

Study on the Effect of Minors' Online Transaction Behavior

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Abstract

With the rapid development and popularization of the network, minors' participation in network transactions is becoming younger and the consumption amount is becoming greater. Because of the virtuality of network transactions and the mental immaturity of minors, the disputes caused by a large number of network transactions conducted by minors are also increasing day by day. In order to solve such disputes and maintain the rights and interests of minors and the stability of network transactions, it is necessary to determine the effectiveness of minors' online transactions. However, minors are not the subject of network transactions stipulated by law, and it is difficult to determine the effectiveness of minors because of the particularity of the subject and network environment, and the lack of complete rules leads to the relief of proof. Therefore, it is necessary to endow young adults with the corresponding contracting ability in network transactions, clarify the effectiveness of minors in special network transactions such as standard terms and contract fraud, and improve the proof rules in the event of disputes to solve disputes.

Keywords

Minors; Online Transaction Behavior; Contracting Capacity.

1. Introduction

Nowadays, in the Internet information age, the age of minors' first contact with the Internet is getting lower and lower, and online consumption such as online recharge is common. Affected by the epidemic, more and more minors are taking online classes at home, and the time of contact with cyberspace is also increasing. The electronic contract in the era of the Civil Code has been legally recognized by the law. However, online shopping contracts are not included in famous contracts to make a series of more detailed regulations, with more protection for minors. Only the civil Code and the relevant provisions of contract effectiveness can be used to protect minors in network transactions. However, with the influx of minors into cyberspace, there will inevitably be a large number of minors' online transactions, which promotes the development and prosperity of e-commerce and brings a lot of disputes due to their limited ability to contract. Because the uncertainty of minors' ability to contract will affect the establishment of the contract and thus disturb the normal order of network transactions. This will not only damage the health of minors, but also have adverse effects on the convenience of the Internet. Therefore, it is necessary to study the effectiveness of minors' network transaction behavior, so as to help minors to ensure the safe, convenient and stable network transactions and obtain safe and efficient network resources.

2. Study the Theoretical Basis and Necessity of the Effectiveness of Minors' Online Transactions

2.1. Study the Theoretical Basis of the Effectiveness of Juvenile Network Transaction Behavior

There are different views on whether the online transaction behavior of minors applies to the traditional contracting ability system. The negative theory is that the online transaction behavior of minors is effective, because the environment of the online shopping contract and the virtuality of the subject do not have to stick to the traditional contracting ability system. If they often protect the interests of minors and deny the effectiveness of the contract with businesses, it will not only ignore the interests of businesses but also frustrate their confidence in network transactions, which is not conducive to the orderly development of e-commerce. It can be seen from the second paragraph of article 48 of the E-commerce Law that in the course of e-commerce transaction, the party has the corresponding civil capacity, unless there is sufficient evidence to overturn. This means that when there is insufficient evidence to overturn, the online shopping contract is valid, as long as the minor has performed his responsibilities in accordance with the contract. Say that the traditional contracting ability system can still apply to minors network transaction behavior, in the case of uncertain contract effect can according to the relevant provisions of the contract law, by its legal representative to ratification confirm the effectiveness of the contract, and incompetent network shopping contract is invalid. The damage caused by the invalidation of the contract should be compensated by the legal agent of the minor. The compromise is that the negative statement is too radical to pursue the spirit of contract and the ability of minors to contract, do not realize the immature actual situation of minors, can not well protect the interests of minors. Be sure to pursue too much legal stability and ignore the characteristics of network transaction virtualization. The compromise claims that the identification of minors' online transaction behavior should be analyzed specifically. If a minor is contracting without adopting an obvious violation, his contracting ability can be determined according to the traditional contracting theory. If the illegal means are adopted and the relative party has fulfilled the reasonable duty of care, then the legal agent shall not claim that the contract is invalid on the grounds that the subject party is a minor.

This article agrees with the point of view that the traditional contracting ability regulation is very important to protect the legitimate rights and interests of minors, but at the same time, it should also take the interests of the network transaction counterpart into account to maintain the stable development of e-commerce economy. Under the current legal regulation, the effectiveness of minors' online transactions is not clearly stipulated, so it is necessary to study the effectiveness of minors' online transactions.

