SPP Guiding Case No. 204: Procuratorial Supervision Case on Prohibiting the Rental and Sale of Online Game Accounts to Minors

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Decided at the 19th meeting of the 14th Procuratorial Committee of the Supreme People's Procuratorate on December 29, 2023; issued on February 22, 2024.

Keywords

Network protection of minors / rental and sale of online game accounts / linkage between criminal procuratorial work and administrative public interest litigation / intervention in harmful behavior / comprehensive governance

Holding

When handling online crime cases involving minors, the procuratorial organ shall pay attention to examining whether, behind the criminal case, there are supervision clues concerning the failure to implement the duty of protecting minors online. Where the procuratorial organ discovers that online game accounts are being rented and sold to minors on an internet platform, it may, in accordance with law, urge the administrative supervision department to perform its duties and comprehensively safeguard the online rights and interests of minors. Where it discovers that a minor has been harmed due to addiction to the internet, it shall simultaneously implement measures for victim recovery and intervention in harmful behavior. The procuratorial organ shall promote cooperation and collaboration between legal supervision and administrative supervision, and help the administrative supervision department raise the level of standardization of law enforcement for the protection of minors online.

Basic Facts

The defendant, Sun Mou, male, born on July 19, 2000, of Han ethnicity, with a technical secondary school education, formerly a salesperson at a real estate company.

In January 2021, the defendant Sun Mou, for the purpose of fraud, posted false information on an internet platform about selling online game accounts, defrauded the minor victim Hua Moumou of his trust, provided him with false game account passwords, and fabricated reasons such as frozen funds, the need to pay a security deposit and transfer fees, defrauding Hua Moumou of a total of RMB 15,347.

The internet platform used by Sun Mou to sell online game accounts was an e-commerce application platform developed and operated by a company in Shanghai. On this platform, dozens of operators, without verifying identity, provided rental and sale services for multiple popular online game accounts to users including minors, and the cumulative number of orders of some operators had reached more than 100,000.

Procuratorate Performance of Duties

Handling of the criminal case. On April 2, 2021, Sun Mou surrendered himself. On November 8, 2021, a district branch of the Shanghai Municipal Public Security Bureau transferred Sun Mou to the district procuratorate for examination and prosecution on suspicion of fraud. During case handling, the procuratorial organ ordered Sun Mou to return the fraudulently obtained money to the victim, compensate for the property loss, and apologize to the victim. On December 6, 2021, the procuratorial organ filed a public prosecution against Sun Mou for fraud with the people's court. On December 16, 2021, the people's court sentenced Sun Mou to fixed-term imprisonment of seven months, suspended for one year, plus a fine of RMB 2,000 for fraud.

Source: https://www.danyoungcpa.com/spp-guiding-case-204-china/

Handling of the administrative public interest litigation case. Upon investigation, the procuratorial organ discovered that, on the internet platform used by Sun Mou to sell online game accounts, dozens of other operators used expressions such as “no anti-addiction” and “direct login” in their product descriptions, and provided rental and sale services for multiple popular online game accounts to users including minors without verifying identity.

The procuratorial organ held that the operators on the internet platform provided convenient conditions for minors to evade online game supervision, in violation of the time-management restrictive provisions of the Law of the People’s Republic of China on the Protection of Minors on providing game services to minors. The internet platform failed to promptly handle and report the violations of the relevant operators in accordance with the Electronic Commerce Law of the People’s Republic of China, increasing the potential risk of addiction to online games by unspecified minors and harming the public interest. According to the laws and regulations on the network protection of minors, the Office of the Cybersecurity and Information Technology Commission of a district in Shanghai (hereinafter referred to as the “CAC Office”) had the duty to supervise and administer the implementation of the network protection of minors and should investigate and punish the violating operators and the platform in accordance with law.

On September 14, 2021, the procuratorial organ issued a pre-litigation procuratorial suggestion for administrative public interest litigation to the district CAC Office, urging it to investigate and punish in accordance with law the operators illegally providing online game account rental and sale services to minors, and to conduct a comprehensive inspection and supervision of the rental and sale of online game accounts on internet platforms and consolidate platform responsibility. The district CAC Office actively implemented the procuratorial suggestion, urged the internet platform to handle the operators illegally renting and selling accounts, added a real-name purchase function, and carried out regularized inspection and supervision of the platform’s implementation of the provisions on the network protection of minors. The internet platform cleared a total of 469 non-compliant game account rental products, closed 26 related stores, and blocked keywords such as “XX account rental”; it set up a real-name authentication link for purchase and a secondary real-name authentication link for login with respect to game account rental and sale products, effectively preventing the rental and sale of game accounts to minors.

