

Analysis of the Scope of the Right of Daily Family Agent in *The Civil Code of the People 's Republic of China* in the Context of live Reward Case

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Abstract

The Article 1060 of the Civil Code of the People 's Republic of China clearly stipulates that “civil legal acts performed by one of the spouses due to the needs of daily life of the family shall be valid for both spouses.” The system of daily family agency stipulated in this article is intended to maintain the stability of marriage and family and protect the interests of bona fide counterparts. However, due to the lack of clear provisions on the scope of daily family agency, the phenomenon of different judgments in the same case in judicial practice has been caused in China. In this paper, the author takes the typical case of one using the common property of the couple to reward and the other party 's requesting for return as the starting point, from the perspective of legal interpretation, on the basis of clarifying the concept of daily family agency, defines the specific scope of “family daily life needs” in The Article 1060 of the Civil Code of the People 's Republic of China. Through the study, the author concludes that whether an act belongs to “the right of daily family agency” should meet the necessity of purpose and the appropriateness of means in essence, and also require generality and repeatability in form.

Keywords

Live Broadcast Reward; Daily Household Agency; Legal Interpretation.

1. Introduction

With the advent of the era of digital economy, digital production and life style has become a normal state. As a typical representative of the Internet economy, live broadcast reward has been widely sought after by people for its strong interactivity, real-time, openness and sharing. This emerging economic model with strong development momentum and development potential has enriched people 's spiritual and entertainment life. At the same time, due to the lack of timely and effective regulation of relevant laws and policies, many disputes have arisen in practice. For example, minors take their parents ' finances to give high rewards to the anchors. (See also the typical case issued by the Supreme People 's Court on March 2,2021-Liu v. a technology company contract dispute case.) Some criminals commit fraud in the name of live broadcast rewards, causing serious hidden dangers to the safety of people 's property. (See also the fraud case of Yang and other 11 people issued by the Supreme People 's Procuratorate on January 25,2021.) What 's more, it attracts the attention to earn traffic and uses live webcast to spread obscene things and pollute the social atmosphere.(See also the People 's Court of Haidian District, Beijing (2019) No.129, the first instance criminal judgment on the dissemination of pornographic materials by Huang Haiyan.) The author uses “live broadcast reward ”as the keyword to search on the Chinese refereeing documents online and finds that from 2017 to 2022, there are 239 live broadcast reward cases, 76 criminal cases and 167 civil cases. Such cases mainly occur in Beijing, Zhejiang, Guangdong and other areas with more

developed Internet economy. The most common and typical case is that one party uses the common property of husband and wife to reward and the other party requests the return. The daily family agency system stipulated in Article 1060 of *the Civil Code of the People's Republic of China* is of great significance to the maintenance of harmonious relations between marriage and family and the protection of the interests of bona fide counterparts in transactions. However, there is no clear definition of the scope of daily family agency, that is, what matters belonging to the daily needs of the family isn't clearly stipulate in *the Civil Code the People's Republic of China*. In this paper, the author takes the typical cases of one party using the common property of the couple as the starting point, and explores the specific scope of the right of daily family agency stipulated in the *Chinese Civil Code*, which is conducive to safeguarding the common property of the couple, and also helps to protect the interests of bona fide traders and promote the development of China's webcast industry. This paper consists of five parts, the first part is introduction, the second part is about the scope definition of the agent right of daily household in the context of live broadcast reward, the third part is about the concept and research status of daily household agency system in China, the fourth part is the specific scope definition of the right of daily household agency in the Civil Code of the People's Republic of China-from the perspective of legal interpretation, the final part is conclusion.

2. The Scope Definition of the Agent Right of Daily Household in the Context of Live Broadcast Reward

In the interest disputes involving live reward, the cases of using the joint property of couple to reward are the most common and typical. Especially in recent years, with the rapid development of the Internet economy and the impact of the epidemic, watching live broadcast has become a common way for people to spend their time, meanwhile the interest disputes caused by it are also showing a rapid development trend. The author searched on the "Jufa Case Network" with the keywords of "live reward" and "joint property of husband and wife," and found that there were 72 judgments in such cases in the past three years. Through careful study of these judgments, the author found that the definition of the of daily household agency rights in the context of live rewarding mainly exists the following two points.

2.1. There is no Uniform Standard on the Legal Nature of Live Broadcast Reward, Which Leads to Different Judgments in Similar Cases.