2.2. The Necessity of Studying the Effectiveness of Juvenile Online Transactions

2.2.1. Minors Trade Online Casually

The rapid development of information technology has created the high-speed establishment of the network virtual world, and the supporting network services are becoming more and more perfect. Minors' world outlook and consumption view are not mature, and it is difficult to control their own consumption impulse, so there is a large number of blind network trading behavior in reality. Especially in the highly developed network now, the real life and the network world is more and more intersection, continuous integration, most minors will also have more demand for virtual goods and services. Minors, because of their immature mental development and no social experience, have given little consideration to the value of goods, and they are easy to be attracted by things on the Internet and thus blindly conduct online transactions with merchants. Because the virtual environment makes it is difficult to distinguish the order is full civil capacity, the identification of the parties has great difficulty, in this case

minors cannot realize the amount of spending, merchants think their transactions normal and effective, not good qualitative this behavior, will make the interests of both sides are damaged. So how to define the effectiveness of this transaction behavior is crucial, to protect the interests of minors without harming the reasonable interests of businesses.

2.2.2. The Amount Involved in Minors' Online Transactions is Gradually Increasing

With the popularization of various terminal and electronic equipment and the increasing time of online classes during the epidemic, there are more and more opportunities for minors to touch the Internet. Because they have not formed correct values, consumption habits are easily affected by the network environment. And now the network information is good and bad, unscrupulous businesses in order to maximize their own interests will be advertising publicity minors and sign large electronic contracts. Due to their limited judgment ability and unclear understanding of the value of commodities, it is difficult for minors to exchange equivalent transactions. Signing electronic contracts at will, the amount of online transactions will be bigger and bigger. Minors' willpower is not firm, coupled with the virtual environment of the network mood more impetuous, the wind of mutual comparison, business bad profit mentality is serious, minors' large network consumption behavior is common in judicial practice, because of the special protection of minors makes the effectiveness of their behavior is more complex. Because the amount is getting bigger and bigger, if effective measures are not taken for minors' online transactions, it will seriously affect the rights and interests of the parties concerned, and even hinder the development of minors' business.

3. Problems Existing in the Effectiveness of Minors' Online Transactions

3.1. Minors Are not the Main Body of Online Transactions as Stipulated by Law

With the implementation of the E-commerce Law, China has clear legal provisions on electronic contracts, which also provides a stable institutional support for the development of China's network economy. However, the regulation of minors' online transaction behavior is still very scarce, but the rapid development of e-commerce has more intersection with minors, which will lead to the difficulty in the application of law in judicial practice to some extent. The relevant provisions in the Civil Code give great protection for minors, but they do not take into account the popularity, convenience and particularity of online transactions today. At present, the main body of network commercial behavior is no longer limited to adults. More and more minors and even people under the age of 8 without civil capacity are actively participating in online life and enjoying the convenient and efficient life brought by modern e-commerce. If a large number of minors will conduct online transactions, the traditional civil law is still used, online transaction contracts signed by persons with limited civil capacity will often be identified as invalid or voidable, and contracts signed by persons without civil capacity will be deemed as invalid. This treatment will not only have an impact on the effectiveness of the contract concluded by minors, but also be denied because of the validity of the contract, believing that minors are deprived of their freedom of behavior, which is not conducive to the healthy and free growth of minors in the network era, but also impact the stability of the network transaction environment. However, at present, there are great difficulties in the identification of young adults, the identification of contracting ability, the effectiveness of transaction behavior, and the identification of safeguarding their rights in judicial practice. Our current law does not fully consider this special case and does not provide accordingly. If the general rules of the Civil Code are firmly applied to deal with the disputes arising from minors' online transactions, it will not conform to the characteristics of minors' online transactions and will hinder the development of e-commerce. This requires us to re-examine the legal problems, actively adjust the existing legal rules, promote the sustainable development of e-commerce while protecting the interests of minors, and maintain the stability of the transaction order in cyberspace.

