

# New requirements for film and video game platforms under proposed youth protection legislation

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## Introduction

### Objective

### Key points of proposed regulation

### Timeline and recommendations

## Introduction

After completion of the consultation process (for further details see "[Protection of minors in respect of films and video games: consultation process commenced](#)"), the Federal Council has submitted to Parliament the draft and corresponding dispatch of the new Federal Act on the Protection of Minors in respect of Films and Video Games (the Youth Protection Act).

Under the proposed Youth Protection Act, age labelling and age controls for films and video games will be uniformly stipulated throughout Switzerland and made mandatory for films and video games available at public events, through on-demand services and on physical storage media such as tapes, disks or sticks.

## Objective

Thus far, the existing Swiss legislation addresses new forms of media use only on the margins; some areas have been left completely unregulated in Switzerland (eg, public video game events or video games via on-demand and platform services). The Youth Protection Act aims to enhance the protection of minors against inappropriate media content that could endanger their physical, mental, psychological, moral or social development. With the new Youth Protection Act, any legislative gaps will be closed. In addition, the law aims to align on-demand and platform services with the EU Audiovisual Media Services Directive (AVMD (2010/13/EU)).

## Key points of proposed regulation

The new Youth Protection Act will apply to the film and video game industry and providers of platform services. However, as a result of the consultation process on the pre-draft, the Youth Protection Act will not apply to commercials and editorial content. TV programmes by Swiss broadcasters, time-shifted TV programmes and editorial content by the Swiss Broadcasting Corporation will remain exempt from the Youth Protection Act's scope of application.

Films and video games made available on audiovisual media, at public events and through on-demand services must be age-labelled and age controls must be carried out. The law requests that access to films and video games is denied if a minor is younger than the required minimum age according to a system of age classification. The specific rules on age labelling and controls are supposed to be established by the industries themselves within the guidelines provided by the Youth Protection Act. The Federal Council will only subsidiarily be entitled to enact further implementation provisions.

For films and video games available via on-demand and platform services, the Youth Protection Act will further provide for conformity with the AVMD. On-demand and platform services providers must take appropriate measures to ensure that minors will not have access to inappropriate content. In addition to age labelling, on-demand and platform services providers must provide for a system of age and parental controls. In particular, on-demand and platform services providers must establish and operate an age verification system prior to the use of the services. In contrast to the AVMD, these age and parental controls also apply to on-demand and platform services which provide video games.

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The new Youth Protection Act further restricts the use of the data that on-demand and platform service providers may gather from minors during age and parental control. The pre-draft initially stated that such data must not be used for commercial purposes. As a result of the consultation process, the use of such data has further been limited such that the data may only be used for the mere purpose of age controls. The use of minors' data for purposes other than age verifications will be punishable with fines of up to Sfr40,000.

### **Timeline and recommendations**

Parliament will start to discuss the draft of the Youth Protection Act in Spring 2021 at the earliest. Therefore, on-demand and platform services providers must keep a close look on the changing legal environment for their business activities in Switzerland. Irrespective of the progress in Parliament, on-demand and platform services providers are well advised to evaluate appropriate technical measures to be prepared and live up to the new requirements imposed by such law.

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