There are three main views on the legal nature of live broadcast reward in academic research. The first view holds that live broadcast reward is a gift behavior. Scholars who hold this view believe that although users and live broadcast platforms usually sign a network service contract, the user's reward is made for the anchor individual, which is the free expression of the user's personal feelings. The reward is the user's affirmation and appreciation of the anchor's favorite performance behavior. It is single-tasking and gratuitous the characteristics of the gift contract. (See also the typical case issued by the Supreme People's Court in 2019 "Yu Binhua and Guangzhou Huaduo Network Technology Co., Ltd., Wang Zirong, Harbin Xingrong Cultural Media Co., Ltd., Liu Qiqi Network Service Contract Dispute Case".) In the typical case 'Yu Binhua and Guangzhou Huaduo Network Technology Co., Ltd., Wang Zirong, Harbin Xingrong Culture Media Co., Ltd., Liu Qiqi Network Service Contract Dispute' issued by the Supreme People's Court in 2019, the court held that the user's reward for the anchor should be recognized as a gift contract, and only in exceptional circumstances can it be recognized as a gift contract. In the civil case of Zhang Xiaolong and Lan Jing's gift contract dispute, the people's court of Fulaerji District of Qiqihar City identified the financial reward of the plaintiff to the defendant as a special gift. (See also the Civil Judgment of the First Instance of the People's Court of the Fulaerji District of Qiqihar City (2022) No.996, "Zhang Xiaolong and Lan Jing gift Contract case".) The second view is that the live broadcast reward belongs to a new type of network service

relationship. Scholars who insist on the considerable contract theory believe that the user's reward is not gratuitous. Because network users will gain spiritual pleasure when watching the live broadcast, and the anchor always pays energy and time in the process of live broadcast, the user's reward is the consideration of the anchor's performance service. The compensation for rewards can be considered from the aspects of the closeness of the reward platform, the interactivity of the webcast behavior, and the compensation for the rights of performers in intellectual property rights.[1] For example, in the second trial of Liu Qi and Wang Yan network service contract disputes case, the Beijing Fourth Intermediate People's Court considered that live broadcast reward is a kind of transaction form with obvious commercial operation attributes, consideration of performance service and new non-compulsory payment. The reward motivation of the rewarder does not affect the determination that the reward behavior is a kind of network service contract. (See also the second-instance civil judgment of the Beijing Railway Transportation Intermediate People's Court (2022) No.234 of the Beijing 04 end of the people, Liu Qi and Wang Yan and other Network Service Contract Disputes.) The third view is that the live broadcast reward is not a simple gift or a simple consumer behavior, but it deepens on different situations. According to whether the rewarder and the anchor form an agreement before the reward, that is, whether there is a clear agreement on the specific content, specific requirements, and special services that can be enjoyed after the reward, the reward can be divided into customized contracts and non-customized contracts.[2] Customized contract refers to the one in that the user could enjoy special service after the reward. The two parties reach a consensus contract in advance. This kind of contract is a new type of network service contract, which has the characteristics of double service and compensation. The host accepts the reward and also takes certain performance service as the consideration. Under the non-customized contract, the anchor does not need to pay any consideration, only need to accept the reward, in this case, the live broadcast reward behavior belongs to the gift contract. The author supports the third point of view. In the case of webcast rewards, specific problems need to be analyzed in detail. It is necessary to see whether the two parties agree in advance on the requirements, special services and whether there is a consideration relationship to judge the nature of webcast rewards. In practice, some courts believe that the live broadcast reward belongs to the new non-mandatory payment contract under the Internet economy and the network service contract. For example, in the case of the gift contract dispute between Qian Beiqiong and Shen Guokai, the Shanghai Yangpu District People's Court confirms that the defendant, Shen Guokai, and the defendant, Wuhan Douyu Network Technology Co., Ltd. constitute the legal relationship of the network service contract. There is no direct legal relationship between the defendant, Shen Guokai and the defendant, Lin Ling in the Douyu live broadcast platform. The two parties do not constitute a gift contract relationship and constitute a network service contract relationship. The contract has been actually fulfilled, and there is no validity defect, so the contract should be considered valid. (See also the first-instance civil judgment of Beiqiong and Shen Guokai gift contract disputes, Shanghai Yangpu District People's Court (2019) Shanghai 0110 Early Republic of China 13220.) In the case of the dispute between Gao Xin and Li Youjun and other network service contracts, the court of first instance held that the defendant, Li Jun's live broadcast reward has the characteristics of "usualness, minification and chronicity". (See the first-instance civil judgment of Gao Xin and Li Youjun and other network service contract disputes, the Beijing Internet Court (2021) Jing 0491 No.23901.) Each reward is an independent network service contract, and the rewarder has obtained different degrees of spiritual enjoyment. (See also the first-instance civil judgment of the People's Court of Wuwei City, Anhui Province (2020) No. 1671, Beijing Byte Jump Technology Co., Ltd. and Jiang Zhenhui, Zhong Shengtao's gift contract dispute.) Even in the case where the facts of the case are highly similar to the facts of that mentioned above, some courts believe that the live broadcast reward should be regarded as a gift behavior because of its unilateralism and

