

Legal Principles of Fans Community Groups in the Entertainment Industry

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ABSTRACT

For a long time, the "fans circle" fans groups have been active online and offline. Due to the lack of restrictions and norms of laws and regulations, there are many problems such as abuses and attacks within the "fans circle" fans groups. The external "erosion" of the "fans circle" culture has also triggered a lot of "network melees". With the development of Qinglang Action, the governance of the fans circle has achieved certain results. However, in the face of the complex Internet and the fans circle culture that has been brought life by the spring breeze, using the law to regulate it is the one and only way to govern. By identifying the definition and nature of fans community groups, this paper intends to study their legal status and clarify their rights and obligations based on the current governance dilemma, the existing legal basis and the experience of other countries. Then it is proposed to use the means of administrative law to regulate their establishment and form a top-down governance system of "law — administrative departments — fans community groups — fans themselves", hoping to provide some suggestions for the legalization of fans circle management.

Keywords: *Fans community group, Legal status, Non-profit organization, Unincorporated organization.*

1. INTRODUCTION

With the development of China's economy, the participation of Chinese people in entertainment culture has continued to increase, and the attention to entertainment stars has also continued to rise. Based on their love for a certain star, fans spontaneously or systematically support, reward, boost popularity and vote the star, and gradually, an observable cultural phenomenon with its own characteristics has formed. However, because fans themselves have a wide range of ages and different social roles, if there is a lack of guidance and regulation for the similar behaviors such as support and boosting popularity for their favorite stars, it may cause complex social problems and huge risks. Understanding the definition and basic characteristics of a "fans community group" helps in analyzing its legal status.

1.1 Concept Definition of a Fans Community Group

The "fan community group", known as the "粉丝社群团体" in daily life, is one of the core organizations of the fans circle, and its constitution motives mainly include two aspects: One is top-down, that is, it is promoted by entertainment companies for commercial purposes; the other is bottom-up, that is, it is a discourse community formed by fans groups spontaneously organized based on common interests. Considering the promotion of the commercial activities and the commercial value of the entertainment industry by the fans groups, they are generally welcomed by the entertainment companies. And because the large-scale fans groups in the Internet era can bring traffic data, they are often supported by We-Media social platforms. Correspondingly, fans groups also have a greater influence on entertainment activities because of their consumption abilities and large scale. In practice, there is no standardized norm for the formation of fans communities, but there are

some common practices and common patterns. As shown in "Figure 1", community groups will adopt a bureaucratic management model and set up different groups according to needs and internal

rules of the group. The group work of each fans community group varies, but is generally divided into management position and working group.

