

Domestic Legal Regulations on Online Short Videos

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Abstract: In recent years, short video industry has become a new force in domestic online audio-visual industry, with rapid development and continually increasing popularity. Internet short videos feature short duration, simple production, and diverse contents. Along with the development of online short videos, many challenges and problems have emerged, such as uneven quality of video contents, plagiarism and infringement in some videos. Although China has already formulated many relevant laws and regulations on online audio-visual industry, shortcomings are still present. In this regard, China need improve the supervision mechanism against short videos; perfect relevant legislation to protect minors from harmful short videos. In addition, we must also severely crack down on infringing short videos.

Online short videos usually refer to videos uploaded to various social networking or short video platforms for playback. Users can watch them on mobile terminals only using fragmented time as video duration is generally within a few seconds to 5 minutes. As an emerging channel for online audiovisual industry, online short video has a huge crowd of users in China, and there is still a growing trend. However, with the continuous development of online short videos, various challenges and problems emerge. At present, there are still many gaps in domestic legislation of online short videos and filling is urgently needed. Therefore, it is of great research significance to discuss the relevant domestic laws and regulations on online short video.

1. Current Status of Online Short Video Industry in China

In just a few years, with the rise of short video software such as "Tik Tok", "KaiShou", "Huoshan" and "Xigua" in China, short video ushers in continually increasing popularity. As of the end of December 2018, the number of short video users in China reached 648 million, a year-on-year increase of 58.05%, which was 36 million higher compared to long video users, and the proportion of Internet users reached 78.2%; in June 2019, the number of China's short video users reached 857 million. At the same time, the use of short video takes up 11.4% of the total online time, surpassing the use of integrated video by 3.1%. With its large number and fast dissemination, online short video meets people's needs for daily leisure and entertainment, thus enjoying an extremely large market and audience.

The first prominent feature of online short videos is that they are short and forceful. Short video authors should finish their own videos in a short video time, so that the audience only needs some fragmented time to browse short videos as one desires.

The second feature is its simple production. With the popularization of smart phones and the updating of short video software, short video production has become an easy task. One only need to turn on the phone, shoot the video, upload the video to platform for simple processing, such as adding background music, sticker materials, etc. It's easy to get started, so short video production has a low barrier, and everyone can master it.

The third feature is content diversity. The reason why online short videos have a large audience is that the contents cover all aspects. Whether it is beauty, fitness, diet, pets, funny, life skills, travel, daily records, or simply selfie videos with various special effects, people of all ages and different hobbies can find interested short videos. Various short video network platforms will also push

videos possibly of interest to users via big data algorithms to increase user stickiness.

2. Dilemma in the domestic development of online short video industry

While enriching online audio-visual field, the rapid development of online short video in China also brings many problems and challenges. Such challenges are multifaceted, covering short video content, short video format and short video supervision, etc.

2.1 Uneven quality in short video contents

While the number of short videos has exploded, some worrying cases have frequently appeared. On the one hand, quality of short videos varies greatly. Many short videos involve high-risk actions. In a case, the first extreme challenger fell accidentally in high-risk action of climbing at a high altitude, and the family then sued the "KaiShou" software. Such short video about high-altitude challenges without safety equipment is indeed a great stimulus for viewers who love excitement. If someone imitates it, there will be great hidden danger.

Secondly, some online short videos are vulgar in content and involve pornography or obscenity, or just indirectly hint obscene and pornographic contents by "playing edge ball". For the large number of young Internet users who have not established complete values, such short video will undoubtedly negatively impact their healthy growth. At the same time, it will cause serious harm to the Internet atmosphere and social order.

Furthermore, some short videos spread false information. Many people now access news and various information from the Internet. Short video has a wide range and fast speed. Once false news is mixed in, users often cannot discern between true and false for a while. If it is just short videos of popular science that gives wrong information without verification, the harm is limited, but if the short videos spread false information about social news or public events, there will be wider range of misinformation, rumors, even causing public panic.