3.2. Difficulties in Determining the Effectiveness of Minors' Online Transactions

In the real world, the determination of the effectiveness of civil acts involving minors is very clear and simple, and it is not difficult to resolve disputes even if they arise. Because of the particularity of juvenile identity, the relatively stable life and the few behaviors that can participate in, the legal practice and theoretical development of the civil capacity of minors in real life have been widely recognized. Referring to the experience of minors trading in real life, it is concluded that the effective conditions of minors' network trading behavior are: minors need to have the ability to match their network trading behavior, the intention of both parties is true, and the network behavior itself does not violate the legal provisions and public order and good customs. However, in the virtual world of the network, the environment of minors is no longer simple, and the types of behaviors they can participate in become complex, which will bring new difficulties to the identification of the effectiveness of their behaviors, and the resolution of disputes is no longer simple.

For example, due to the virtualized nature of the network, the real identity of both parties of the network transaction cannot be identified. The traditional electronic signature and electronic authentication methods of the Internet trading platform do not need face-to-face signature. Minors can forge the identity information of the parties to sign electronic contracts. With the emergence of network fraud contract and the phenomenon of subjects who do not have the ability to perform the contract participating in network transactions in various platforms, this will make us more and more doubt the professionalism and neutrality of third-party certification, which will undoubtedly increase the difficulty of determining the effectiveness of juvenile transaction behavior. Because the relative person of the juvenile online transaction cannot judge the age, intelligence and other factors that can determine whether the opposite buyer has the civil capacity, it is impossible to judge whether the network transaction behavior is effective. At the same time, the effectiveness of minors' network transactions is uncertain and unstable. Most of the contract contracting behavior of minors are bound by the legal agent, so that the network transaction behavior of minors is in a state of validity for a long time, then how to obtain the recognition of the legal agent is particularly important, otherwise it will bring difficulties to the performance of the contract. Need to pass adult recognition to occur effective minors online transaction behavior and its original low-cost, efficient and convenient network transaction to bring inconvenience. In real life, many minors embezzle and falsely use their adult identity information to participate in online transactions, which also brings challenges to determining the effectiveness of the contract.

3.3. Lack of Complete Rules of Evidence for the Online Transaction Disputes of Minors

Due to the lack of specific and clear legal provisions, there are problems in determining the effectiveness of minors' online transactions in practice, and there is no unified identification idea, so it is also difficult to review the cases. Unlike real-life transactions, the whole process of online transactions is recorded by means of binary code on the Internet. The minor participates in this transaction behavior and the other party has a dispute over the effectiveness of the behavior, who can provide the original favorable evidence will occupy a favorable position in the trial, because the court determines the responsibility of the two parties and the effectiveness of the network transaction behavior, are based on the relevant evidence. However, in a virtual environment like the Internet, the evidence is relatively difficult to obtain, especially for consumers, it is in a relatively weak position. Because of the virtualized nature of the network, the threshold for merchants' evidence fraud is very low, and merchants will use their advantage to tamper with the original data, so the authenticity of the data is difficult to guarantee. In judicial practice, minors using adult identity to participate in network transaction

disputes resort to court, because minors and their legal representative is difficult to prove, the court in order to avoid escalation, not directly in the judgment documents writing network transaction behavior is invalid or revocable, it revealed that the court when dealing with similar cases is no specific proof rules. Many minors pretend to be adults to conduct online transactions, because of the lack of awareness of rights protection, the grasp of evidence compared with businesses out of a disadvantage, can only admit the bad luck not to pursue. According to the principle of "who claims proof", the minor party needs to provide proof that the transaction behavior is conducted by minors, rather than account adult holder, and did not get the consent of the legal agent, such as payment behavior is minors steal bank card to pay, such behavior it is difficult to prove in real life. The other party needs to prove that it provides effective measures to prevent the other party is the duty of attention, but because the business has the data, can explain or even easily modify the terms of the contract, and has a mature team to deal with such problems can easily handle such disputes. For the content that both sides must provide evidence, it is difficult to find the standard of identifying evidence in judicial practice. At the same time, because of the difficulty of the plaintiff, they often cannot bear the adverse consequences because of providing evidence.