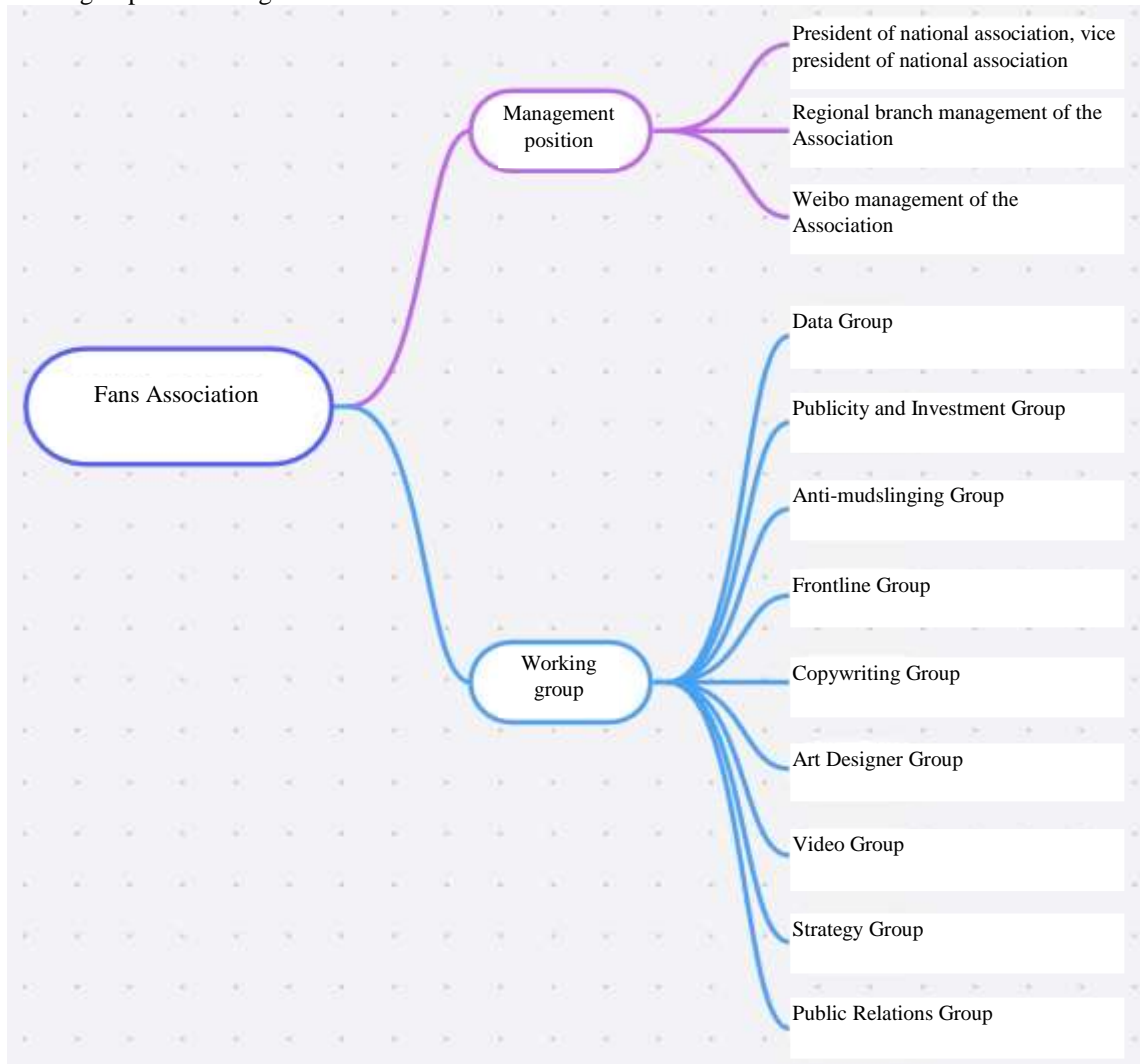


Figure 1 Schematic diagram of the bureaucratic division of labor in fans groups.

In addition, the so-called "fans circle" community culture also includes other types of individual behaviors such as "head of fans" and "loose fans". Although they are not part of fans groups, they usually have strong connections with fans groups due to their strong consumption abilities and high influence within the community. Some "heads of fans" themselves are community managerial staff and have a greater say in the maintenance of internal order and the formulation of relevant norms in relevant groups.

1.2 Analysis of the Nature of Fans Community Groups

1.2.1 Non-profit Establishment Goals

The members of the fans community groups are organized in a certain online virtual space and gather through various social platforms based on their love for a certain star. The establishment of the fans community groups is not for profit, mainly carrying out support activities for favorite stars.

Although fans will profit from the sale of peripheral products, the profits are owned by themselves and won't be used for residual

distribution to the organization. In addition, most of the support activities done by members of the organization belong to "power generation for love", which won't be paid for.

1.2.2 Conducting Activities in the Name of Fans Community Groups

The working group of the fans community groups undertakes most of the support activities. Whether they are videos produced for stars, promotional photos or anti-mudslinging work on social platforms such as Weibo, they will all be named "fans community groups". The members of the fans community groups complete the tasks distributed by the fans community groups based on their own sense of belonging. However, tasks that are not given by the fans community groups or behaviors that are not related to the support activities should be regarded as the behaviors of individual fans and should not be included in the management scope of the fans community groups.

