



YOUTH PROTECTION REPORT

2023



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Requirements for the protection of minors and subsequent implementation

1. General information

In relation to the protection of minors from audiovisual content that may impair their development, a number of changes were introduced by Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities.

The previous system for protecting minors from content that may impair their development, which was for the most part mandatory only for television broadcasters, was extended to providers of on-demand services. Also applicable to all media services was a new requirement to provide viewers with sufficient information for assessing the potential harm posed to minors by the content, by providing viewers with an easily comprehensible description of the nature of such content. In transposing the requirements, the EU Directive also encouraged Member States to make use of co-regulation and to support the promotion of self-regulation by means of an industry code of conduct. To ensure an appropriate level of protection, a uniform set of criteria to be fulfilled by self-regulatory bodies was also defined.

The Austrian legislative framework was amended (Federal Law Gazette I No. 150/2020) to incorporate these EU provisions. Core provisions set out the protection to be guaranteed for minors by providers of audiovisual media services and the corresponding duties of the self-regulatory body. These provisions are found in Art. 39 of the Audiovisual Media Services Act (AMD-G) and Art. 10a of the ORF Act (ORF-G). Regulations pertaining to self-regulatory bodies and the funding of a self-regulatory body for the purposes of youth protection by the Republic of Austria have been specified in Art. 32a and Art. 32b of the KommAustria Act (KOG).

Based on these provisions, a self-regulatory body is for the first time tasked with certain aspects of the establishment and verification of compliance with the industry-wide youth protection system, which is based on the aims of the EU Directive. The effectiveness of this self-regulatory system is then subjected to a subsequent audit by KommAustria.

To facilitate such a follow-up audit, the legislation specifies the reporting requirements listed below.

Pursuant to Art. 32a Par. 2 No. 5 KOG, a self-regulatory body is to prepare an annual report on its activities, its established goals, and the measures and decisions taken in accordance with No. 3 and 4, and publish this report in a suitable format (activity report).

Pursuant to Art. 32b Par. 4 KOG, an annual report addressing the effectiveness of the provisions of the conduct guidelines, as well as the type, number and outcome of complaints, must be submitted to KommAustria by 31 March of the following year (effectiveness report). KommAustria shall publish an activity report (Art. 19) presenting its assessment of and recommendations for effectiveness.

Pursuant to Art. 39 Par. 5 AMD-G, a self-regulatory body for the protection of minors (Art. 32a in conjunction with Art. 32b KOG) is to provide the regulatory authority with a report, describing the progress made towards achieving compliance with the obligation of media service providers to use references to inform the public (Art. 4 and Art. 32a Par. 2 No. 5 KOG). In its activity report, the regulatory authority is to present the current status in meeting the obligation described in Par. 4. The regulatory authority can attach to this report an evaluation suggesting improvements on how information is made available.

The conditions governing both the organisation and the specific activities of the self-regulatory body for youth media protection in audiovisual media (TV and on-demand services) were finalised when the body was set up in 2021. A system for self-regulation was developed that specifies stricter standards than previously for the protection of minors when consuming audiovisual media. The system was implemented by the Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services (hereinafter: association), which has worked with the industry to develop uniform guidance on conduct and procedure, and also set up a complaints system. In the third year since it was first established, the activities of the association have been heavily focused on further implementation of the self-regulation project, which has now been successfully transitioned to regular operations.

The association submitted its activity report and its effectiveness report for 2023 in February 2024.

In the following sections, the regulatory authority provides, on the basis of the reports received, a short overview of the general legal framework for self- and co-regulation in relation to the protection of minors, as well as a synopsis of the self-regulatory body (the association), together with its conduct guidelines and rules of procedure and their effectiveness. The authority then describes the progress achieved in meeting the obligation to provide guidance, and concludes by presenting its assessment of and recommendations for improving the effectiveness of the self-regulation system.

