

Research on the Legal Regulation of The Dissemination of Audio-Visual Programs on Network Platforms

Huaili Xu*

Communication University of China Nanjing, Nanjing 211199, China

*Corresponding author: 409859509@qq.com

Abstract: The self-management of online platforms in formulating, enforcing rules and handling disputes objectively has the function of shaping the order of cyberspace and has obvious power characteristics. At present, the management of the internal public order of online platforms in my country mainly focuses on the self-regulation of online platforms in the dissemination of audio-visual programs. Since online platforms are private market entities, the management behavior they carry out is easily coerced by interests. In the era of self-media, traffic and attention have become new profit points. Driven by interests, the motivation and effectiveness of self-regulation of online platforms in the dissemination of audio-visual programs are limited. At present, there are some deficiencies in the legal regulation of self-media information dissemination in my country, which should be analyzed in depth. This article will discuss the legal regulation of self-media information dissemination as the core of the research, aiming to provide some suggestions for the legal regulation of self-media information dissemination in my country. How government departments intervene in the management of the internal order of the platform, how the law defines the "public and private" subject status of online platforms in the dissemination of audio-visual programs, how to urge online platforms to strengthen self-management of audio-visual programs, and how to balance the relationship between freedom of speech and personal privacy. These issues have become the difficulties and dilemmas faced by the current governance of online platforms in the dissemination of audio-visual programs in my country. This article starts from three perspectives: the improvement of legal norms, the self-regulatory system, and the construction of an external supervision mechanism, and proposes solutions to the legal dilemma faced by my country's online platforms in the era of self-media in the governance of audio-visual programs.

Keywords: Online platform governance, Broadcasting audio-visual programs, Legal Regulation Research.

1. Introduction

The dissemination of audiovisual programs on online platforms is a product of the information revolution and one of the important signs that mankind has entered the platform era. In the era of self-media, the dissemination of audiovisual programs on online platforms has become a must-have for people's daily life and travel [1]. The progress of network information technology has brought tremendous development to the network society while also bringing unprecedented challenges to the network public order. In recent years, various types of online platforms for disseminating audiovisual programs have risen rapidly. They are profoundly changing people's production and lifestyle, affecting people's interactions and interest relations, and bringing great challenges to social public governance. Looking around the world, whether it is combating telecommunications fraud, responding to online rumors or curbing online violence, it is inseparable from the support and assistance of online platforms [2]. As a private market entity, the online platform assumes the platform order management function that should be undertaken by government departments, and exercises substantive supervision over platform users and merchants [3]. This kind of obligation-fulfilling behavior with power attributes does not fall within the scope of public law regulation because it is exercised by private market entities and has not been explicitly authorized or entrusted by law, and therefore cannot be effectively regulated by public power regulation. However, the phenomenon of network platforms failing to fulfill their responsibilities and abusing their dominant position in the dissemination of audio-visual programs has become increasingly common in today's society

[4]. How to protect the legitimate rights and legitimate interests of network platforms while urging them to develop in a standardized manner, assume social responsibilities, and meet public interests is a new topic in the governance of network platforms disseminating audio-visual programs. Putting the governance of network platforms disseminating audio-visual programs on the track of the rule of law and analyzing it from the perspective of administrative regulation will not only help to clarify the outstanding legal issues in the governance of network platforms disseminating audio-visual programs in my country, but also keep up with the forefront of theoretical research and meet the practical needs of China's rule of law construction. How to legally regulate and balance the marketability and sociality of network platforms disseminating audio-visual programs to give full play to their advantages, reduce or even eliminate their adverse effects, and how to fully respond to the needs of realizing public interests such as national interests and social interests while protecting the legitimate business rights and legitimate interests of network platforms disseminating audio-visual programs [5]. The response to this series of questions is of great significance to the legalization of the governance of network platforms disseminating audio-visual programs.

2. Types and Characteristics of Audio-visual Programs Disseminated on Online Platforms

As an emerging thing, "network platform" has become a high-frequency hot word in many fields such as politics, economy, and management. At a time when platformization is becoming more and more common, the dissemination of

audio-visual programs on network platforms has become a controversial concept due to its wide range of business and complex affairs. At present, the domestic legal field has not yet made a clear and unified definition of the concept of audio-visual programs on network platforms [6]. Scholars have defined the dissemination of audio-visual programs on network platforms from different perspectives. In general, it can be summarized into four categories: network system, mechanism channel, infrastructure, and Internet intermediary. The governance subjects of the governance of audio-visual programs on network platforms are also diverse, including both government agencies and non-governmental organizations and individuals. The governance of audio-visual programs on network platforms referred to in this article neither regards network platforms as a simple regulatory object nor regards audio-visual programs on network platforms as a simple governance subject, but rather constructs a network governance pattern centered on the dissemination of audio-visual programs on network platforms to achieve collaborative governance of multiple subjects.

