidity should be established on a specific legal basis, while restitution should be allocated according to the actual benefits retained by each participant and the degree of that participant's knowledge and participation. On this basis, the article proposes a layered restitution model that protects the property interests of the non-tipping spouse without automatically imposing primary restitution liability on the livestream platform.

Keywords

Livestream tipping; marital community property; legal relationship; restitution; livestream platform; public order and good morals.

1. Introduction

Livestream tipping is usually presented to users as a simple act of sending a virtual gift. From a legal perspective, however, the underlying transaction is multi-layered. A user may first recharge an account with a platform, acquire virtual currency, purchase a virtual gift, transfer that gift through a livestream room, and eventually generate a revenue share for the streamer, the platform, and sometimes an agency or MCN. When the user is married and the payment is made with marital community property, a dispute over restitution therefore cannot be resolved merely by asking who appears on the receiving end of the "gift."

Article 6 of the Judicial Interpretation II on Marriage and Family Matters regulates excessive livestream tipping primarily from the perspective of internal matrimonial property relations. Article 7, by contrast, addresses the external validity of transfers made for purposes violating spousal fidelity and provides that a transaction contrary to public order and good morals should be treated in accordance with Article 157 of the Civil Code [1]. The coexistence of these rules makes it necessary to distinguish internal matrimonial remedies from external restitution. Existing scholarship has identified competing theories concerning the legal relationship between users, streamers and platforms. Some studies treat tipping as part of a continuing online service relationship; others characterize the user-streamer transaction as a gift; and still others advocate a differentiated approach based on the actual services supplied by the streamer [2-5,15]. Recent scholarship concerning matrimonial disputes further distinguishes the restitution claims against streamers, platforms and intermediary agencies [6-10].

This article argues that livestream tipping should be reconstructed as a layered transaction rather than forced into a single contractual category. Once invalidity is established, restitution

should likewise be allocated according to the actual benefits retained by the participants and the degree of their knowledge and participation. This approach can protect the non-tipping spouse without automatically transforming the platform into a primary restitution obligor.

2. The User-Platform Relationship

The user-platform relationship is normally the most stable relationship in the livestream environment. The platform provides account management, payment infrastructure, virtual currency functions, digital gift mechanisms, technical support and, in many cases, content governance and transaction settlement.

The recharge stage should generally be understood as part of the broader online service relationship rather than as an entirely independent sale of virtual property. The platform's virtual currency is ordinarily designed to operate within the platform's own ecosystem. The user's economic objective is not merely to acquire an asset for external circulation, but to obtain access to additional platform functions and livestream interaction. Wang Yang accordingly treats user recharge as part of the continuing online service relationship rather than as a stand-alone sale of goods [2].

This structure matters at the restitution stage. If a later dispute concerns an invalid tipping transaction, the fact that the platform previously supplied technical and payment services cannot simply be disregarded. The platform's contractual entitlement, its actual role in the transaction, and its knowledge of any invalid purpose should be separately examined.

3. The User-Streamer Relationship

The legal relationship between user and streamer is more difficult to characterize. A service-based relationship may arise where the streamer supplies identifiable services and the user's payment corresponds to those services. A gratuitous transfer may arise where the principal function of the transaction is simply to transfer property to a particular person without a corresponding service obligation. Between these poles lies a broad range of interactional practices.

Liu Haian emphasizes the need to examine the substantive content of the relationship between users and streamers rather than relying solely on platform terminology [3]. Zhu Xiaojuan similarly analyzes the legal nature of the interaction within the livestream environment as a fact-sensitive question rather than a single fixed relationship [4]. Fan Mingzhi and Yang Yang further point out that tipping may combine economic exchange with emotional and interactive elements, making a rigid binary classification difficult [5].

For matrimonial disputes, this distinction is fundamental. If the payment primarily constitutes ordinary payment for livestream entertainment, its external validity should not be rejected merely because the tipper exceeded an internal matrimonial spending limit. If, however, the livestream format serves only as a vehicle for transferring community property to a particular person, the transaction may instead be characterized as a gift. The legal effect must then be tested under the rules concerning validity and public order and good morals.