2. Legal framework for co- and self-regulation in relation to the protection of minors in Austria

A system of self-regulation is characterised by the fact that the economic operators concerned directly specify their own conduct guidelines, based on the general legislative framework, and are also directly responsible for the effective sanctioning of breaches of these conduct guidelines.

While self-regulation is encouraged as a supplementary approach to transposing the provisions of the Directive, it does not exempt national policymakers from their duty to transpose the Directive. Austrian policymakers therefore envisaged a number of new provisions on the relationship between self-regulation and state legal supervision in the areas addressed by the Directive since, as required by Recital 14 of the EU Directive, “[c]o-regulation should allow for the possibility of state intervention in the event of its objectives not being met.” (Cf. explanatory notes to government bill 462, enclosure to stenographic record of National Council, 27th legislative period, General Part and Special Part, on Art. 1 No. 39.)

In accordance with the concept of co-regulation as supported by the Directive, Art. 39 Par. 4 to 7 AMD-G accordingly contains provisions that initially call on the industry to directly establish this kind of system and submit regular reports on implementation. Par. 5 utilises the powers granted by Art. 4a Par. 3 of the EU Directive, according to which the evaluation of effectiveness may be transferred to the regulatory authority in order to create a legal relationship between the self-regulatory body and national policymakers. For the hypothetical case that the industry itself fails to set up such a system within legal time limits, the regulatory authority is granted powers by Art. 39 Par. 6 and 7 AMD-G to issue an ordinance enforcing a corresponding youth protection system, preceded by a consultation period with representative stakeholders. These powers were not used in the reporting period.

The most relevant provisions of the AMD-G are presented in the following.

"Article 39. (1)–(3) ...

(4) Taking into consideration existing conduct guidelines of a self-regulation body for the protection of minors, media service providers shall issue and comply with guidelines on how to make available to viewers sufficient information to assess the potential harmfulness of content for minors by describing the nature of the content listed in Par. 1 by means of references that are easily understandable for users.

To ensure uniform conduct guidelines across Austria, media service providers shall support and contribute to initiatives to establish and improve the efficiency of self-regulation (Art. 32a KOG).

(5) A self-regulation body for the protection of minors (Art. 32a in connection with Art. 32b KOG) shall report to the regulatory authority on the current state regarding implementation of the obligation to make information available by means of references (Art. 4 and Art. 32a Par. 2 No. 5 KOG). The regulatory authority shall present the current state regarding the implementation of the obligation described in Par. 4 in its activity report (Art. 19 KOG). The regulatory authority can attach to this report an evaluation suggesting improvements on how information is made available.

(6) If the regulatory authority finds that within six months of entry into force of the Federal Act promulgated in Federal Law Gazette I No. 150/2020 no self-regulation body for the protection of minors as referred to in Art. 32a in conjunction with Art. 32b KOG has been established in the scope of self-regulation (Art. 32a KOG), and, within a period of another two months, also no conduct guidelines have been issued that are used by a representative group of media service providers, including the Austrian Broadcasting Corporation, the regulatory authority shall specify, by way of an ordinance issued within six months of the finding, the manner in which all media service providers shall make available to viewers sufficient information to assess the potential harmfulness of content for minors, specifically how the nature of the content listed in Par. 1 is to be described by means of references that are easily understandable for users.

(7) Before an ordinance as referred to in Par. 6 is issued, the relevant interest groups in the field of audiovisual media services and youth welfare as well as the Federal Ministry of Education, Science and Research, the Federal Ministry of Labour, Family and Youth, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection and the Federal Ministry of Justice shall be given the opportunity to submit statements. The aforementioned entities shall make proposals to the regulatory authority on how to indicate harmful content. The regulatory authority shall verify at regular intervals, but at least every two years, whether there is a continued need for issuing an ordinance. If, after having consulted the aforementioned federal ministries, the regulatory authority comes to the conclusion that sufficient and efficient measures have been taken in the scope of self-regulation in accordance with the requirements of Art. 32a KOG, the regulatory authority shall set aside the ordinance."