With the emergence of new technological revolutions and business models, new types of online platforms for disseminating audiovisual programs are also constantly being updated. There is currently no specific standard for the research on the types of audiovisual programs disseminated by online platforms. The task of typological analysis of audiovisual programs disseminated by online platforms is arduous and complicated [7]. In the era of self-media, new changes have occurred in the application and classification of audiovisual programs disseminated by online platforms. Self-media platforms have appeared in the public eye as a separate type of online platform.

Through the analysis of relevant literature, it can be found that the current classification of network platforms in academia is roughly as follows: 1. According to the different service contents provided by the platform, network platforms can be divided into application platforms and information provision platforms; According to the different link objects and main functions of the platform, network platforms can be divided into network sales platforms, life service platforms, social media platforms, information platforms, financial service platforms, and computer application platforms; 3. According to the different business scales and types of business, network platforms can be divided into super platforms, large platforms, and small and medium-sized platforms. The above classification does not appear in the type of "self-media platform" alone, but the words "social media platform" and "social entertainment platform" appear many times [8]. From the literal meaning, "self-media platform" and "social platform" are not the same, but in terms of function, the two are actually highly confused. In practice, self-media platforms and social platforms are often confused. In fact, whether it is called a self-media platform or a social platform, its essence belongs to the network platform in the era of self-media studied in this article [9]. Compared with other online transaction and information platforms, this type of platform is quite different, so it is easier to distinguish. Based on the different ways of information dissemination, this article preliminarily divides them into: news information platforms mainly based on WeChat official accounts, Weibo, and Toutiao; social communication platforms mainly based on QQ and WeChat; short video platforms mainly based on Douyin, Kuaishou, and Bilibili; knowledge community platforms mainly based on Zhihu, Douban, and Xiaohongshu.

In addition to the bilateral, external, and technical characteristics of network platforms, this type of network platform also has the characteristics of self-media. Compared with traditional media, the network platform dissemination of audio-visual programs in the self-media era has the characteristics of low user entry threshold, strong interactivity, fast information dissemination speed, fragmented information content, and diversified service content. In the self-media era, ordinary individuals do not need to have too much professional knowledge and qualifications. As long as they have basic Internet access and can make basic expressions, they can use the various services provided by the network platform to disseminate audio-visual programs [10]. In the self-media era, everyone can act as a media for news dissemination. Once the news information is released, it does not need to go through too strict review and approval procedures to enter the public's field of vision. The public can forward it at will and disseminate it at any time without being restricted by time, space, and media. These characteristics have led to more novel and complex problems faced by the governance of audio-visual programs disseminated by network platforms in the self-media era, and the governance difficulty is also higher. The traditional governance model of audio-visual programs disseminated by network platforms is no longer suitable for the development of the self-media era. New governance theories and governance models are gradually being cited in the governance of audio-visual programs disseminated by network platforms.

3. The Legal Dilemma of Governing Audio-Visual Programs on My Country's Online Platforms in The Era of Self-media

3.1. The legal status of online platforms in disseminating audiovisual programs is unclear

The legal subject status is a fundamental topic in the governance of online platforms for the dissemination of audio-visual programs. In order to govern online platforms for the dissemination of audio-visual programs and propose appropriate governance plans, we must first clarify the legal subject status of online platforms for the dissemination of audio-visual programs, understand what kind of subject the online platforms for the dissemination of audio-visual programs belong to in legal relations, and what kind of law is more appropriate to regulate them.