gratuitousness. For example, in the case of Beijing Byte Jump Technology Co., Ltd. and Jiang Zhenhui, Zhong Shengtao's gift contract dispute, the court of first instance held that the relationship between the user and the anchor is partly a network service contract relationship, and partly a gift service contract relationship. It is considered that the user's reward is not necessarily the consideration of the anchor's performance behavior, because the anchor can use the platform for free broadcast while absorbing a large amount of traffic. The traffic itself can bring huge benefits to the anchor and the platform. The user's live broadcast reward is only an appreciation and affirmation of an anchor, not a consideration for his performance. Similarly, in the first-instance judgment of the dispute between Mr. Wang and Mr. Lu confirming the validity of the contract, the Huanxian People's Court of Qingyang City, Gansu Province, recognized Mr. Liu's reward for the anchor Mr. Wang as a single, unpaid gift contract, and revoked Mr. Liu's reward for the infringement of the legitimate rights and interests of Mr. Lu, the co-owner of the property. (See also the first instance civil judgment of the Huanxian County People's Court (2020) Gan 1022 No.2965 in the early Republic of China on the dispute between Wang and Lu confirming the validity of the contract.)

2.2. It is Controversial that "Whether the Live Reward Belongs to the Family's Daily Life Needs or not"

In such cases of using the couple's common financial to reward, whether the live broadcast reward is identified as a gift behavior or a network service contract, the final point cannot avoid the accurate definition of whether the live broadcast reward is the daily needs of the family. However, although China's *Civil Code* stipulates the daily family agency system, that is, as long as it is within the scope of the daily needs of the family, either party of the couple can act as an agent of the other party and use the couple's common financial. But there is no clear and specific provision for the scope of "family daily life," which leads to the phenomenon of different treatment of similar cases in the transaction. In the second trial of the contract dispute between Beijing Byte Jump Technology Co., Ltd. and Jiang Zhenhui and Zhong Shengtao, Wuhu Intermediate People's Court of Anhui Province revoked the civil judgment No. 1671 of Wuwei People's Court of Anhui Province (2020) in the early Republic of China. (Refer to the civil judgment of the second instance of the contract dispute between Beijing Byte Jump Technology Co., Ltd. and Jiang Zhenhui and Zhong Shengtao in Wuhu Intermediate People's Court (2020) No.2598, Wan 02 End of the People.) The court of second instance held that the contract involved belongs to the network service contract. Although Zhong Shengtao used the joint property of husband and wife to reward without the consent of his wife, Jiang Zhenhui and caused the loss of family property, the live broadcast reward belongs to the basic needs of satisfying people's spiritual life, so it belongs to the daily life consumption of the family. Zhong Shengtao, as a person with full civil capacity, has the right to use the marital joint property within the scope permitted by law. In the case of property damage compensation dispute between Wang Lihong, Qiu Yulu and Beijing Micro Unicom Technology Co., Ltd., the Xindu District People's Court of Chengdu City, Sichuan Province considered Zhai Fuqiang's rewarding to Qiu Yulu as a network service contract. (See also the civil judgment of the first instance of the property damage compensation dispute between Wang Lihong and Qiu Yulu, Beijing Micro Unicom Technology Co., Ltd., No.1049 Xindu District People's Court (2020).) although his reward behavior objectively causes the loss of the common property of the husband and wife, his motivation is to satisfy its personal spiritual needs, so it belongs to the family daily life needs, and the reward contract is legal and effective.