4. The Streamer-Platform Relationship

The streamer-platform relationship may take the form of employment, labor or service arrangements, agency, cooperation, or other contractual relationships. This relationship is relevant because the streamer may not receive the entire economic value reflected in the user's tipping records.

The platform may retain a technical or operational fee, while an MCN or agency may receive a management or revenue-sharing percentage. Therefore, the nominal amount displayed as “tipping” is not necessarily identical to the streamer's actual economic gain.

The differentiation of streamer-platform relationships also affects responsibility. Where the streamer operates as an employee or functional performance assistant, the platform may have a more direct role in the transaction. Where the streamer operates independently, the platform may be closer to a technical and commercial intermediary. This is why a platform's liability should be derived from its own legal relationship and conduct rather than automatically from the streamer's conduct [4,9].

5. When Does Invalidity Arise?

The internal violation of marital property rules should be analytically separated from the external invalidity of the tipping transaction. Article 6 may support a finding that excessive tipping constitutes dissipation of community property, but it does not itself state that every such transaction is externally void. Article 7 addresses the different circumstance in which one spouse disposes of community property for purposes such as maintaining an extramarital relationship and the transaction therefore violates public order and good morals [1].

Wang Dan argues that such transactions should be addressed primarily through the doctrine of public order and good morals rather than by treating every unilateral disposition as a case of invalid unauthorized disposition [13]. Ye Mingyi further refines the inquiry by distinguishing objective and subjective elements: the relevant transfer must concern community property and must be directed toward maintaining an improper extramarital relationship [14].

The distinction is essential to livestream disputes. The mere fact that the user and streamer have an emotional connection does not automatically establish an invalid gift. The court should first determine whether the payment is in substance a gift rather than ordinary service consumption and then determine whether the gift was made for a purpose contrary to public order and good morals. This sequence avoids the error of moving directly from “marital property” to “invalid transaction.”

6. Restitution under Article 157

Once a civil juristic act is invalid, Article 157 of the Civil Code provides the central framework for dealing with the resulting property consequences. Scholarship on invalid contract restitution emphasizes that restoration of property and the consequences of invalidity should be analyzed systematically rather than reduced to an undifferentiated unjust-enrichment claim [11,12].

For livestream tipping, the first task is therefore to reconstruct the economic flow. Suppose a user spends CNY 100,000 on virtual gifts. The platform may retain part of the revenue, an agency may receive another portion, and the streamer may ultimately obtain the balance. A restitution order directed automatically at the streamer for the entire CNY 100,000 may ignore the actual distribution of benefits.

The court should distinguish at least four amounts: the amount paid by the user; the amount retained by the platform; the amount retained by any agency or MCN; and the amount actually obtained by the streamer. It should then ask whether each amount has an independent legal basis for retention.

7. The Streamer as the Primary Restitution Obligor

Where the streamer directly receives and retains the benefit of an invalid gratuitous transfer, the streamer will ordinarily be the primary restitution obligor. This conclusion is particularly

strong where the streamer knew the user's marital status, actively induced a large transfer, participated in an improper personal relationship, or otherwise contributed to the invalid purpose.

At the same time, recent studies caution against a mechanical “full amount equals streamer liability” approach. Shi Ruya and Zhang Yaning both discuss models under which the streamer's restitution may be calculated by reference to the actual benefit received, with the platform or agency separately responsible for benefits actually retained by those entities [7,8]. This approach better corresponds to the structure of the platform economy.

Actual-benefit restitution does not mean that a streamer can retain any amount merely because a platform deducted part of the user's payment. Where the streamer knowingly participated in an invalid transaction, the court may need to consider the conduct of all participants and determine whether their separate shares reflect independent legal services or merely the allocation of proceeds from the invalid transfer.

8. The Platform's Restitution Position

A livestream platform should not automatically be treated as a primary restitution obligor merely because it processed the transaction. The platform commonly provides technical infrastructure, account services, virtual gift functions and transaction settlement. If it performed these services normally, had no knowledge of the improper purpose, and did not induce the transfer, its contractual service fee may have an independent legal basis.

