

Protection of minors in respect of films and video games: consultation process commenced

19 April 2019 | Contributed by [Walder Wyss](#)

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On 15 March 2019 the Federal Council launched the consultation process on the preliminary draft of the new [Federal Act on the Protection of Minors in respect of Films and Video Games](#) (Youth Protection Act). The Youth Protection Act will comprehensively regulate the protection of minors and close existing legislative gaps.

Background

Technical developments in recent decades have profoundly changed media use. In particular, digital media options for children and adolescents have multiplied. New forms of media use such as e-sports and on-demand services for films and video games pose challenges for youth protection.

The existing Swiss legislation only marginally regulates such new forms of media use. At the federal level, only some basic principles of youth protection exist in relation to so-called 'linear' TV programmes, which may not be viewed on demand but are broadcast at set times. Such principles have been issued in accordance with the provisions set out in the European Convention on Transfrontier Television (SR 0.784.405). At the cantonal level, only some cantons require age ratings for audio-visual carriers or public film viewings. Self-regulatory bodies exist for film and video games sales (for audio-visual carriers and online) as well as for public film viewings. Public video game events or video games via on-demand and platform services are currently unregulated. In the context of such little regulation, general principles currently fill some of the gaps. For example, the Swiss Criminal Code prohibits representations of acts of violence and sets limits on the distribution of pornographic content.

The Youth Protection Act will close existing legislative gaps and provide a comprehensive basis to protect minors from content in films and video games that could endanger their physical, mental, psychological, moral or social development.

Scope

The Youth Protection Act will apply to any party involved in the film or video game fields, as well as providers of platform services, with regard to their economic activities.

Not included in the Youth Protection Act's scope are TV programmes of Swiss broadcasters, time-shifted TV programmes and the other journalistic services of the Swiss Broadcasting Corporation (SRG SSR), which will be exclusively regulated by the Federal Act on Radio and Television (RTVA, SR 784.40). The RTVA is currently subject to a partial revision and will later be replaced by the new Electronic Media Act (for further details please see "[Highlights of pre-draft Electronic Media Act](#)").

In addition, providers of money games are excluded from the application of the Youth Protection Act. Even though money games can in principle also include video games, they will be exclusively regulated by the more specific Money Gaming Act (SR 935.51).

New requirements

The Youth Protection Act sets out the following principles.

Age ratings and content descriptors

Providers of audio-visual media and on-demand services may make films and video games

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accessible only if the required minimum age (age rating) and the respective content descriptors are clearly indicated. Organisers of public film viewings or video game events must affix the age rating and the content descriptors of films and video games in a clearly visible manner at ticket sales points and at the venue. Films and video games that contain no content that could endanger the development of minors require no content descriptors.

Age controls

Organisers of public film viewings or video game events must carry out an age check on minors. If a minor does not meet the minimum age requirement, they must be refused access to the film or video game. Exceptions to this rule are strictly regulated.

Measures for platform services

Providers of on-demand services must take appropriate measures to ensure that minors cannot access content which is unsuitable for them. Such measures must include at least the establishment and operation of an age verification system and the provision of a parental control system. Details of such systems will be specified in respective ordinances. Data collected from minors in relation to these measures cannot be used for commercial purposes.

Supervisory authorities may carry out tests in order to check compliance with the Youth Protection Act. An intentional violation of the Youth Protection Act is subject to a criminal fine of up to Sfr40,000.

Film and video game providers (including providers of platform services), as well as the federal government and the cantons affected by the Youth Protection Act, will bear any implementation costs in their respective areas of responsibility. The Federal Council further determines the fees for tests carried out by the competent federal authority, the Federal Social Insurance Office, and the maximum fees that the cantons may charge for carrying out tests.

Co-regulation

A particularity of the Youth Protection Act is the so-called 'co-regulation' between the Federal Council and the film and video game industries. The specific rules on age labelling and controls can be established by the industries themselves.

For the purpose of protecting minors in the film and video game sectors, film and video game providers may each create a youth protection organisation. The respective organisation will be entitled to draw up a regulation on the protection of minors according to the principles set out in the Youth Protection Act. The Federal Council can then declare such regulations binding for all concerned parties that are not members of the respective youth protection organisation. These organisations will also serve as contact points for enquiries and complaints with regard to the implementation of the regulations. The Federal Council will be entitled to enact a youth protection regulation for the film and video games sectors only if no such regulations have been declared binding within two years of the Youth Protection Act's enactment. The same applies if the binding character of regulations has been revoked by the Federal Council.

Outlook

The consultation process on the preliminary draft of the new Youth Protection Act will end on 24 June 2019. Based on the results of this process, the Federal Council will draw up a draft of the Youth Protection Act and a corresponding dispatch to submit to Parliament.

The Youth Protection Act is embedded in a complex set of ongoing legal revisions in a national and international context. While the film and video game industries are currently widely unregulated in Switzerland, the Youth Protection Act is expected to have an important practical impact. As such, industry actors should closely follow any developments in this area.

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