Austrian legislation also requires the Austrian Broadcasting Corporation (ORF) to support and contribute to self-regulation initiatives, in accordance with Art. 10a Par. 3 ORF-G:

"Protection of minors

Article 10a. (1)-(2) ...

(3) [...] The Austrian Broadcasting Corporation shall support and contribute to initiatives of self-regulation bodies (Art. 32a KOG) to ensure uniform conduct guidelines throughout Austria. Art. 39 Par. 4 to 6 AMD-G shall be applied with the proviso that, by way of derogation from Par. 5 first sentence, the Austrian Broadcasting Corporation must report on measures to identify and describe content in its annual report."

On the basis of the provisions from EU legislation, Art. 32a KOG codifies standards for recognised self-regulatory bodies of this kind, so as to safeguard the effectiveness of self- and co-regulation measures, particularly those aimed at protecting consumers and protecting public health.

"Self-regulatory bodies

Article 32a. (1) The activities of recognised self-regulatory bodies may be granted funding in order to help achieve the goal of ensuring compliance with minimum European standards on the part of content providers.

(2) A recognised self-regulatory body is defined as a body with legal personality that:

- 1. guarantees a broad representation of the providers concerned, and comprehensive transparency in respect of decision-making criteria, procedures and the enforcement of decisions;*
- 2. defines conduct guidelines and rules of procedure that are generally recognised by the primary stakeholders and which clearly define the goals of self-regulation;*
- 3. ensures the periodic and transparent monitoring and assessment of the fulfilment of these goals, exclusively by an external and independent entity;*
- 4. ensures that complaints are effectively handled and that its decisions are enforced, including the imposition of effective and proportionate sanctions in the event of breaches of the conduct guidelines;*
- 5. prepares a report concerning its activities, its established goals, and the measures and decisions taken in accordance with No. 3 and 4, and publishes this report in a suitable format.*

(3) Sanctions within the meaning of Par. 2 No. 4 include in particular:

- 1. the publication of a decision by the self-regulatory body;*
- 2. the publication of a recommendation for future conduct by the self-regulatory body;*
- 3. the revocation of a quality seal or positive designation granted in accordance with the body's guidelines;*
- 4. potential identification of a breach or warnings in accordance with the body's legal framework.*

(4) Every four years, the self-regulatory body shall provide the regulatory authority with a report on the body's structure and working practice that illustrates its contribution to the goal of achieving compliance with minimum standards on the part of content providers."

In co-regulation, regulatory functions are shared between interest groups and the national regulatory authorities. The remit of the competent public authorities includes officially recognising the co-regulation programme, auditing its procedures as well as programme funding. (Cf. explanatory notes to government bill 462, enclosure to stenographic record of National Council, 27th legislative period, on Art. 2 No. 19.) Consequently, by means of Art. 32b KOG, Austrian policymakers established a basis for funding a self-regulatory body for the protection of minors:

"Funding of self-regulation for the protection of minors

Article 32b. (1) To provide financial support to the self-regulatory body in its activities relating to the classification of content that could impair the physical, psychological or moral development of minors (Art. 39 AMD-G), EUR 0.075 million of fee income collected pursuant to Art. 3 Par. 1 of the Broadcasting Fees Act (RGG) is to be remitted to KommAustria by 31 January of each year, in addition to the amount to be paid pursuant to Art. 35 Par. 1; Art. 35 Par. 1 third and last sentence shall apply. Art. 33 Par. 1 last sentence, Par. 2, 3 and 4 shall apply.

(2) In addition to the formal requirements in Art. 32a Par. 2, in order to allow funds to be allocated for promoting a self-regulatory body in this area, the body's conduct guidelines must contain criteria defining a minimum level of information that allows viewers to assess the potential harmfulness of content for minors, based on a description of content type in easily understood terms.

(3) When drafting the conduct guidelines, the relevant interest groups in the field of audiovisual media services and youth welfare as well as the Federal Ministry of Education, Science and Research, the Federal Ministry of Labour, Family and Youth, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection and the Federal Ministry of Justice shall be given the opportunity to submit statements.