1.2.3 The Establishment Is Arbitrary

First of all, the object of support is arbitrary. In real life, not only entertainment stars have fans, but people from other professions also have fans. Even with economic development, people's needs for spiritual life have increased, and Disney's dolls also have their fans community groups. It can be seen that the object of support is not limited to a certain person.

Second, the establishment size of fans community groups is arbitrary. As mentioned above, the establishment of fans community groups can be initiated by brokerage companies or by fans themselves. And according to the exposure of the stars, the size of fans community groups varies from tens of thousands of people to a few ones. The objects discussed in this paper should be of a size that constitutes an "organization".

1.2.4 Being Networked, Large-scale, and Organized Across Time and Space

Today's fans community groups are different from those of the past; they are based on the Internet. With the development of the Internet, the activities of the fans circle have become more and more abundant, and the scope of activities has gradually expanded, including online and offline, and various social platforms. The Internet has also enabled organizations across time and space. Fans

around the world can gather through the Internet, and fans community groups are developing on a large scale.

1.3 The Necessity of Legal Norms for Fans Community Groups

The commercial competition between companies or idols in the entertainment industry is alienated into a conflict of values among fans. Some conflicts are very intense, and the Internet is used as a medium to present chaotic and disorderly mutual criticisms and rumors, which has caused serious damage to the network ecology and social order. Some common attack methods, such as "boosting popularity", "making data", and "washing the square" (fans post a large number of original Weibo to purify a star's Weibo Square) seriously waste public resources under the guidance of enterprises or inward alienation. Some cyber-violent actions, such as "cyber manhunt" and "cyber bullying", even violate the privacy of others and even commit crimes. Online conflicts may develop offline and the offline open activities of stars usually attract a large number of fans to gather, which will cause public safety hazards or damage the rights and interests of others. For example, during the college entrance examination, a star's fans' "containment-style support" outside the examination place obstructed traffic and caused chaos on the scene.

The chaos of the "fans circle" is essentially a phenomenon of social anomie, and similar behaviors may further develop into more complex social problems and risks if there is no guidance and regulation. On June 15, 2021, the Office of the Central Cyberspace Affairs Commission decided to carry out a 2-month special action of "Qinglang · Regulation of Chaos in the 'Fans Circle'" nationwide. This special action is aimed at the prominent problems of the "fans circle", focuses on key links such as star lists, hot topics, fans communities, and interactive comments, and comprehensively cleans up all kinds of harmful information such as "fans circle" fans' abuses, demeaning others to boost one's favorite stars, provoking confrontations, insulting and slandering, starting rumors and attacking, malicious marketing, etc.

On the surface, the exposure of star entertainment is not as good as before, but the fans' solidified fans circle thinking still exists, and it is difficult to reverse it in a short time. As long as fans are still serving as "data workers" in different ways,

there will still be a market for idols. Faced with the intricate Internet ecology and the chaos of the fans circle that has been brought life by the spring breeze, Qinglang Action can't "clean it up to the end" after all, and it can't be dealt with by taking a drastic measure. Regulating the chaos in the fans circle from a legal point of view and exerting the deterrent effect of the law so that fans can't or dare not step out of the red line of the law is the only way to clean up the fans groups from the root.

Due to the diversification of fans' behaviors, one-by-one regulation will hinder the generality of the law. Therefore, the research focus of this paper should be the order and security risks caused by organized behaviors. A fans community group is an organized product based on common interests. To conduct research on its legal status, clarify its rights and obligations, then use the means of administrative law to establish and regulate it, and form a top-down governance system of "law — administrative departments — fans community groups — fans themselves" is a more reasonable choice.

2. ANALYSIS OF THE LEGAL STATUS OF FANS COMMUNITY GROUPS UNDER THE CHINESE LAW IN FORCE

Due to the rise of We-Media and social platforms, the scale effect of fans groups is more obvious. [1] However, in the practice of fans circles, there are two types of fans community groups that are self-organized by fans and those that are controlled by brokerage companies. The two have different initiation methods, operating modes, organizational structures, etc. [2], which will inevitably have an impact on their legal status identification. Based on the current Chinese existing legal context, this paper discusses the legal status of two different forms of fans community groups.