In the second trial of the gift contract dispute between Mr. Wang and Mr. Sui, the Hangzhou Intermediate People's Court of Zhejiang Province held that it could not deny its consideration because of the strong interactivity and timeliness of the live webcast. (See the civil judgment of the second instance of the gift contract dispute between Mr. Wang and Mr. Sui in Hangzhou

Intermediate People 's Court of Zhejiang Province (2020) No.3982 of Zhejiang 01 Minzhong.) The relevant provisions of bona fide acquisition are applicable in this case. Mr. Sui belongs to the counterpart of bona fide acquisition, and Mr. Wang may not use Mr. Sun to fight without his consent. According to the basic theory of civil law, it can be seen that the premise of the application of bona fide acquisition system is unauthorized disposition. From logical reasoning, it can be seen that the court believes that the reward is an unauthorized disposer, that is, Sun 's reward does not belong to the scope of daily family agency. Similarly, in the first instance of Zhao Wei and Zuo Meiling gift contract disputes, the People 's Court of Heping District, Shenyang City, Liaoning Province, believed that although Zhao Fenglin 's reward behavior through the network platform was effective, but because of its large cumulative amount, it obviously exceeded daily consumption and constituted a waste of the common property of the husband and wife. Zhao Wei, as the injured party, has the right to request the return. From the above examples, it can be seen that accurately defining the scope of daily family agency, that is, ' family daily life needs ', is of great value and significance for the determination of the joint debt of husband and wife and the resolution of such live broadcast reward disputes.

3. The Concept and Research Status of Daily Household Agency System in China

The daily family agency system can be traced back to Roman law. In the context of the patriarchal society at that time, the wife was attached to the husband and therefore could not participate in the commodity transaction as an independent individual. The family agency right enjoyed unilaterally by the wife was appointed by the husband. With the further development of commodity economy, on the one hand, the commercial and trade exchanges between family and society are becoming more and more frequent and in-depth, on the other hand, the social status of women has also been greatly improved. The establishment of marriage relationship is more based on the contract, and the family agency is shared by both husband and wife. The so-called daily family agency right refers to the fact that during the existence of the relationship between husband and wife, both husband and wife are agents of each other when they are engaged in civil legal acts with a third person because of the daily needs of family life. There is a view that the agency of daily family affairs has the characteristics of the couple identity, daily family affairs, and the joint liability of husband and wife.[3] In the understanding of daily housework agency, we can start from the following levels.[4] First of all, the daily housework agency is a kind of civil agency, which is a legal system in which one spouse represents the other as a civil legal act, and its legal consequences are borne by both spouses. Secondly, the essential difference between daily family agency and other civil agency is that there is a special identity relationship between the agent and the principal, and the agency right is shared by both husband and wife. Finally, from the scope of application, the scope of application of daily family agency is narrower than that of other civil agency, which only applies to daily family affairs and cannot be applied to non-daily family affairs. In terms of research status, the author searched on China Knowledge Network with the keyword of " daily family agency right " and found that after *the Civil Code* clearly stipulated the daily family agency system, the academic research on the system also showed high enthusiasm. Most of the research is about the definition of the concept of daily family agency, its nature and the research on the identification of daily family agency in the joint debt of husband and wife, but there are relatively few studies on what is " daily family life needs", that is, the specific scope of application of daily family agency.

4. The Specific Scope Definition of the Right of Daily Household Agency in the Civil Code of the People 's Republic of China from the Perspective of legal Interpretation

The article 1060 of *the Civil Code of the People 's Republic of China* stipulates: "A civil juristic act committed by one of the spouses for the needs of daily life shall be valid for both spouses, unless the spouse and the other party have agreed otherwise." The daily family agency system stipulated in this article is not only conducive to safeguarding the interests of the counterparty and promoting transaction security, but also helps to safeguard the common property of husband and wife and promote family harmony. The author will take the live broadcast reward as the entry point and take the legal interpretation as the perspective to accurately define the specific scope of the daily family agency right, which is conducive to reasonably solving the conflicts of interest of multiple parties involved in the live broadcast reward case, and better balancing the interests between the other party of the husband and wife and the trading counterpart.