(4) A report addressing the effectiveness of the provisions of the conduct guidelines, as well as the type, number and outcome of complaints, must be submitted to KommAustria by 31 March of the following year. KommAustria shall publish an activity report (Art. 19) presenting its assessment of and recommendations for effectiveness."

3. Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services

3.1 Establishment, articles of association and internal organisation

The conditions governing both the organisation and the specific activities of the association in its role as self-regulatory body for youth media protection in audiovisual media (TV and on-demand services) were finalised when the body was set up on 2021.

The Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services (Verein zur Selbstkontrolle audiovisueller Medienangebote zum Schutz von Minderjährigen; hereinafter: association) was established on 17 June 2021, thus in advance of the legal target date (30 June 2021). The association was entered under 1686796152 in the Central Register of Associations (ZVR). The association is based in Vienna.

In accordance with its articles of association, the association's primary objective is to ensure effective self-regulation so as to protect minors from content in audiovisual media services that could impair their physical, psychological or moral development and which falls within the remit of the Austrian regulatory authorities under applicable legal provisions.

In pursuit of this overarching goal, in accordance with provisions of law and its articles of association, the association acts as follows:

- Establishment of a legal entity that meets the requirements for a self-regulatory body as defined by Art. 32a KOG, first and foremost by ensuring a broad representation of media service providers who have committed to the protection of minors.
- Drafting and adoption of conduct guidelines and rules of procedure that are generally recognised by the primary stakeholders – and therefore the providers of audiovisual media services who have committed to the protection of minors – and which unambiguously define the goals of self-regulation.
- Ensuring the proper treatment of complaints and the enforcement of decisions, including the imposition of sanctions in the case of breaches of the conduct guidelines, by establishing an administrative office for handling complaints and by appointing an independent experts council to decide on such complaints.
- Guaranteeing full transparency in respect of decision-making criteria, procedures and the enforcement of decisions.
- Reporting fully on activities and the effectiveness of the measures taken, in accordance with legal requirements.
- Communicating with authorities, ministries and other state and non-state actors, as well as with international associations or organisations pursuing similar goals.

At the association's first general assembly, which was held in August 2021, the following organisations and companies were admitted as ordinary members:

- Fachverband der Telekommunikations- und Rundfunkunternehmen in der Wirtschaftskammer Österreich (Association for Telecommunications and Broadcasting Companies within the Austrian Federal Economic Chamber)
- Österreichischer Rundfunk (Austrian Broadcasting Corporation)
- Verband Österreichischer Privatsender (Austrian Association of Private Broadcasters)

Other members – both ordinary and extraordinary – may be admitted on the terms of the association's constitution. The association presents its articles on its website (www.jugendmedienschutz.at).

The articles of association assign leadership responsibilities to a management board. The board is tasked with managing the association's business and organisational operations as well as reporting duties, in particular the preparation of and the formal decision to adopt the conduct guidelines and rules of procedure as required by Art. 39 AMD-G. The board also handles the establishment of and appointments to the experts council as a complaints body, as well as the handling of objections to decisions that impose sanctions on media service providers as a result of breaches of the conduct guidelines.

Current members of the management board are Helga Tieben (President), Corinna Drumm (Treasurer) and Dr Klaus Kassai (Secretary).

During the general assembly, Gerhard Ettl (ORF) and Barbara Karl (Association for Telecommunications and Broadcasting Companies) were appointed as the association's auditors.

In April 2023, an amendment to Article 15 Par. 4 of the Articles of Association specified that *"if the general assembly appoints an auditor of the annual financial statements (certified external auditors and tax consultants or auditing and tax consulting firms), the auditor of the annual financial statements shall assume the duties of the auditors. The auditor of the annual financial statements shall be appointed for one financial year."*

Dr Alice Krieger-Schromm was appointed head of the administrative office in 2021. Key duties in this role include providing support to the management board in its association activities while managing the association's office and ongoing business activities, as well as handling specific tasks as delegated by the management committee, with one particular duty here being to ensure the effective management of procedures and complaints in accordance with the rules of procedure.