2.1 "Illegal Organizations": Fans Community Groups Organized by Fans Spontaneously

Fans of idols or stars spontaneously form "communities" or "groups" to support, boost popularity, and buy magazines for idols, or do charity work in the name of idols to meet their spiritual, emotional and material needs. [3] However, according to the provisions of Chinese law in force, fans community groups that are self-

organized by fans in the current practice of fans circle should be defined as "illegal organizations".

In current practice, the vast majority of officially certified fans community groups, because they are self-organized organizations by fans to support idols and stars, are non-profit. However, according to Article 87 of the Civil Code of the People's Republic of China, because the "fans circle" organizations don't distribute their profits to their members, they actually belong to the category of social groups in the non-profit legal person. At the same time, according to Article 7 of the "Administrative Regulations for Social Institution Registration", national social organizations should be registered and managed by the State Council's registration management authority. If it is registered in the name of a for-profit legal person, this route has been excluded by the current laws and regulations in China; if it is registered in the name of a social group, it must be filed with the Social Organization Administration of the Ministry of Civil Affairs. If the record is not filed, in addition to the fans community group itself being banned, its person in charge is likely to be found to be illegal or even criminal and be held accountable by law. In actual operation, the establishment of fans community groups that most fans spontaneously establish may not comply with the legal provisions, and should be identified as "illegal organizations" according to current Chinese laws and regulations. It is worth mentioning that the official website of the Social Organization Administration of the Ministry of Civil Affairs doesn't have an online declaration path for registration and filing for non-profit organizations such as fans community groups. The "illegality" of fans community groups is evident.

2.2 "Company Departments": Fans Community Groups Controlled by Brokerage Companies

In reality, a considerable number of fans community groups are initiated, established and actually controlled by the brokerage companies (A brokerage company is an intermediary or agency company, which is a profitable institution that provides intermediary services for customers. There are also star brokerage companies, media, film and television brokerage companies, and network live broadcast brokerage companies.) behind idols and stars. Even some fans community groups themselves are established based on the business license of the brokerage company. . . The purpose

of these fans community groups organized by brokerage companies and established in their own name must be to gain traffic, increase the number of fans, and gain attention. It is difficult to confuse them with the aforementioned fans community groups spontaneously established by fans.

Based on Article 76 of the Civil Code of the People's Republic of China, the brokerage companies of idols and stars are often legally registered for-profit legal persons, and their types include limited liability companies, joint stock limited companies and other corporate legal persons. As far as the legal nature of fans community groups under the control of brokerage companies is concerned, the existing laws and regulations on the substantive judgment standards of legal relations and legal entities should be upheld [4]. Such organizations are equivalent to the profit-making "tentacles" or "talons and fangs" of brokerage companies. It is difficult to determine the "non-profit" nature of the support behaviors led or controlled by such organizations, and they are not spontaneously generated by fans. Therefore, such organizations should be regarded as an "internal departments" or "components" of a for-profit legal person.

3. EXTRATERRITORIAL INVESTIGATION OF THE NATURE OF FANS COMMUNITY GROUPS FROM THE PERSPECTIVE OF JAPANESE LAW

Fans culture and fans circle civilization are to a large extent "imported goods", which originated in Japan, etc. [5]. At the same time, Japanese law and Chinese domestic law have similar local resources of the rule of law [7]. This paper attempts to examine the legislation and identification of non-profit organizations (NPOs) in Japanese law, in order to provide some ideas for the identification of the legal status of Chinese fans community groups.