2.2 Plagiarism and infringement in a large number of short videos

With the continuous expansion of the short video market, there are increasingly more short video infringements, which not only dampens enthusiasm of content creators, but also affects development pattern of the audiovisual industry. In reality, there are many acts of directly releasing others' original videos as their own video. Moreover, there are also many hidden infringements in the "grey area", such as plagiarizing original video copywriter and layouts, or reprocessing others' videos as their original output. Some others change others' creativity into videos, which can easily make the audience mistake it as original work. Faced with such infringement by plagiarism, it is difficult for the infringed to protect their own interests. On the one hand, there is no clear protection clause for the intellectual property rights of short video creators and references for infringement determination are absent. Therefore, it is difficult to determine whether short videos constitute infringement. On the other hand, rights protection brings a certain cost, and short videos have a huge user base. It is often difficult for the infringed to detect endless plagiarism one by one and initiate countermeasures.

2.3 Weak supervision over short video platforms

Online short videos with huge number and extremely fast spreading speed cannot be strictly examined in terms of content by conventional online video supervision modes. This has led to failure of the relevant regulatory system in keeping up with the rapid development of online short video, and there is no complete regulatory system on online short video platforms. The current video and voice monitoring technology cannot support real-time recognition of uploaded short videos. Despite real-time and sudden nature of short videos, domestic supervision on online short videos currently relies on manual review. For a platform with a large number of short videos, supervision difficulty is imaginable. In addition, platform supervisors possess uneven business proficiency and lack relevant professional learning and training. They are unable to judge whether the short video content is suspected of infringement, or even violates laws and regulations. As a

result, when there are problems with short video content, the platform cannot immediately remove the short video and give punishment. If online short videos are to maintain a good development trend in the future, platform supervision package needs to be strengthened.

3. The status quo of domestic legal supervision on online short videos

In recent years, with the rapid development of domestic electronic information industry, the State Administration of Radio, Film and Television and other relevant departments have been closely concerned about legal supervision of online audiovisual field. In 2008, in order to maintain the order of online audiovisual programs, the State Administration of Radio, Film and Television promulgated the "Service management regulations over online audiovisual programs". Including a total of 29 articles, it specifies the online audiovisual scope, access thresholds for online audiovisual units and related network operating units, copyright protection and administrative penalties, etc. At the end of March of the following year, the State Administration of Radio, Film and Television issued the "Notice on Strengthening Content Management of Online Audiovisual Programs" in view of the content of online audiovisual programs. However, this notice mainly targets at video portals, which fails to anticipate future content supervision of short videos.

With the continuous development of the online audiovisual field, in March 2018, the State Administration of Radio, Film and Television issued the "Notice on Further Standardizing the Transmission Order of Online Audiovisual Programs" (hereinafter referred to as the "Notice") in order to rectify the transmission of illegal audiovisual contents. Four requirements are proposed, the first of which is closely related to the regulation of online short video contents. The "Notice" requires all audiovisual program websites not to produce or disseminate programs that distort, spoof, or uglify classic literary works; secondly, it is not allowed to re-create various original audio-visual programs by re-scoring, re-editing and re-broadcasting; next, it is not allowed to disseminate ambiguous work program segments by editing and tampering with the original intent. Strict management covers similar reprogrammed programs uploaded by network users, and transmission channels are not allowed for split joint and adapted audio-visual programs with orientation issues, copyright issues, and content issues. It also requires relevant units to immediately remove the illegal videos mentioned above once they are discovered. The above requirements emphasize that during dissemination of audiovisual program contents, the relevant provisions of the "Copyright Law" must be followed. Unless legal authorization is obtained, audiovisual programs cannot be illegally captured and re-created. These regulations are also effective for infringement issues that arise during the dissemination of online short videos.

In November 2018, together with the major domestic video websites, the China Network Audiovisual Program Service Association issued the "Management Regulations Over Online Short Video Platform" (hereinafter referred to as the "Regulations") and "Detailed Review Standard Rules for Online Short Video Contents" (hereinafter referred to as the "Detailed Rules") to regulate the transmission order of short videos. The "Regulations" mainly focus on the standards that platforms should observe in provision of online short video services, including key aspects such as the qualifications and business scope of online short video platforms, review systems, online short video uploading account management standards, user real-name systems, and auditor training. The "Detailed Rules" mainly includes important contents such as video content management standards, online short video content review standards, and detailed regulations on the contents banned in short video programs are formulated.