4.1. An Analysis of the Scope of the Right of Daily Family Agent in the Civil Code, Taking the Case of live Reward as the Starting Point

The purpose of the initial establishment of the daily family agency system is to promote the commodity trade between the family and the society, and to balance the conflict of interest between the family interests and the trading counterpart. Overview the development of the system in China, it is not difficult to see that the daily family agency system is to solve the problem of debt disputes between husband and wife and the third person. For the first time, *the Chinese Civil Code* clearly stipulates the daily family agency right, which is of great significance for the determination of the common debt of husband and wife, the maintenance of the harmonious relationship between marriage and family, and the protection of the interests of the bona fide counterpart in the transaction. However, there is no clear stipulation on the scope of the daily family agency right, that is, what matters belong to the daily life needs of the family, which leads to the phenomenon of different judgments in the same case in judicial practice. The analysis of the daily family agency right in the context of the live broadcast reward case using the common property of the husband and wife is conducive to reasonably solving the conflicts of interest of the multiple subjects involved in the live broadcast reward case, and better balancing the interests between the other party of the couple and the anchor.

First of all, according the literal meaning of "daily family life needs", the definition of family in *Chinese Ci Hai* is "a community of interests living together due to marriage, blood relationship or adoption relationship". The explanation of family in Chinese Encyclopedia (sociology volume) is basically the same as that given by Ci Hai, that is, "family is the basic unit of social life composed of marriage, blood relationship or adoption relationship." The interpretation of "daily life" in *Chinese Ci Hai* is a highly familiar and repetitive practical activity for social actors or groups of actors in social life. The meaning of "need" in modern Chinese is necessity and indispensability. From the perspective of literal interpretation, "daily needs of the family" is an essential activity or expenditure for the life and development of the family, and each family member. Therefore, the daily needs here include both the needs of the overall interests of the family and the reasonable daily needs of the family members. In the historical stage of relatively lagged economic development, people 's daily life needs are mainly material needs such as clothing, food, housing and transportation. With the development of social economy and the improvement of people 's living standards, individuals meet the basic material needs of life. At the same time, it also produces a more advanced level of daily life needs, but the individual 's daily life needs must be controlled within a reasonable range. If there is a contradiction between individual needs and family needs, the family 's interests should be considered as the

starting point. The understanding of live broadcast reward should be considered from two dimensions, that is "live broadcast" and "reward". With the development of Internet technology, watching live broadcast may become a part of people's daily life, but watching live broadcast does not necessarily have to reward it. Therefore, live broadcast rewarding cannot be regarded as a daily life need of the family from the perspective of semantic interpretation. Secondly, analyzing it from the perspective of system interpretation, put *the Article 1060 of the Civil Code* the whole legal system, which stipulates that "the civil legal acts carried out by one of the husband and wife in China due to the needs of daily life of the family shall take effect on both husband and wife, except that one of the husband and wife and the other party have agreed otherwise." The restriction on the scope of civil legal acts that can be implemented by one party between husband and wife shall not be against the bona fide counterpart.

Secondly, from the perspective of the position of this law, it is in *the Marriage and Family Volume of Civil Code*. From the external system of the law, the article should be analyzed with *the Civil Code*. The other legal provisions of the Marriage and Family Code are consistent in rules and cannot conflict with other legal rules; The other legal provisions of marriage and family are in principle, so the underlying logic of any legal rules in this part is to maintain the harmony and stability of marriage and family. Therefore, on the one hand, the provisions of the family agency must aim to maintain the family's property security and the harmony of family relations and marital joint property. This is conducive to protecting the common property of the family and the legitimate interests of the other spouse. On the other hand, the law stipulates that as long as it is within the scope of family agency, both husband and wife have the right to dispose of common property, which is conducive to promoting transactions, adapting to the development of market economy, and also helping to improve the quality of personal life. Although the law stipulates the boundaries of the family agency system and the boundaries of family daily life needs, however, in the case of live broadcast rewards, the criteria for determining family daily life needs are relatively vague. In the above cases, some people rewarded more than 2 million in 2 years, and some rewarded more than 1 million in 2 months, which seriously damaged the legitimate rights and interests of the other party of the husband and wife and the overall interests of the family. However, the court considered that the reward amount was not large and that it was within the scope of 'family daily life needs. The author believes that from the analysis of the external of the external system and internal system of the law, the large amount of live broadcast reward obviously does not belong to the scope of daily family agency. In the process of judging the case, the court cannot mechanically consider that the single amount does not meet the larger standard and that it is in the scope of family daily life needs. Imagine a live broadcaster with a medium family income who rewards more than 2 million rewards over a thousand times in two months. Regardless of the number of times, in such a scenario, it will have a huge impact on the normal marriage and family life.

