

# On the Legal Nature of Live-Streaming Sales

**Yifan Lin, Chuyi Peng**

School of Law, Guizhou University of Finance and Economics, Guiyang 550025, Guizhou, China

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## Abstract:

With the continuous development of new e-commerce models, live-streaming sales have gradually become an important means to boost product sales. However, the current legal system has yet to reach a consensus on defining live-streaming sales, leading to inconsistent application of the law in practice. Through the analysis of multiple typical cases, this article reveals the differences in the application of the Advertising Law and the Anti-Unfair Competition Law in regulating false advertising practices in live-streaming sales, highlighting the ambiguity in determining the legal nature of such activities. Building on this, the article starts from the controversy over whether live-streaming sales constitute commercial advertising, separately arguing for their role as promotional tools and commercial advertisements. Ultimately, it proposes that live-streaming sales should be defined as commercial advertising with advertising attributes. This definition would help unify enforcement standards, enhance regulatory efficiency, and provide clear legal guidance for the healthy development of live-streaming e-commerce.

## Keywords:

Live delivery  
Legal attributes  
False publicity

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## 1. Introduction

Under the current legal system, false advertising in live-streaming sales is mainly regulated by the Anti-Unfair Competition Law and the Advertising Law, with additional support from related laws such as the E-Commerce Law, the Consumer Rights Protection Law, and the Product Quality Law. Anti-Unfair Competition Law and the Advertising Law still have some conflicts in applying the same false advertising behavior at the level of legal application<sup>[1]</sup>. For similar violations, market supervision departments cannot apply the same law to the same case. This article elaborates on several cases.

## 2. The different application of law in the case of exaggerating product effects in live delivery

In the case of false advertising by a food and agricultural products business in Zhuji City, the party involved promoted sea buckthorn powder and capsules by sending messages through WeChat groups and playing videos in-store, claiming that sea buckthorn has anti-aging, immune-boosting, liver-protecting, and thrombo-preventive effects. They also emphasized its high content of vitamins, fatty acids, and flavonoids. The party cited research from unknown sources, stating that

sea buckthorn can extend the lifespan of tumor-bearing animals, stimulate immunity, and boast “three clears, three reductions, and three resistances” benefits, such as clearing blood vessels, lowering blood sugar, and antioxidant properties. They particularly highlighted the ten benefits of sea buckthorn seed oil for cardiovascular health, diabetes, and immune regulation. However, the party did not provide sufficient evidence to support the claims and was ultimately penalized by the Zhuji Market Supervision Administration in accordance with Article 8, Paragraph 1 of the Anti-Unfair Competition Law of the People’s Republic of China. Similarly, in the case involving Yiwu Tangtai E-commerce, the party promoted multiple cosmetic products through live streaming on Pinduoduo, using exaggerated phrases such as “after using ‘yeast’, the aging rate slows significantly at age 45, making you look like you’re 35,” and “this divine water can make you whiter, softer, and younger.” They also claimed that the product could fade age spots, melasma, freckles, and other blemishes, leaving the skin smooth, tender, and radiant. Ultimately, the Yiwu Market Supervision Administration penalized them under the Advertising Law.

### **3. The application of law for false publicity of product ingredients in live delivery is inconsistent**

In the cases of the Fanghua Large Size Women’s Clothing Store in Rugao City and the Ranfei Clothing Business Department in Puyuan, Tongxiang City, although both involved false advertising of clothing components during live-streaming sales, there were differences in legal enforcement between market supervision agencies in different regions. In detail, in the case of the Fanghua Large Size Women’s Clothing Store in Rugao City, the party heavily promoted a black-based, white floral-patterned garment they were wearing, featuring a beige-white bow tie and short sleeves claimed to be made of mulberry silk. Upon investigation, it was found that the black-based floral pattern matched the product being advertised, but the label on the short sleeve indicated “Composition: 100% Fiber,” revealing a discrepancy between the promotional claims and the actual product composition. The Market Supervision Administration of Rugao City took corresponding punitive measures based on the Advertising

Law. However, in the case of the Ranfei Clothing Business Department in Puyuan, Tongxiang City, the party sold short-sleeved women’s T-shirts through their store on TikTok, claiming that the T-shirts used “protein Tencel” and “combed cotton,” and stated that Tencel has moisture-wicking and health benefits. Upon inspection, it was found that the main fiber content of the T-shirts was polyester and spandex, which did not match the advertised content, constituting false advertising. The Market Supervision Administration of Tongxiang City, however, imposed administrative penalties on the party for violating Article 8, Paragraph 1 of the Anti-Unfair Competition Law.