4. Countermeasures to improve domestic legal regulation on online short videos

As a relatively new sector in the online audiovisual field, short video industry has been developing. In its supervision, we must not only "look ahead", but also "look back", considering the risks and possibilities in its future development. Here, we put forward some suggestions on how to improve domestic legal regulation on online short videos in the future.

4.1 Improve supervision mechanism against online short videos

In addition to effective supervision of the short video platform itself, the healthy development of online short videos also requires establishment of a complete set of legal mechanism as a guarantee. Only by effective treatment and punishment of various violations in online short videos can we truly achieve "platform audit prevention, government governance and punishment."

As mentioned earlier, due to factors such as the large number of short videos, manual review often cannot keep up with the video release pace. Therefore, for the platform, we need invest more human and financial resources to update and reform the short video content review. For instance, monitoring system can be used to extract video subtitles to improve review efficiency. For users who post inappropriate videos, their accounts should be shut down and disabled in time. In case of severe situation, it is necessary to promptly contact the administrative agency or even the law enforcement agency to punish the user through the real-name system.

At the government level, the current relevant legislation mainly focuses on government supervision and platform self-supervision, lacking a complete user supervision & feedback mechanism. Therefore, it is necessary to add user complaint channels, lower the proof threshold, improve complaint handling efficiency, and mobilize the massive users to join the supervision team. In this way, the supervision mechanism against online short videos can be regarded as complete.

4.2 Protect minors from vulgar online short videos

According to data jointly released by the Ministry of Youth Rights Protection of the Communist Youth League Central Committee and China Internet Network Information Center in recent days in "Research Report on National Minors' Internet Usage in 2019", it shows that the number of minor netizens in China has reached 175 million. For minors, the quality of online short video content varies, and they may be unable to discriminate them one by one.

The "Detailed Rules" issued in 2018 stipulate that short videos must not contain content unfavorable for minors' healthy growth, such as those displaying minors' passive cases including premature love, smoking, drinking, fighting, or drug abuse; or video characters are exaggerated and have a negative impact on minors; or short video content is sexually suggestive, and other contents that infringe on the legal rights of minors or harm physical and mental health of minors. However, the penalties on these short video creators and the specific regulations on how the platform supervises the corresponding content are still blank. Therefore, relevant departments must clarify legal responsibilities of all parties, especially online short video platform companies, and strengthen guidance and supervision on the platform. For the platform itself, this is not only a legal requirement, but also a corporate social responsibility. It should implement higher content standards and stricter control measures, pursue economic benefits while taking into account social benefits, adhere to positive ideological value orientation, strengthen short video content review, build a minor protection system within the platform, intensify rectification of bad videos, thus creating a green, safe, and civilized online audio-visual environment for minors.

4.3 Severely crack down on online short video infringements

Due to the unclear copyright of online short videos and the imperfect protection system, this field has become the hardest hit area for piracy and infringement. There are infringements of the original creator's copyright, reproduction rights and other intellectual property rights, the most typical of which is video reposting. Some users, without the author's consent or authorization, increase their popularity by reposting others' popular videos, which has in fact constituted an infringement. Of course, copyright infringement of online short video platforms is difficult to identify in practice, the responsibility subject is unclear, and the "safe harbor principle" is often abused. These are issues that must be overcome by legislation.

In recent years, China has been working to move closer to a major country in intellectual property protection. Therefore, to break the situation of continuous violations despite repeated prohibitions in the field of online short video, relevant departments must further adopt important measures such as administrative interviews, administrative penalties, criminal strikes, etc. to clarify

the obligations and due legal responsibilities of online short video platforms at the legislation level. In addition, adjustments should be made for the huge gap between the amount of compensation and the cost of rights protection. There is need to increase penalties for short video infringement, increase the amount of statutory compensation, and effectively increase the infringement cost, so that the majority of short video users and content producers are in awe of the copyright of the original work.

5. Conclusion

As part of the online audiovisual field, online short video is developing vigorously in China. The current online short video industry has exposed many problems waiting to be addressed urgently: uneven short video content quality, continuous video infringement, and insufficient platform supervision. In the future, we must improve relevant legal regulations to regulate them and guide them to healthy and standardized development, thus advancing domestic legal system construction in online audiovisual field.

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