In recent years, extensive negotiations within the association were required for the establishment and operation of a fully functional self-regulatory system recognised by the industry as a whole (these activities included the creation of a graphical representation of the complaints system, funding, documentation and reporting requirements, and a data privacy policy). Due to the need to handle a higher volume of complaints in 2023, the complaints system could be reviewed and evaluated on a regular basis in terms of ability to function.

The association was able to start full regular operations as of 2023.

3.2 Experts council

In line with the association's rules of procedure, the experts council (cf. Article 14(2) of the articles of association) makes decisions on such complaints as may be filed as a result of alleged breaches of the conduct guidelines on the part of media service providers. The following individuals have been appointed to the expert council:

- Pia Bambuch, ProSiebenSat.1 PULS 4 GmbH, director of legal and regulatory affairs
- Frank Holderied, ServusTV, head of programming, purchasing and in-house fiction content productions
- Claudia Horvath-Polak, ORF, film and series youth protection/member of the Youth Media Commission
- Andreas Ney, Austrian Federal Economic Chamber/Association for Telecoms/Broadcasting, deputy managing director
- Lisa Zuckerstätter, ORF, access services – youth protection officer

4. Conduct guidelines

To give the relevant youth protection institutions in Austria the opportunity to contribute to the process of drafting the conduct guidelines and designing the information system, the self-regulatory body was required to submit the conduct guidelines to a consultation with interest groups working in the field of youth protection and those federal ministries that the act designates to oversee youth protection programmes. This consultation was completed by the association in 2021. Some of the comments submitted led to modifications of the conduct guidelines as presented in the following.

The conduct guidelines as of August 2021 can be viewed on the association's website (www.jugendmedienschutz.at/verhaltensrichtlinien).

In accordance with the provisions of EU law and Austrian legislation, the conduct guidelines aims to establish an effective and uniform nationwide system for the protection of minors from content in audiovisual services (broadcasting and on-demand services) that has the potential to impair their development. This system should be easily understood by viewers – especially by minors and their legal guardians – and should be recognised and implemented by as many providers as possible.

The guidelines specify (minimum) requirements for the protection of minors in the context of audiovisual services. In cases where providers wish to offer a higher level of protection on a voluntary basis, the guidelines make recommendations for ensuring such initiatives are as uniform as possible.

Content potentially impairing the development of minors must be offered by providers in such a way as to prevent it from being generally viewable or consumable by minors. As part of meeting this requirement, television broadcasters must choose appropriate broadcasting times. Providers of on-demand services must use suitable measures to achieve a level of protection comparable to that offered by broadcasting time slots, either by also restricting the daily accessibility of content potentially impairing development, or through other appropriate measures.

Certain content potentially impairing development is not prohibited by law but is to be classified as particularly harmful, such as the casual depiction of sexual acts (hardcore pornography and other pornographic material that does not meet the criteria for being considered content prohibited by law). Such content may be provided only if measures such as age verification systems or comparable access control measures are in place to ensure that minors are not generally able to use it. News broadcasts and party political broadcasts are exempted from these obligations.

If broadcasts that should typically not be viewed by minors are made freely accessible by television broadcasters during broadcasting times that are less suitable for scheduling such broadcasts from a youth protection perspective, such broadcasts must be identified accordingly (announcement by means of an acoustic signal or the application of a visual identifier throughout the entire broadcast; the ORF must comply with stricter standards that require identification with acoustic signals and visual identifiers throughout the entire broadcast).

In addition to the identification requirement, all media service providers are also required to present viewers with sufficient information for assessing the potential harm posed to minors by the content. Media service providers must describe the nature of the potentially harmful content using references that are easily understood by viewers. Details of these new duties to present information ('information system') are given in the conduct guidelines.