Thirdly, according to the historical interpretation, from the historical context of the evolution of family agency in China, the modern sense of family agency in China can be traced back to the family appointment system in Roman law. Under the civil economy at that time, the woman existed as a vassal of the husband, and had no independent right to represent the family in foreign transactions. Therefore, the agency right at this time was only enjoyed by the wife. The daily family agency system stipulated in *China's Civil Code* is shared by both husband and wife. *Article 17, paragraph 2, of Chinese Marriage law* stipulates: "Both husband and wife have equal rights to dispose of the common property." This article only affirms that both husband and wife have equal rights to dispose of the common property of the couple. However, there are no detailed rules on how to dispose of the common property of husband and wife. *Article 17* makes a more detailed explanation of the disposition of the joint property of husband and wife, which can be regarded as the source of the daily family agency system. *Article 17* stipulates that both husband and wife have equal rights to dispose of the common property. If the common property

of couple is handled according to the needs of daily life, either party has the right to decide. In 2018, the *Interpretation of Issues Concerning the Application of Law in the Trial of Cases Involving Marital Debt Disputes and Marital Debt Cases* stipulated that the nature of the joint debt of husband and wife should be determined by the standards of "joint intention of husband and wife" and "use in family daily life." Article 837 of the *Civil Code Marriage and Family (Draft)* (First Draft) continues to use and affirms the *Applicable Interpretation of Marital Debt Disputes* on the Criteria for Judging the Joint Debt of Husband and Wife. Until the first paragraph of Article 1064 of the *Civil Code of the People's Republic of China* stipulates that "the debt of one spouse in the name of the individual for the daily life of the family during the marriage relationship belongs to the joint debt of the husband and wife," the daily family agency system has become a system clearly stipulated by law in China.

Finally, from the perspective of the development of the daily family agency system in China, the system is constantly wandering between the maintenance of the common property of husband and wife and the safety of transactions. However, the author believes that the logical and value background color of the system is to maintain the safety of the common property of husband and wife. Live broadcast reward, especially high live broadcast reward, whether it is a single amount of large reward or a short-term cumulative amount of large reward is undoubtedly contrary to this value concept. Therefore, live broadcast reward with a large amount of value does not belong to the scope of daily family agency. Finally, from the perspective of the purpose of legal norms, the purpose is the creator of the law. The formulation of any legal system is to serve the realization of a certain purpose. The author believes that the legislative purpose of this legal provision in the *Chinese Civil Code* is to maintain and realize family stability and harmony. If there is no relatively objective standard for family daily life needs, it may cause different judgments in the same case if it is completely left to the discretion of the judge, which is not conducive to the realization of the social effect of the law. In the above cases, with the development of the Internet economy, watching webcasts may become a part of daily life needs, but watching live broadcasts and live entertainment are not inextricably linked. In most cases, live rewarders and non-rewarders watch the same content and receive the same service. The judge's judgment overprotects the interests of the anchor and the live broadcast platform while ignoring the interests of the other party of the couple, which can easily encourage extreme personal consumerism, which is not conducive to the protection of marriage and family, nor to the promotion of socialist core values.

4.2. The Definition of the Specific Scope of Family Daily Life Needs in the Article 1060 of the Chinese Civil Code

The core issue of the agency right of family affairs is to determine the daily needs of the family. Because the social economy is always developing rapidly, the connotation and extension of the daily needs of the family are also dynamically developing, but the social life is complicated, and everyone's subjective needs are very different, and legislators have no way to clearly list the daily needs of each family. Therefore, Article 1060 of China's *Civil Code* adopts the paradigm of abstract legislation. However, this abstract legislative method will lead to the ambiguity of legal concepts, which will lead to disputes among judges on the premise of legal application in practice. Li Hongxiang, a famous scholar, believes that there are some deficiencies in the daily family agency system and the presumption system of joint debt of husband and wife stipulated in the *Civil Code*. Among them, there is ambiguity and uncertainty in the definition of the scope of family daily life needs. [5] Where is the boundary of daily household agency? Some scholars believe that daily family affairs should include matters related to basic necessities of life for both husband and wife and minor children, reasonable expenditure to improve the quality of life such as health care and entertainment for families and family members, necessary expenditure for the education of underage children and the training of husband and wife, and