3.1 Starting From the Legislation of Non-profit Organizations in Japan

In June 2006, Japan promulgated three laws, namely the Law on General Association Legal Person and General Consortium Legal Person, the Law on the Identification of Public Interest Association Legal Person and Public Interest Consortium Legal Person, and the Law for the Preparation for the Implementation of the

Aforementioned Laws, all of which were implemented in December 2008. [8] These three laws changed the original legal framework of non-profit organizations in Japan. The Law on General Association Corporation and General Consortium Corporation is a general non-profit legal person law that stipulates the conditions and procedures for the establishment of general association legal person and general consortium legal person. The Law on the Identification of Public Interest Association Legal Person and Public Interest Consortium Legal Person stipulates the conditions for general association legal person and general consortium legal person to obtain public interest qualifications. The Law for the Preparation for the Implementation of the Aforementioned Laws stipulates the procedures for the transformation of existing public interest legal person into the above-mentioned legal person forms. After the implementation of these three laws, the original public interest legal person and intermediate legal person system in Japanese law were terminated. [6]

3.2 Identification of Non-profit Organizations in the Japanese Law Context

In order to avoid excessive government intervention in NPOs, Japan draws on the model and experience of the Charity Commission of Britain, to hand over the "non-profit" of a non-profit legal person, that is, the qualification of public interest, to a third party other than the government department for identification. [9] The identification criteria of the third party are specific and transparent, which can be clearly understood by the respondent. The identification criteria include objectives, activities and governance, information disclosure, and compliance with laws. [10] The method of third-party intervention and the disclosure of the identification criteria have enabled the recovery and prosperity of NPOs in Japan after 2008, and the normative effect of its legal system has spread to the field of entertainment fans circles.

3.3 Traces of the Legal Status of Japanese Fans Community Groups

In the Japanese film and television entertainment industry, fans community groups have gradually adopted standardized management. Through a series of instructions issued by industry associations, the development of fans community groups has gradually been large-scale. Nowadays, some idol and star support organizations have been

developed in the nature of non-profit organizations. Japan maintains a relatively open attitude towards fans community groups initiated by such fans. As long as it passes the third-party evaluation criteria, especially if it can be independent from idols, stars and their brokerage companies, has significant non-profitability, and meets the corresponding organizational standards, it can become a non-profit organization under Japanese law.

4. CONSTRUCTION OF THE NATURE OF FANS COMMUNITY GROUPS BASED ON NON-PROFIT ORGANIZATIONS

As mentioned above, most of the fans community groups that exist in China today are illegal organizations that are not recognized by existing laws and regulations and are difficult to obtain legal status through existing laws. Some organizations affiliated with star studios and brokerage companies should be identified as internal departments of the company. The former is an area that has not been paid attention to by Chinese legislation and lacks legal norms, and the latter is a topic that has not been paid attention to in judicial practice and lacks a definition standard.

4.1 The Feasibility of a "Quasi-non-profit" Unincorporated Organization

The members of fans community groups gather according to their interests, but after the establishment, they should obtain legal status through registration and filing. At present, various registration forms in China mainly include civil affairs registration and industrial and commercial registration. In practice, many organizations obtain legal status by means of affiliated institutions.

In China, only social groups, private non-enterprise units and foundations registered with the civil affairs department are recognized as non-profit organizations. Therefore, as a "quasi-non-profit organization", if the fans community group wants to be recognized by the law, the law needs to relax the scope of registration, and it is also necessary for the fans community group to carry out legitimacy transformation of itself according to the characteristics of "non-profit" in Article 87 and the norms of unincorporated organization in Articles 102-108 of the Civil Code of the People's Republic of China.

Due to the large number of fans community groups, it will bring a lot of review and registration

pressure to the civil affairs department. The Japanese experience can be learned from — The civil affairs department will assign the review work to a third-party organization by way of entrustment and this organization will conduct the qualification examination of the non-profit unincorporated organization of the fans community group. The third party removes the administrative color of the review process and discloses standards, making it more fair and easy for the public to understand. However, the right of interpretation and registration and filing belong to the civil affairs department.

4.2 Judgment Criteria for "Non-profit"

Although China's current laws and regulations have regulations on "non-profit legal person" and "unincorporated organization", the definition of the nature of fans community groups, the exploration of legitimacy, and legislative discussions should also be based on solving specific practical difficulties.

As mentioned above, according to the different initiating objects of fans community groups, they can be divided into fans community groups established spontaneously by fans and fans community groups controlled by brokerage companies. There should be different attitudes towards the non-profit judgment of the two situations.