4. Suggestions on Improving the Effectiveness of Minors' Online Transactions

4.1. Suggestions on the Subject of Minors' Online Transactions

4.1.1. Improve the Measures to Identify the Identity of Minors in Online Transactions

First of all, some unique human features such as eyeball iris, facial recognition and fingerprint can be verified by means of technology. At present, many platforms have begun to try this specific operation, such as wechat can support fingerprint payment, and Alipay has even opened a facial recognition system to complete the payment, which has greatly improved the traditional mobile phone verification and SMS verification in the security and reliability of transactions. Secondly, in order to eliminate consumers' doubts about the technology of electronic certification service institutions and their service position, and solve the dilemma of difficulty in identifying e-certification, it is a good idea to establish a unified national identity authentication center led by the government. Because China's current electronic certification service agencies because of the regional interval, will form a split and information island, making the certification work can not be carried out effectively. Combined with the current situation of technology development in our country, the construction of national identity authentication center, through this platform to ensure the security of the highest level of public key authentication work and orderly, protect personal information is not leaked, can also solve before the electronic authentication institutions because of uneven distribution and waste of time, efficiency is not high. In addition, you can also learn from the advanced management experience of the American certification body, the previous electronic certification body into an industry association, the industry standards and its modification issues are formulated by the industry experts, the national specialized institutions are responsible for supervision, from the overall grasp of the development trend of the industry. Finally, real-name authentication requires to confirm whether the minor is registered accompanied by the guardian during the authentication process, which requires the upload of the guardian's photos and ID card information. Online live broadcast platforms can learn from the tips of game platforms to develop anti-juvenile dependence system and browsing time. At the same time, they should also grade the videos recommended by minors through algorithms to reduce bad guidance for minors. Close down the channels for minors to give large rewards to anchors, and improve the identity authentication of users, such as facial recognition, for giving large amounts of rewards, so as to restrict minors' reasonable and effective use of network resources.

4.1.2. Refine the Relevant Provisions on the Contracting Ability of Minors to Conduct Online Transactions

Drawing on the foreign "pocket money clause" or "necessities" theory, minors give a certain ability to contract for network transactions, and the corresponding laws need to be adjusted. A new judicial interpretation can be issued to refine Articles 144 and 145 of the Civil Code: to give persons without civil capacity and persons with limited civil capacity the ability to meet their age, living needs and mental conditions in online transactions. When the electronic contract concluded by the minor conforms to his ability to conduct and the other party performs the reasonable review obligation, the validity of his act shall be affirmed, and the recognition of the legal agent is not required to be valid from the beginning, except as otherwise provided by law. Refine the legal provisions of "being adapted to the age, intelligence and mental status of minors". First of all, the scope of the network transaction behavior in line with the minor and its age, intelligence and mental status, we can refer to the average consumption level of the same or the same age of the near group. Secondly, because of the different levels of economic development in different regions, we can flexibly formulate the standard that meets the amount of local minor online transactions, according to this standard to judge whether the network transaction behavior of the minor has legal effect. At the same time, we should also consider the actual family economic situation and consumption habits of minors in individual cases, which will affect or determine the amount of pocket money that minors can control in their daily life. If the amount of the minor's online transaction is completely provided by the parents and within the independent control of the minor, then the parents can not claim to revoke the act on the grounds of "inconsistent with their intelligence level". Finally, minors' online transactions also involve virtual property such as rewards to live anchors and online game recharge. At this time, for the minor network transaction behavior of the subject is virtual property, the degree of the virtual property must be clearly related to its life. It is suggested that under normal circumstances, minors' disposal of virtual property is effective, but if their disposal behavior will have a substantial impact on their living conditions and learning, the effectiveness of the behavior needs to be determined. Because the legal agent has great responsibility for the supervision of such behavior of minors, while protecting the interests of minors, it should also stipulate that its legal agent has the corresponding compensation obligation to the goodwill counterpart in the network transaction of minors. The money beyond the disposal of the juvenile network transaction behavior should be treated by the traditional contract theory, which is not only conducive to the stability of China's legislation, but also fully consider the characteristics of the network transaction behavior, and promote the stability and development of the network business environment.