for other family affairs listed above. However, such as disposal of major family property, behavior with strong personal specificity, investment behavior with high risk are not included in the scope of daily family affairs[6]. Ran Keping, a scholar, believes that the establishment of daily family agency needs to meet three conditions. First, the purpose of implementing agency behavior is to safeguard the interests of a specific family. Second, the transaction behavior is to meet the most basic needs of family life. Third, the transaction should be in line with local customs and trading practices while transaction costs and the economic income of a specific family should be appropriate.[7] There are also views that the judgment of daily family affairs should be distinguished between objective criteria and subjective criteria. It is necessary to comprehensively analyze the internal interest relationship between husband and wife and the external interest relationship formed with the counterpart of the transaction. The main factors to judge the appropriateness are economic factors, social habits and husband and wife cooperation factors.[8] Some scholars say that the difficulty of defining the scope of family daily life needs is mainly due to the continuous development of social economy, and the basic needs of people will continue to escalate with the development of social economy. The author is in favor of using abstract legislation, positive generalization and negative enumeration to determine the scope of daily family agency. At the same time, we should also consider whether the agency behavior of both husband and wife meets the necessity of purpose and the appropriateness of means[9].

Through a large number of literature research, the author believes that the agency of daily family affairs should have formal and substantive characteristics. Formal characteristics refer to the external characteristics of the agency of daily family affairs. Its external characteristics mainly include the specificity of the subject's identity, the limitation of agency behavior, and the joint and several liability of husband and wife. The substantive characteristics mainly refer to the essence and core of the daily household agency right. Its essence is a system to balance the interests of the family and the society. The daily household agency right has both internal and external legal consequences. How to maintain the internal harmony of the property between husband and wife while protecting the interests of the trading counterpart and protecting the security of the transaction is the problem that this system needs to solve. The author believes that family daily life needs mainly include the following categories: First, the expenditure to meet the basic living needs of both husband and wife and other family members, mainly including clothing, food, housing and transportation, and the purchase of necessities of life does not include the purchase of luxury goods; second, the education expenditure of raising minor children and minor children; third, the expenditure to supporting for the elderly such as elderly's seriously illness, funeral expenses; fourth, the expenditure for couples or other family members to receive education, study abroad, and participate in specific training courses; fifth, the necessary expenses for family production and operation, for example, farmers buy fertilizer for sowing; sixth, the expenditure arising from the protection of the basic survival rights of family members, such as medical treatment, medical insurance and social insurance; seventh, investment and financial management behavior within a reasonable risk range for family income; eighth, the expenditure for the spiritual entertainment needs of individual family members within a reasonable range of tourism consumption, watching concerts, watching movies and other consumption; ninth, the expenditure of family members to improving the quality of life and life experience within a reasonable range of shopping; tenth, the expenditure to enhancing the friendship between relatives and friends, holidays mutual gifts within a reasonable range of costs arising from the gift. From the perspective of negative exclusion, expenditures such as sales of real estate and special movable property, disposal of large amounts of property, risky investment behavior, installment payment, violation of public order and good customs, such as giving cars to lovers are out of the scope of daily family needs.

5. Conclusion

In the era of digital economy, the webcast industry, as a new form of business, should encourage and support its development. However, at the same time, a series of social contradictions and disputes brought about by the live broadcast reward cannot be ignored. In particular, cases of using of joint property of the couple for high reward will cause a major break in family harmony and stability. The author believes that whether an act belongs to the daily family generation agency needs to consider the necessity of purpose and the appropriateness of means, and it also requires regularity and repeatability in appearance. From the point of view of purpose satisfaction, live broadcast reward does not belong to the most basic living needs of people 's basic necessities of life. From the point of view of the appropriateness of means, one can completely meet the spiritual and cultural needs by reading, watching movies, art appreciation and so on. Therefore, the author believes that a large amount of live broadcast reward, whether it is a large single amount or a large cumulative amount, is not the scope of daily family agency. The other party of the husband and wife has the right to recover through relevant procedures. Whether the amount is large or not depends on the national per capita consumption level, local economic development, customs and family income.

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