As for the former, the behaviors of fans are often not directly commercial. The purpose of the establishment of fans community groups is only that some fans groups conduct consumption rankings and commercial support out of fanaticism for idols and stars, and will not be regarded as "non-profit" in the legal sense. The purpose of this kind of organization is only to strengthen the commercial effect of idols and stars and it is hard to say that it is non-profit. However, the fans community groups that can legally constitute "non-profit" refers to fans communities that engage in certain or specific public welfare activities in the name of idols and stars, for example, the Cai Xukun Global Fan Support Association conducts public welfare activities such as caring for anti-war veterans and protecting rare animals. However, for fans community groups initiated by fans other than those dedicated to public welfare, according to current Chinese laws and regulations, their principal status should not be recognized, and the behaviors of them should be regarded as the personal behaviors of fans.

As for the latter, as a for-profit legal person, a brokerage company is naturally exclusive from non-profit. Fans community groups under the control of brokerage companies shall be identified as a division or composition of a for-profit legal person. Although they may engage in some non-profit public welfare activities, it is only a way for a for-profit legal person to reflect its social responsibility, and can't be considered as "non-profit".

4.3 "Organized" Framework

This paper believes that only some fans community group, that is, the fans community group engaged in public welfare activities in the name of idols and stars, can be recognized as a "non-profit unincorporated organization" in legal status. Although the fans community group established by other fans has a certain degree of organization, it doesn't have basic independence, the behaviors of the organization and the behaviors of individual fans lack a clear boundary, and there is no clear and legally-set purpose, so it is difficult to become a legal "organization".

But it needs to be reiterated that not all non-profit fans community groups naturally have the constituent elements of "non-profit organizations", and they also need to be "examined" in terms of their "organized". However, there is no clear and specific current legal norm for this. This paper constructs the number, organization, and procedures of fans community groups, and puts forward the following views and opinions, in order to provide a way of thinking.

4.3.1 Standards in Terms of the Number of Fans

A general fans gathering can't be called a fans community group. A fans community group should be an organization of a certain scale that is recognized by stars or their brokerage companies and can carry out activities in their own name. In terms of the number of people, one can refer to the current stable number of fans in the early stage of the development of the fans support association. The standard for the number of registered fans in the fans community group should be at least 100-200.

4.3.2 Organizational Structure Requirements

A fans community group established as a "non-profit unincorporated organization" should have a basic organizational structure. The group needs to set a charter for engaging in specific public welfare matters, as a norm for the fans community groups to engage in group activities. There must be basic requirements for raising funds or membership fees, etc., as the source of funds for activities; there should be a decision-making body such as a member meeting or a member representative meeting to make decisions on major and important matters within the group and manage the daily operations of the fans community group; it is necessary to set up standing executives or executive departments to conduct external activities and so on.

4.3.3 Necessary Procedure Requirements

As "non-profit unincorporated organizations", fans community groups should be registered in accordance with the provisions of the law and the consent of the support object must be obtained in advance. After the third-party evaluation finds that the standards are met, the civil affairs department will record and register, and at the same time, the fans community group to be established will be announced. Of course, in the event of an accidental death, withdrawal from the industry, or being punished and banned from obtaining employment of an idol or a star, the registered fans community groups shall be dissolved within a reasonable period, and the relevant funds shall be returned to the participating members and an announcement shall be made.

5. CONCLUSION

The legal definition and regulation of fans community groups, an emerging community organization, should be a response to practical problems in legal theory and judicial practice with the rise of star-chasing craze. Under the regulatory dilemma and existing practical experience of fans community groups, it is an unrestrained thinking to learn from the legislation and practical experience of non-profit organizations in other countries to build. But in any case, online platforms, idols and stars themselves, brokerage companies, and the Office of the Central Cyberspace Affairs Commission have built a polybasic system of supervision, and set up legal supervision of the whole process for the "organization generation —

operation supervision — organization elimination" of fans community groups, all of which have a positive effect on promoting the benign development of the network environment.

AUTHORS' CONTRIBUTIONS

This paper is independently completed by Jingyang Huang.

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