In the era of self-media, as a private market subject, the network platform controls the channels for information production and dissemination, and exercises the media supervision and management and network order management rights exercised by traditional administrative law enforcement departments. From the perspective of legitimacy, the exercise of the power of network platforms to disseminate audio-visual programs has no legitimate basis. It is neither a subject authorized by laws and regulations nor a subject authorized or entrusted by administrative agencies, and there is no administrative affiliation or economic holding relationship between it and administrative law enforcement departments. ④ Since my country's current laws have not yet made a clear definition of the legal subject status of network platforms in disseminating audio-visual programs, and the power and obligation attributes of network platforms in

disseminating audio-visual programs are not clear, it is inevitable that in the actual governance process, there will be a dilemma of unclear governance means and poor governance degree. If the administrative responsibility of network platforms for disseminating audio-visual programs is pursued through public law, then they do not have the qualifications of administrative subjects; if the private law responsibility of network platforms for disseminating audio-visual programs is pursued through private law, then the legitimate rights and interests of users cannot be fully protected. When the government discovers that online platforms have engaged in mismanagement in the dissemination of audio-visual programs, and when users assert their rights through judicial remedies, how government departments and judicial organs should investigate the relevant responsibilities of online platforms in disseminating audio-visual programs and maximize the protection of the legitimate rights and interests of platform users has become a major problem in the current governance of online platforms in the dissemination of audio-visual programs.

3.2. The absence of public law regulation on the right of online platforms to broadcast audio-visual programs

Since the online platforms in the era of self-media involve a wide range of businesses and complex social relations, the actual governance process often involves the intersection of multiple regulatory departments and the gray areas where laws and regulations are not yet clear. Although my country has successively issued a series of laws, regulations and policies on the dissemination of audio-visual programs on online platforms, among which the "Cybersecurity Law of the People's Republic of China", "Data Security Law of the People's Republic of China" and "Personal Information Protection Law of the People's Republic of China" have determined the top-level institutional framework for the supervision of network security, data security and personal information security in my country, the "Internet Information Service Management Measures", "Internet News Information Service Management Regulations", "Internet Information Content Ecological Governance Regulations", "Internet Commentary Service Management Regulations" and other laws, regulations and normative documents have also detailed and clarified the specific matters of the governance of online platform dissemination of audio-visual programs, but overall, these laws, regulations and normative legal documents only regulate the routine issues that arise in the dissemination of audio-visual programs on online platforms, and there is still a lack of necessary discussion on the public law regulation of the power of online platforms to disseminate audio-visual programs.

Legislation imposes a large number of review and management obligations on online platforms for the dissemination of audio-visual programs in the form of obligations, successfully transferring the responsibility of network public management from public power subjects to private market subjects. Since this management behavior has a dominant role in the online speech and behavior of platform users, it actually has obvious power effects. However, in terms of law, my country has not yet established a corresponding legal mechanism to grant it corresponding powers, which leads to the fact that the exercise of the power of online platforms to disseminate audio-visual programs is not subject to public law constraints. The online platform

disseminating audio-visual programs bears the network platform management responsibilities that should have been borne by the administrative authorities, and exercises substantive supervision over the users of the network platform. This management behavior largely implements the will of the government. However, the government departments that should have assumed the function of platform order management do not directly participate in the internal order management of the platform, so they hide behind the network platform and do not have to bear the corresponding public law responsibilities. The online platform disseminates audio-visual programs on behalf of the government to exercise the right to manage the public order of the network, but also avoids the strict review that accompanies the traditional exercise of public power because it does not have the qualifications of an administrative subject. In the field of public law, strictly speaking in the field of administrative law, the traditional administrative law limits the scope of administrative subjects and administrative power, resulting in the exclusion of most social power subjects from the scope of administrative regulation. This also leads to the fact that the increasingly emerging power of online platforms to disseminate audio-visual programs has no legitimate theoretical empowerment space and cannot be effectively regulated by administrative law norms and administrative procedures. However, it is worth noting that only through private law to adjust the legal relationship between online platforms disseminating audio-visual programs and online users is obviously not conducive to protecting the legitimate rights of platform users as vulnerable groups. When the legitimate rights and interests of users are improperly infringed by the platform, users can neither obtain relief through public law procedures nor obtain sufficient compensation through private law. The rights protection and power control mechanisms face the risk of imbalance or even failure.

3.3. The allocation of rights and responsibilities among multiple governance entities in the dissemination of audio-visual programs on online platforms is out of order

The operation of audio-visual programs on online platforms cannot be separated from the joint participation of multiple subjects such as the government, social organizations, and Internet users. With the continuous expansion of the business scope of audio-visual programs on online platforms and the increasing platformization trend of social life, the willingness of multiple subjects to jointly participate in the governance of audio-visual programs on online platforms has become increasingly strong. Audio-visual programs on online platforms and social organizations through self-governance or co-governance with government regulatory departments seem to have become a new governance method in the field of Internet governance. In the field of governance of audio-visual programs on online platforms, a single subject is constrained by limited knowledge, information, resources, experience, and capabilities, and it is difficult for it to manage the increasingly complex public governance affairs of the Internet alone. Instead, it requires the joint participation and collaborative governance of multiple subjects.