To ensure that programme content potentially impairing development cannot generally be viewed by the minors who are to be protected, television broadcasters undertake to comply with the following broadcasting time slots (depending on the age classification of the programme in question):

- Daytime television, 6 am to 8 pm: Content in programmes broadcast during the day must be suitable for (young and older) children. Accordingly, all programmes broadcast must have content suitable for children in the 12 and under range or, in isolated cases (and if this does not impair the well-being of younger minors), 12 and over (but not 16 and over). All daytime programmes with an age classification of 12 and over must comply with labelling requirements.
- Evening television, 8 to 10 pm: During the evening television slot, programmes are broadcast that fall under the 12 and over category or a lower category or, in isolated cases (and if this does not impair the well-being of younger minors), the 16 and over (but not 18 and over) category. All programmes with an age classification of 16 and over must comply with labelling requirements.
- Late evening television, 10 to 11 pm: During the late evening television slot, programmes are broadcast that fall under the 16 and over category (with labelling) or a lower category.
- Night-time television, 11 pm to 6 am: Programmes falling under any age category can be broadcast during the night-time slot. All programmes falling under the 16 and over or 18 and over age category must comply with labelling requirements.

The self-regulatory body has stated that the guidelines are modelled (and expand) on accepted practice in youth protection in the industry to date, especially as regards questions of selecting broadcasting times or time periods in which content potentially causing harm should be shown or made available, and established practice regarding acoustic and/or visual labelling.

The conduct guidelines also recommend the voluntary provision of additional information (supplementing the recommended age classification and notes on the potential harm) on the part of television broadcasters, which is to be included in information sources accompanying their programming such as EPGs, teletext or specialised online services. However, broadcasters are not required to present such information.

Rules for television programming

As mentioned above, the information system for television broadcasters pursues the goal of presenting viewers – and parents and minors in particular – with sufficient information, in a simple and easily comprehensible format, that allows them to assess the potential harm posed to minors by content.

Specifically, the submitted conduct guidelines require television broadcasters who broadcast freely accessible programmes outside the recommended broadcasting time slots – thus potentially impairing the development of minors – to offer at the start of the programme simple and easily understood references to the recommended age classification (age reference) and the nature of the potential harm posed by the programme that follows (harm reference or label).

The age references use the international age limits (which have also been applied in Austria for many years) and are oriented towards the classifications from the FSK (voluntary film industry self-regulatory body) and the FSF (voluntary television industry self-regulatory body). Five separate age categories are defined:

- Content is not suitable for minors: 18 and over
- Content is suitable for minors of at least age 16: 16 and over
- Content is suitable for minors of at least age 12: 12 and over
- Content is suitable for children/minors of at least age 6: 6 and over
- Content is suitable for children/minors of any age: 0 (no restrictions)

A classification system provides objective definitions of the type of content considered unsuitable for the individual age categories, since this content has the potential to impair the development of children and minors.

According to the conduct guidelines, content potentially impairing development is further subdivided into the four harm categories of 'violence', 'anxiety', 'inappropriate behaviour' and 'sex'. Harm guidance must further be presented so that, at the start of the programme and as an adjunct to the age warning, at least one of these harm categories is specifically indicated using a visual overlay with a text identifier ('violence', 'anxiety', 'inappropriate behaviour' and/or 'sex').

Before the start of each programme subject to a labelling requirement, the age and harm reference are shown in easily legible lettering of an appropriate size along the top edge of the screen for at least three seconds.

In line with the conduct guidelines, broadcasters are free to supplement the harm reference with more detailed descriptions of the potential harm, but must ensure that these details do not compromise the easy comprehensibility of the reference. It is recommended that broadcasters include easily accessible age/harm references in the information sources that accompany their programming (such as the EPG, teletext or website).

To ensure that the youth media protection system in Austria is as uniform as possible, a set of assessment standards is required. Accordingly, the conduct guidelines define uniform standards and assessment criteria for each age category. These assessment standards and criteria have been developed while taking the greatest possible account of established assessment criteria recommended by recognised youth protection bodies.

