

You are active online. What happens to virtual assets if you die unexpectedly?

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A video uploader with Dangxia Channel on the video-sharing platform Bilibili was recently browsing her own channel when a sudden thought hit her: What would happen to her channel if she unexpectedly died?

The more she thought it, the more uneasy she became. There was a lot at stake because her online presence is considerable. She has more than 400,000 followers, she has money in WeChat and Alipay accounts, she has a game account used to buy items, and she has paid memberships on various platforms.

"All these accounts are part of my life," she said in one of her videos. "I can't stand the thought that they will be frozen or written off permanently one day. I would like my loved ones to inherit my legacy."

Her angst eventually led her to the China Will Registration Center to make a will bequeathing her virtual assets. And she's not the only online presence thinking ahead.

According to a report issued by the center, more young people are seeking to make legal wills covering their virtual assets, including accounts on social media platforms, online games, online shops and various types of virtual currencies.

The center said this trend began as early as 2017. From that time to the end of last year, 488 such wills were registered, mostly by people in Beijing, Shanghai and the southern province of Guangdong, said Huang Haibo, principal of the center's Shanghai, Zhejiang and Jiangsu branches.

"You could say that young people are now very forward-



Illustration by IC

thinking," Huang told Shanghai Daily. "They have realized not only that virtual assets have value but how to protect those assets legally. That's very impressive."

Huang explained that the current civil code includes virtual data among lawful assets, so wills can be drawn to direct how those assets will be distributed if the testator dies.

In her video, Dangxia told her followers she is bequeathing online money to her parents and game-related assets to one of her friends. No problem there. But when it comes to online membership accounts, the issue becomes more tangled.

"Some apps and websites stipulate that only immediate families can 'inherit' my accounts no matter whom I designate in my will," she said. "Some others said accounts can't be transferred to other users, period."

Take chatting apps WeChat and QQ for example. In the fine print of user agreements, both platforms stipulate that accounts are ultimately owned by parent company Tencent. Members have only the right to use them. Neither WeChat nor QQ accounts can be transferred or bequeathed to another user. However, WeChat supports the right for a user's lawful heir to copy and download the data from the deceased's account, but that's that.

Meanwhile, Weibo in 2020 initiated a protection system for accounts of deceased. It allows the family of a dead user to provide legal documents and apply for the accounts to essentially be frozen. Such accounts can no longer be logged into, have new content published or old content deleted.

The system was launched by Weibo's developer Sina after revelations that accounts of

some deceased users were embezzled to publish ads. The "protection system" was in response to public backlash and criticism of Weibo management.

The inheritance of virtual assets has long been an issue both at home and abroad since the world embraced the Internet late in the last century.

One of the earliest such cases dates back to 2005 in the United States, when a probate judge in the San Francisco Bay Area signed an order directing Yahoo to provide the contents of an e-mail account used by Justin Ellsworth, who was killed in Iraq, to his family. Yahoo originally refused the family's request but did not fight the case in court. The family finally received a CD containing more than 10,000 pages of material.

Subsequently, in 2015, the US Uniform Law Commission

developed the Fiduciary Access to Digital Assets Act. It provides for an attorney or other executor of an estate to gain access to someone's online account after death or incapacitation.

In the same year, a similar case occurred in Germany. A mother requested Facebook to give her the account of her daughter, who was killed by subway train. The mother's claim was backed by a lower German court, but that ruling was overturned on appeal. Facebook argued that any contract between the girl and the company ended with her death and could not pass on to the parents.

A year later, Germany's highest court ruled in favor of the parents, citing inheritance law.

Back in China, a more dramatic case occurred in 2009. A man died and left behind assets valued at 50,000 yuan (US\$7,000) in an online game account. Both his real wife and his wife in the game claimed the right of inheritance. A court later ruled that the two women should split the assets equally.

Liu Zhixin, a law expert with the Chinese Academy of Social Sciences, said current civil code does provide a basis for virtual asset inheritance but a more detailed law is needed.

"Are platforms within their rights to deny the right of inheritance because the users don't have ownership or because of privacy protection?" Liu said. "This is a question that many countries have to answer, including China. We need regulations to enshrine the independent status of users instead of their being bound to platforms, thus protecting the right of inheritance."