Where is the boundary between the co-governance of the

government and social entities and the autonomy of social entities? How can Internet users effectively supervise the autonomous behavior of Internet platforms in disseminating audio-visual programs? How can the government regulatory authorities play a role in bottom-line supervision? These series of questions cannot be answered in the existing administrative law. How to build a multi-subject cooperative governance mechanism, give full play to the governance advantages of each governance subject, and clarify the rights and responsibilities between each governance subject are the key governance directions in the field of Internet platform dissemination of audio-visual programs.

4. Improve the Legal System for The Governance of Audio-visual Programs Broadcast on Online Platforms in The Era of Self-media

4.1. Determine the legal basis for exercising and regulating the power of online platforms to disseminate audiovisual programs

Internet platforms have a dual identity in the platform economy system. They operate in an enterprise-like manner and have the nature of market entities. They also supervise the platform market as a regulatory entity and have the nature of public entities. Under the current legal order, public law and private law are separated. It is generally believed that public power entities are regulated by public law, while private market entities are regulated by private law. For special entities such as Internet platforms that have both public and private identities, the existing laws have not yet provided a suitable regulatory solution.

With the transformation of the Internet public domain governance structure and the increasingly obvious trend of the expansion of the power of online platforms to spread audio-visual programs, traditional administrative law has been unable to cope with the impact of the power of online platforms to spread audio-visual programs on the traditional power structure. In order to clarify the public subject status of online platforms to spread audio-visual programs in the legal normative system, it is necessary to reflect on and reconstruct the traditional administrative concept and administrative structure. On the one hand, the concept of administrative subject can be expanded, the administrative subject theory can be enriched and adjusted, the private power of online platforms to spread audio-visual programs can be included in the scope of administrative power, and the supervision of online platforms to spread audio-visual programs on users can be regarded as administrative activities, giving online platforms the status of administrative subjects participating in administrative activities; on the other hand, while strengthening the platform management obligations, the online platform can be clearly authorized to spread audio-visual programs, the administrative attributes of the supervision power of online platforms to spread audio-visual programs can be determined, and it can be included in the administrative procedures for regulation. However, it is worth noting that while authorizing the online platform to spread audio-visual programs, it is also necessary to clarify the responsibilities faced by its power anomie, clarify its functions and power boundaries in the governance of online platforms to spread audio-visual programs, and avoid its

abuse of public power and abuse of power for personal gain. In addition, the conditions and procedures for authorization must be strictly set. For example, it is necessary to clarify the authorization subject and stipulate that only laws or regulations can authorize online platforms to disseminate audio-visual programs, so as to avoid too many authorization subjects that set overly heavy public tasks for the platform. Another example is to clarify the scope of authorization and stipulate the limits of the power exercised by online platforms to disseminate audio-visual programs, so as to avoid excessive power and the pursuit of private interests.

The dual identity of online platforms in disseminating audiovisual programs means that they have to bear dual responsibilities in platform governance. Although online platforms in disseminating audiovisual programs are private market entities in nature, it must be recognized that they have public attributes when exercising platform order management responsibilities. The definition of the public and private attributes of online platforms in disseminating audiovisual programs cannot be analyzed from a single perspective. While recognizing the identity of online platforms as private market entities in disseminating audiovisual programs, it is also necessary to clarify the public power attributes of online platforms in disseminating audiovisual programs in law, give online platforms the identity of administrative entities in disseminating audiovisual programs, and bring online platforms' management behaviors with public effects into the regulatory track of administrative law.

4.2. Improve the legal procedures for exercising the right to broadcast audio-visual programs on online platforms

First, in terms of rule-making, legislation should be used to require online platforms to introduce open and transparent procedures for the dissemination of audio-visual programs, build a multi-subject communication and consultation mechanism, give social entities and government departments the opportunity to participate in consultation and discussion in the process of rule-making, listen to the opinions of representatives of all parties as much as possible, balance the interests of all parties, and enhance the legitimacy and acceptability of the rules. Secondly, in terms of rule enforcement, platform users should be given full opportunities to state their defense. Since the handling of platform users by online platforms will affect the relevant rights and interests of platform users, they should give platform users the opportunity to fully explain their reasons in accordance with the explanation system of administrative procedures in the process of implementing the rules. Finally, in terms of dispute resolution, a third-party organization supervision mechanism can be introduced to build an external supervision and relief procedure. While supervising the self-regulatory violations of online platforms in the dissemination of audio-visual programs, it is also possible to provide platform users with channels for external relief to make up for the lack of professionalism in the handling of disputes over the dissemination of audio-visual programs by online platforms, increase the fairness of online dispute resolution, and fully protect the legitimate rights of users. In addition, since the network platform can directly deal with the relevant rights and interests of platform users when disseminating audio-visual programs, the self-regulatory behavior it implements must also comply with the principle of proportionality. The platform cannot abuse its power for