Summing up, it can be stated that, according to the code of conduct, a relevant potential harm is always present in cases where the audiovisual content presents types of behaviour or value systems as positive or acceptable that are incompatible with generally shared social values or in breach of Austrian laws. Both in television programming and within audiovisual media services in general, youth protection does not pursue the objective of pigeonholing certain topics as taboo but instead aims to determine the core values or message conveyed by a particular service (in whole or in part) and to assess their potential impact on children or adolescents.

Rules for on-demand services

As is the case for television broadcasters, providers of on-demand services must also ensure that programmes potentially impairing the physical, psychological or moral development of minors are provided in a way that prevents them being generally viewable or consumable by minors.

Like television broadcasters, providers of on-demand services must also set up an appropriate information system that allows their users to make informed decisions about the content to be viewed. In line with the conduct guidelines, the age classification system and assessment standards apply *mutatis mutandis* to on-demand services.

The conduct guidelines states that on-demand services may provide the required level of protection for minors by deploying an effective control system secured by access codes. If a control system based on time of access (effectively modelled on the broadcasting time slots used in television) is used, then service providers must use age references and programme-specific harm labelling to designate programmes subject to labelling requirements (based on age category and access time). Additional information provided in support of programming is also recommended but is not mandatory.

5. Youth protection at the ORF

In accordance with Art. 10a ORF-G, the ORF summarised its youth protection activities in its television and internet divisions as well as ORF TELETEXT as part of its 2023 annual report.

In this report, the ORF as a public media company underlined the fact that youth protection has from the outset been a priority concern and integral part of day-to-day operations. Throughout its programming, the ORF makes the most of opportunities to protect minors, with the aim of avoiding any impairment to the physical, psychological or moral development of minors:

- As part of programme commissioning or production
- As part of programme editing
- By exercising due care in the design and scheduling of programme trailers
- By ensuring programming observes scheduling slots
- By employing labels and references

Each broadcast is checked by the responsible editorial team at the production and/or commissioning stage(s). When determining the suitability of a specific programme for a specific age category, the ORF may base such decisions on the recommendations of the Austrian Youth Media Commission (JMK) at the Federal Ministry of Education, Science and Research, and on age classifications used by the German FSK (voluntary film industry self-regulatory body) and German FSF (voluntary television industry self-regulatory body).

Cooperation with the JMK is a key aspect of the support provided to editorial decision-making. Since 2002, the ORF has used the option of submitting programmes to a review committee to obtain a recommended classification.

In accordance with the new legal provisions and the conduct guidelines adopted by the above-mentioned association, the ORF has evaluated and significantly expanded its existing youth protection activities. These include the following:

Scheduling by broadcasting time slots

As was the case even before the ORF-G amendment, ORF ensures that programme content potentially impairing development is scheduled to comply with strict time slots that are coordinated to the developmental stages of minors. Due attention to this scheduling ensures that any programme content potentially impairing development is broadcast only at times when this content cannot normally be viewed or consumed by minors.

To this end, the ORF applies broadcasting time slots as mentioned above:

- Before 8 pm: All programmes broadcast normally must have content suitable for children in the 12 and under range or, in isolated cases (and if this does not impair the well-being of younger minors), 12 and over (but not 16 and over).
- From 8 pm: From this time onwards, the ORF considers parents and legal guardians to share responsibility for the viewing habits of their young and adolescent children. During the evening television slot (8 to 10 pm), programmes with a higher age classification (12+ and 16+) may be broadcast but not programmes falling under the 18 and above category. Programmes falling under the 18+ age category may be broadcast only during the night-time slot (11 pm to 6 am).
- From 11 pm: Programmes falling under any age category can be broadcast during the night-time slot (11 pm to 6 am).

A new labelling and information system

The ORF's programme labelling for the protection of children and adolescents dates back to 1 January 1999. As a result of the ORF-G amendment and with the aim of achieving a uniform industry-wide solution, the existing labelling system was adapted and expanded to include reference to the nature of the harm involved.