4.2. Suggestions on the Effectiveness of Minors' Online Transactions among Minors

4.2.1. Improve the Relevant Provisions of the Standard Terms of Minors' Online Transaction Behavior

Because of the particularity of the transaction subject of minors and the particularity of the network transaction itself, the care obligation of the contract providers should be more careful in terms of the network format contract, which is required to remind consumers according to the degree of different influence of the standard terms on consumer rights. Can refine article four hundred and ninety-six of the civil code about take reasonable way to draw attention to the other party, generally can the font bold tilt or enlarge processing, for consumer major rights to set up special connection or dialog box to draw attention, at the same time set the text reading time and "I have read and agree" button, the user click later can do the next step of operation. In addition, the scope of attention needs to be clearly drawn. In order to ensure the balance of rights and obligations, the scope of attention should include all standard contract terms,

including not limited to exemption terms, the content of the contract, the time of the contract, etc. Now most platforms have set format terms on the user registration interface, and if you do not agree, they cannot enter the platform for follow-up operations. Merchants can conduct hierarchical protection when minors register, and set up a special minor interface through the algorithm. When minors search for goods beyond their age range, their guardians need to be present to pay successfully, otherwise the order cannot be completed. At the same time, it is also necessary to collect information from their guardians when registering, but for the protection of personal information, relevant rules should be formulated to clarify the collection and use of information. The provider of the standard terms shall inform the user of the purpose of the information collected and whether it needs to be disclosed with its consent, and make a confidentiality commitment to protect the security and integrity of the information, and cannot lure minors to provide more identity information through high bounties.

4.2.2. Improve the Relevant Provisions on Minor Fraud Contract Contracting

Minors may use other people's account information to defraud online transactions due to various restrictions of their own accounts. For the effectiveness of such network trading behavior, we can refer to the theory of table see agents. This is not only conducive to the protection of minors who have fulfilled the duty of reasonable review of the goodwill counterparts, but also can promote the smooth development of network transactions. If there is a legal agency relationship between the minor and the party with the stolen identity information, the legal liability should be borne by the party with the fraudulent identity; if there is no agency relationship, the party with the fraudulent identity shall still bear the corresponding responsibility and compensate for the liability. In addition to the use of other people's account fraud, minors can also conduct false identity registration online, so that the transaction of the transaction into the wrong understanding and network transactions. For this case, we can refer to the provisions of Taiwan, China province telecom legislation: a person without civil capacity or a person with limited civil capacity shall be regarded as a person with civil capacity. In this case, this article believes that the minor should be regarded as a person with full civil capacity, recognizing the validity of the contract, and the legal consequences should be borne by the legal agent of the minor.

4.3. Suggestions on the Rules of Evidence and Proof of Evidence for Minors' Online Transaction Disputes

When the dispute caused by the network transaction implemented by minors comes to the court, the minor and his legal agent must prove that the network transaction is carried out by the person with limited civil capacity or without civil capacity, and claim that the cancellation of this act denies its effect. However, because of the unequal status of the two parties to the transaction, it is difficult for the minor party to obtain, to preserve and submit such evidence, and there is no such case evidence rule in the judicial practice of the court. Therefore, in order to clarify the proof rules of both parties, the burden of proof of the minor can be appropriately increased. If the minor party fails to provide evidence, it may require the other party to provide necessary evidence. First of all, as a service provider, they need to prove that they fulfill reasonable technical obligations to judge the identity of minors, such as real-name authentication and facial recognition are favorable means of age judgment. Secondly, we need to prove that they have fulfilled the obligation of hierarchical protection after minors enter the platform. They do not push goods or services beyond the age range of minors, and restrictions are made in the transaction. Only when the presence of minors guardians can they buy goods or services beyond their age range, and strengthen their own supervision while restricting the large consumption of minors.

To sum up, the validity of the juvenile online transaction behavior should not only rely on the traditional civil law theory, but also be applied with The Times and innovative. We analyze the

effectiveness and rules of evidence on the subject of civil law theory and reality. The rapid development momentum of the Internet is not abated, minors, as one of the main bodies of network transactions, will be more and more flooded into network transactions. I hope that the content of this article can play a modest role in the protection and prosperity of the rights and interests of network transactions when minors have disputes in network transactions.

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