Intervention in harmful behavior. In response to the minor victim Hua Moumou’s addiction to online games, the procuratorial organ, in accordance with the relevant provisions of the Law of the People’s Republic of China on the Prevention of Juvenile Delinquency on intervention in harmful behavior, actively linked with the school and the street-level minor protection workstation to form a collaborative intervention group and implement targeted management and education measures. In response to the problems of the guardian indulging Hua Moumou’s addiction to the internet and disposal of large sums of money, the procuratorial organ issued a supervision order for guardianship to Hua Moumou’s guardian, requiring the guardian to perform guardianship duties, and entrusted a family education instructor to carry out family education guidance. At present, Hua Moumou has broken free of online game addiction and successfully entered a university.

Promotion of comprehensive governance. In connection with the handling of this case, the procuratorial organ further joined with the district CAC Office and other entities to formulate a standardized workflow for the categorized handling of network protection of minors. On this basis, the Shanghai Municipal People’s Procuratorate sorted out the handling of network protection cases for minors across the city, and established a linkage working mechanism for the network protection of minors with the Shanghai Municipal CAC Office and the law enforcement corps of the Shanghai Municipal Culture and Tourism Bureau, jointly issuing the Risk Identification List for the Network Protection of Minors and the Shanghai Municipal Law Enforcement Guidelines for Online Information Harmful to the Physical and Mental Health of Minors, refining law enforcement standards and standards.

Guiding Significance

Source: https://www.danyoungcpa.com/spp-guiding-case-204-china/

(1) Where operators on an internet platform rent and sell online game accounts to minors and the platform fails to promptly handle and report the matter, the procuratorial organ may, through procuratorial suggestions, public interest litigation and other means, urge the administrative supervision department to take effective supervision measures. Where, in handling an online criminal case involving minors, the procuratorial organ discovers that operators on an internet platform provide online game account rental and sale services to minors and that the internet platform fails to examine and supervise them, providing convenience for minors to evade game supervision and creating a risk of addiction to the internet by unspecified minors and harm to the online public interest of minors, the procuratorial organ may, through issuing procuratorial suggestions and carrying out administrative public interest litigation, urge the relevant administrative departments to perform their supervision duties in accordance with law and promote the internet platform to strengthen management and mechanism building.

(2) When handling cases of minors harmed due to internet addiction, the procuratorial organ shall insist on giving equal weight to victim recovery and intervention in harmful behavior. While punishing in accordance with law crimes that harm minors committed through the internet, the procuratorial organ shall, through actively recovering stolen property and losses, facilitating apologies, providing legal aid and implementing psychological counseling, minimize the adverse impact of the crime on minors to the greatest extent. At the same time, the procuratorial organ shall, in accordance with the relevant provisions of the Law of the People's Republic of China on the Prevention of Juvenile Delinquency, urge families, schools and society to link together to intervene in the harmful behavior of minor victims addicted to the internet, and guide minors to use the internet safely and reasonably through precise management and education measures. Where it is discovered that a victim's guardian is negligent in performing duties, it may give full play to the role of family guardianship in the network protection of minors through issuing supervision orders for guardianship and carrying out family education guidance.

(3) When handling online cases involving minors, the procuratorial organ shall comprehensively perform its duties and promote source governance of the network protection of minors. On the basis of handling criminal cases and carrying out administrative public interest litigation, the procuratorial organ shall strengthen cooperation and collaboration with the administrative supervision departments for the network protection of minors, smooth information channels, establish a co-governance mechanism, and enhance the effectiveness of source prevention of online harm to minors. In light of local actual conditions, it shall promote the improvement of the linkage mechanism between legal supervision and administrative supervision, so as to build a healthy and clean cyberspace environment for minors.

Relevant Legal Provisions

Article 266 of the Criminal Law of the People's Republic of China.

Articles 66, 67, 74, 75, 106 and 127 of the Law of the People's Republic of China on the Protection of Minors.

Item (4) of Article 28 and Articles 29, 31 and 32 of the Law of the People's Republic of China on the Prevention of Juvenile Delinquency.

Articles 22 and 49 of the Family Education Promotion Law of the People's Republic of China.

Paragraph 4 of Article 25 of the Administrative Litigation Law of the People's Republic of China.

Articles 13 and 29 of the Electronic Commerce Law of the People's Republic of China.

Paragraph 2 of Article 46 of the Regulations on the Network Protection of Minors.

Source: https://www.danyoungcpa.com/spp-guiding-case-204-china/

Disclaimer: This translation is provided for reference and informational purposes only. In the event of any discrepancy, the official Chinese text issued by the Supreme People's Procuratorate shall prevail. This translation does not constitute legal advice.