## **4. Case summary and problem induction**

By comparing the above four cases, it becomes clear that whether it’s exaggerating product effects or making false claims about clothing during live-streaming sales, the market supervision and administration bureau applies different legal provisions to these violations. This inconsistency reveals a selective approach in the enforcement of legal duties, rooted in varying interpretations and definitions of the legal nature of “live streaming sales activities.” From a legal perspective, according to Article 20, Paragraph 2 of the Anti-Unfair Competition Law, if operators violate Article 8 of this law and publish false advertisements, they will be punished according to relevant provisions of the Advertising Law. As stated in Article 28 of the Advertising Law, any advertisement that uses untrue or potentially misleading content to defraud or mislead consumers is considered a false advertisement. Therefore, if live streaming sales activities are regarded as advertisements, the Advertising Law will apply. If not, then the Anti-Unfair Competition Law will be adopted. However, the crux of the issue lies in the fact that there is currently no clear legal response regarding the legal nature of live streaming sales activities, and there are still inconsistent voices in academic circles.

## **5. Analysis of the legal attributes of live delivery behavior**

### **5.1. Live delivery is a means of promotion**

In the current business environment, live-streaming for sales has gradually become a popular e-commerce

model, breaking down the traditional boundaries between e-commerce and advertising through real-time interaction and product display. Regarding whether live-streaming for sales should be defined as “commercial advertising,” there is still significant disagreement in academic circles. Some scholars who oppose this view argue that live-streaming e-commerce is more of a promotional tool rather than traditional commercial advertising. More specifically, this opposing stance can be explored in two core areas.

The view that live-streaming sales serve as a “promotion” tool rather than a “commercial advertisement” stems from an understanding of the essence of live-streaming sales. Scholars point out that live-streaming sales are essentially an online form of traditional offline shopping assistance activities <sup>[2]</sup>. In physical stores, sales assistants introduce products to consumers through direct dialogue and interaction, explaining their functions and guiding their purchasing decisions. The core purpose of offline shopping assistance is to achieve product sales through interpersonal communication. However, this promotional activity does not directly function as advertising. Advertising typically involves large-scale dissemination through various channels, aiming to enhance public awareness of products or brands and convey relevant information to the general public. Offline shopping assistance primarily targets specific consumer groups. It is fundamentally a sales activity with strong interactivity and personalized service, lacking the universality and media nature of advertisements.

The marketing model of live-streaming sales shares many similarities with the traditional marketing model of physical stores. Both online streamers and offline marketers aim at “selling products,” using skillful language or promotional strategies to stimulate consumer purchasing desire, which is indisputable. However, compared to traditional marketing models, live-streaming sales stand out more in terms of interactivity with consumers. It’s not just a one-way information delivery from the streamer to the consumer; it also integrates emotional expressions from both parties. Consumers often decide to buy goods based on their trust or even reliance on the streamer’s advice. Nevertheless, the strong interactivity of live-streaming sales does not negate its fundamental similarities with traditional offline marketing. A shift in perception about its nature should

not occur solely because one characteristic appears more prominent than others.

In addition to strong interactivity, another characteristic of live-streaming sales that sets it apart from commercial advertising is the “integrated promotion and sales.” Specifically, in traditional commercial advertising models, consumers go through certain necessary steps before making a purchase decision. For instance, when a consumer sees an advertisement for a desired piece of clothing, they first need to get up and visit a clothing store, then engage in thorough communication with the sales staff about the relevant details of the item. If necessary, they may even need to try on clothes in the fitting room. If the size or style does not meet their expectations, they will spend time selecting or sourcing from other sources until they are satisfied, ultimately deciding to make a purchase. This shows that under such traditional commercial advertising models, there is a significant time lag between promotional activities and sales actions. However, during live-streaming, consumers can not only learn about the product’s features and functions but also place orders immediately and complete the purchase. This “integrated promotion and sales” characteristic distinguishes live-streaming sales from commercial advertising.

Due to consumers being able to place orders immediately while watching live broadcasts, the recommendations and introductions made by streamers in the live room can directly have legal effect. Their actions are closer to the form of an “offer” as defined in the Civil Code <sup>[3]</sup>, rather than an “invitation to offer.” This also highlights the difference between live-streaming sales and commercial advertising. Traditional commercial advertisements mostly emphasize the appearance and functions of products, highlighting their advantages in certain aspects without detailing information such as prices or sizes. For advertisers, the purpose of publishing ads is often to encourage people to enter into contracts with them. Therefore, from a legal perspective, commercial advertising is essentially an “invitation to offer.” In contrast, during live-streamed product promotions, salespeople in the live room not only provide detailed introductions or answers to questions about the products but also, with the recommendation of popular streamers, directly influence consumer purchasing decisions, leading them to place orders immediately.