personal gain and do nothing, nor can it go too far to evade responsibility. When dealing with illegal and irregular behaviors of the platform, the disposal measures must be appropriate. According to the content, nature and degree of social harm of the behavior, it is necessary to decide what punishment measures to take and what punishment measures will cause the least damage and impact on user rights. If it can be deleted, it should be deleted directly, and if it can be solved by banning, it should be banned directly. Do not use irreversible heavy punishment measures such as blocking accounts and deleting links at the beginning, so that platform users do not even have the opportunity to correct.

In short, the governance of audio-visual programs on online platforms involves multiple governance entities. The governance process of audio-visual programs on online platforms is originally a process of balancing public and private interests. Since the interests of various parties are different, in the actual governance process, as many multiple entities as possible should be required to participate in the consultation and discussion process, so as to achieve a balance of interests in the process of interest game. Introducing the substantive justice value and procedural justice value of public law into the regulation of the power of audio-visual programs on online platforms will not only help give full play to the market initiative of online platforms in disseminating audio-visual programs and enhance their sense of social responsibility, but also promote the healthy and orderly development of the platform economy.

4.3. Strengthening the legal responsibility of We-media platforms in information content management

It is difficult to pursue the liability for infringement in cases of online infringement, and the infringed generally have difficulty in collecting evidence. It is actually very difficult and unrealistic for the infringed to claim liability from all infringing entities through judicial relief. Although Internet service providers must bear joint and several liability with infringing users under certain conditions, the conditions for bearing such joint and several liability are actually quite harsh, and the infringed users may not be able to ultimately hold the Internet platform responsible for disseminating audio-visual programs. With the increasing number of online violence and online rumors, the need for online platforms to actively review the information content of audio-visual programs is becoming more and more obvious. Strengthening the legal responsibility of online platforms for disseminating audio-visual programs in terms of information content management and requiring them to strengthen information content management are of great significance to the construction of a good online public order.

The legislature can clearly require in the law that when online platforms disseminate audio-visual programs, they must fulfill reasonable warning and attention obligations when supervising online information content, otherwise they will bear corresponding legal responsibilities. For example, it is required that online platforms monitor possible risks in advance through various technical means, and when a certain behavior is detected to have the risk of violating laws and regulations, promptly notify users of the possible illegality of their behavior and the possible consequences of implementing the illegal behavior through pop-up windows, bold prompts, etc. Replacing active review with prompts and requiring platform users to strengthen self-discipline can also

reduce the disorder and anomie within the platform to a certain extent. Compared with the infringement liability of individual users, the legal liability of online platforms for disseminating audio-visual programs is easier to determine. Since the infringement liability of individual users is difficult to determine in online infringement cases, urging online platforms to strengthen supervision by strengthening their responsibility and obligations for disseminating audio-visual programs may be another way to solve the difficulty in determining liability in online infringement cases.

5. Conclusion

The challenges that online platforms bring to the existing legal system are mainly reflected in their dual identities: on the one hand, online platforms are organizers and managers of the internal order of the platform; on the other hand, the platform is also a market participant. The dilemma of existing legal regulation lies in the inability to effectively balance the relationship between the public functions of online platforms as managers and the profit-making functions of market entities. Under the cover of dual identities, online platforms exercise substantial regulatory power over platform users, but in turn do not need to be regulated by public law. Since they are still private market entities in essence, the handling of network disputes in judicial practice is mostly resolved by private law. In fact, the public law review obligations set by existing laws, regulations, departmental rules or normative legal documents for online platforms to spread audio-visual programs are essentially power-based. If online platforms are not subject to public law regulation for spreading audio-visual programs, but only rely on private law to manage them, then online platforms will inevitably use their management power within the platform to seek profits. At present, the motivation for self-regulation of audio-visual programs disseminated by online platforms is still insufficient and their self-interest is prominent. If they are solely responsible for managing the internal order of the platforms, deviations are bound to occur. This is not only not conducive to the good construction of the internal order of the platforms, but also not conducive to the effective protection of the legitimate rights and interests of platform users.

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