The platform's position changes where the platform has independent fault. Relevant circumstances may include knowingly facilitating an improper transfer, deliberately encouraging prohibited conduct, materially inducing excessive tipping, or failing to take reasonably required measures after becoming aware of serious misconduct. In such cases, liability should be based on the platform's own breach of duty rather than simply imputed from the streamer's conduct.

This distinction is consistent with the emerging literature, which generally separates the platform's role in the recharge stage from its technical and intermediary role in the gift stage [7-10]. The platform's responsibility should therefore be structured as fault-based or supplementary where an independent legal basis exists, rather than as automatic joint restitution.

9. The Role of Agencies and MCNs

Agencies and MCNs present a further complication because they may simultaneously participate in streamer management, content production, traffic operations, and revenue sharing. Their liability should therefore depend on the precise legal relationship and their actual participation in the disputed transaction.

Where an agency merely provides independent services and receives an agreed fee without knowledge of the invalid purpose, its position differs from that of an agency that knowingly encourages the transfer or directly participates in the improper conduct. If the agency's benefit is derived solely from a contractually valid independent service, automatic recovery may be inappropriate. If its conduct is an integral part of the invalid transaction, however, restitution may follow from the same underlying invalidity or from an independent duty arising from its own conduct.

The appropriate principle is therefore: liability should follow actual benefit and actual participation. This principle permits courts to distinguish passive commercial service providers from participants that knowingly facilitate an invalid transfer.

10. Service Value and the Scope of Restitution

The most difficult question is whether the actual services supplied by a streamer should affect the amount of restitution after an otherwise invalid tipping transaction.

The answer should not be a blanket rule. The service-value question is logically prior to, but not identical with, the restitution calculation. If the facts demonstrate that the user paid for ordinary public livestream content and obtained a genuine service benefit, these facts may indicate that the transaction was a service-based consumption relationship rather than a gift in the first place. If, by contrast, the livestream activity is merely a formal cover for transferring money to a person with whom the user seeks to maintain an improper personal relationship, the existence of nominal streaming content should not automatically create a right to retain the transferred property.

Accordingly, the value of legitimate services should normally perform its primary function at the stage of legal characterization. Only where the transaction is still determined to be invalid after that inquiry should the court consider whether specific benefits can be independently retained or compensated under Article 157 and related rules [11,12,14].

11. A Layered Restitution Model

A workable adjudicative model can be summarized in five steps. First, identify the legal nature of the tipping transaction. Second, determine whether an independent ground of invalidity exists. Third, reconstruct the flow of funds after the user's payment. Fourth, identify the actual benefit retained by each participant and examine their knowledge and participation. Fifth, allocate restitution according to the legal basis and actual benefit of each participant.

The sequence may be expressed as follows: characterization -> validity -> benefit allocation -> restitution subject -> restitution amount. Such a structure prevents two opposite errors: treating every excessive tipping transaction as automatically void, and treating the platform as automatically liable whenever a user's marital property rights have been infringed.

This framework also creates a better relationship between Articles 6 and 7 of the Judicial Interpretation II. Article 6 primarily concerns internal matrimonial property remedies for dissipation, while Article 7 supplies a route to external invalidity where the transaction itself violates public order and good morals [1]. Restitution should follow from the latter only when its substantive requirements are satisfied.

12. Conclusion

Livestream tipping involving marital community property is not a single legal relationship. It is a layered platform transaction involving the user, streamer, platform, and potentially an agency or MCN. The legal characterization of each relationship affects both the validity analysis and the allocation of restitution.

Once an external transaction is found invalid, Article 157 provides the principal framework for restitution. Yet the nominal amount of a tipping transaction should not automatically be treated as the economic benefit retained by the streamer or platform. Courts should reconstruct the revenue flow, identify actual benefits, examine knowledge and participation, and then allocate restitution according to each participant's legal basis for retention.

The resulting approach can protect the property interests of the non-tipping spouse while preserving legitimate platform services and avoiding indiscriminate liability. It also clarifies the doctrinal sequence: determine what the transaction is before deciding that it is invalid, and determine who actually benefited before deciding who must restore what was received.

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