Thus, this practice makes the streamer's recommendation behavior directly qualify as an "offer" at the legal level <sup>[4]</sup>.

## 5.2. Live delivery is a commercial advertisement

Most scholars hold a positive attitude towards the view that "live delivery belongs to commercial advertising". They believe that although live delivery and offline promotion have similarities in some aspects, there are also great differences between the two in essence. They demonstrate this from the following aspects, respectively <sup>[5]</sup>.

From the perspective of marketing methods, live-streaming sales differ fundamentally from offline shopping guides. This distinction is easy to grasp. In offline settings, shopping guides typically introduce products face-to-face to enhance the consumer's shopping experience, often following a "one guide serves one consumer" model. This approach offers clear advantages, as guides can respond quickly and directly to individual consumer needs, providing personalized services in real time <sup>[6]</sup>. However, its shortcomings are also obvious: the offline shopping guide model limits its service audience, lacking broad influence. In contrast to offline shopping guides, live-streaming sales depend on the internet for dissemination. Products are primarily promoted through live broadcasts, where hosts take advantage of the internet's wide reach to engage with thousands of viewers at once, respond to questions in real time, and drive sales through diverse promotional tactics <sup>[7]</sup>. This speed and impact can significantly enhance brand awareness and boost product sales, achieving effects similar to those of commercial advertisements. This "one host serves multiple consumers" dissemination model significantly expands the number of service recipients. Its reach and dissemination power fundamentally differ from offline shopping guides and resemble the characteristics of commercial advertising <sup>[8]</sup>.

In terms of revenue models and content distribution methods, live-streaming sales share common characteristics with traditional advertising. For conventional commercial ads, the revenue model generally works as follows: advertisers seek to attract more public attention to their products by having media outlets promote them, while media outlets earn income through these advertisements. The live-streaming sales model is quite different; streamers sign cooperation agreements with manufacturers to promote their products

in the live stream, thereby earning compensation <sup>[9]</sup>. Therefore, it becomes evident that both live-streaming sales hosts and traditional commercial media serve a similar function by offering "attention resources" to advertisers, thereby creating opportunities for profit.

Of course, some scholars have refuted the view that "live-streaming sales are similar to shopping guides" from both factual and normative perspectives <sup>[10]</sup>. They argue that defining "live-streaming sales" is a normative evaluation, while "shopping guide" is a concept rooted in daily life, a factual description. Therefore, simply defining live-streaming sales as shopping guides is like using a factual description to explain a norm, which confuses the difference between factual description and normative definition <sup>[11]</sup>. It's important to recognize that the concept of a shopping guide is rooted in everyday experience and cannot be used as a basis for defining the legal attributes of a fundamentally different entity. Moreover, from a purely normative perspective, live-streaming sales fully comply with the definition of "advertising" in the Advertising Law, meeting its requirements for "mediation" and "promotion."

## 6. Conclusion

Live-streaming for sales clearly exhibits the core characteristics of advertising and should be explicitly classified as a form of commercial advertising. Starting from the definition of advertising, its most prominent core attribute is "communicativeness," which means using various media tools to efficiently convey specific information to a broad audience, thereby achieving extensive coverage and effective reach <sup>[11]</sup>. Live-streaming for sales operates on this logic, leveraging internet platforms, especially social media and e-commerce live streaming platforms, to rapidly disseminate product information, significantly enhancing both efficiency and reach. Through real-time interaction, bullet comments, and fan rewards, live streams not only achieve instant dissemination but also attract a large number of consumers' attention in a short time, creating a high exposure effect.

In addition, another core purpose of advertising is to enhance the visibility and influence of a product or brand, thereby stimulating the audience's desire to purchase and their consumption behavior <sup>[12]</sup>. Live streaming for sales has shown particularly significant results in this regard.

During live streams, hosts often win the trust and support of a large audience through their personal influence, professional knowledge, or charisma. This “trust endorsement” effect makes the host’s recommendations more persuasive. As the number of viewers in the live stream increases, product information is quickly disseminated to a broader public. Combined with the host’s firsthand experiences, demonstrations of usage,

and strong emotional resonance, this guides the audience to form a positive perception of the product, further motivating them to make a purchase. In essence, this marketing approach aligns with traditional advertising in terms of its fundamental goals; it is merely that the medium and form of expression have changed. Therefore, live streaming for sales fully meets the definition and characteristics of commercial advertising<sup>[13]</sup>.

### Disclosure statement

The authors declare no conflict of interest.

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