While films and series had been identified as 'X – Not for children' and 'O – Adults only' (as appropriate) from 10 pm onwards, an age reference (12+, 16+ or 18+) is now displayed during the entire programme.

In linear television, programmes falling under the 16+ or 18+ age category are always labelled as such regardless of their broadcast time. Programmes falling under the age category of 12+ are labelled as such only during daytime television (6 am to 8 pm).

At the start of a labelled programme – this applies in most cases to feature films and series broadcast after 10 pm – the age reference is supplemented by an acoustic signal and a reference to the nature of the harm involved. These references and/or labels may signify 'violence', 'anxiety', 'inappropriate behaviour' or 'sex'. The information is shown for three seconds at the top edge of the screen.

News programmes and party political broadcasts are exempted from any requirement to display such labelling.

Youth protection in ORF online services and ORF TELETEXT

Programmes falling under the 12+, 16+ or 18+ age category are always labelled with the respective age reference in the ORF TVthek, on Flimmit and tv.ORF.at, and in ORF TELETEXT (regardless of their actual TV broadcasting time slot). A reference to the nature of the potential harm ('violence', 'anxiety', 'inappropriate behaviour' or 'sex') is also shown at all times, either below the player window or in the immediate vicinity of the media title.

Aside from the new activities, youth protection measures have been in place in the ORF TVthek since 2016: By agreement with the competent main ORF departments, certain series or productions are made available as video-on-demand items in the ORF TVthek only between 8 pm and 6 am or 10 pm and 6 am.

Users of the ORF TVthek are informed appropriately about these restricted viewing times when they click to select the corresponding programme. In addition to these arrangements, no advertising is permitted during children's programming.

6. Complaints and sanctioning procedures (rules of procedure)

The conduct guidelines, formally designated the association's 'rules of procedure', defines the process for handling complaints and the adoption of decisions on complaints by the experts council. The conduct guidelines also address the possibility of objecting to the council's decisions, the enforcement of such decisions and the imposition of appropriate sanctions on media service providers. The rules of procedure can be accessed from the association's website (see www.jugendmedienschutz.at).

The self-regulatory body publishes an annual activity report that informs the general public about a number of topics, including the measures and decisions adopted by the body in the reporting year, as well as the sanctions imposed as a result of breaches of the conduct guidelines.

See [section 8.3](#) for a report on complaints received by the association in 2023.

7. Recognition of the conduct guidelines and rules of procedure

The provisions of Austrian youth protection legislation require the widest possible acceptance of the conduct guidelines and rules of procedure ("*rules of procedure that are generally recognised by the primary stakeholders*"; Art. 32a KOG). To achieve this level of acceptance, the association's founding members took care from the outset to ensure that industry representatives were involved as closely as possible in drafting procedures.

Beyond the practical involvement of industry representatives, formal recognition (in the form of a documented proof of recognition) of the conduct guidelines and rules of procedure was also required. With reference to their individual obligation as broadcasters or on-demand service providers to create and comply with specific conduct guidelines (cf. Art. 39 Par. 4 AMD-G), media service providers were advised to fulfil their legal duties by publishing a youth protection declaration on their website, in which they formally recognise and agree to be bound by the conduct guidelines and the rules of procedure set out by the self-regulatory body.

According to the association's reports for 2023, a large part of the work focused on extending acceptance of the conduct and procedural guidelines among the industry and supporting implementation of these in practice.

Accordingly, the administrative office heavily concentrated efforts in 2023 on obtaining more youth protection declarations from industry representatives and improving acceptance of the association. Following written and telephone contacts, the report states that acceptance has increased to the extent that 75 television broadcasters and 67 on-demand service providers have notified the association of their acceptance of the conduct guidelines and rules of procedure, as of 31 December 2023 (compared with 63 broadcasters and 75 on-demand service providers at the end of 2022).

The administrative support office followed up these official announcements of recognition of the self-regulatory body's conduct guidelines and rules of procedure by visiting the websites maintained by media service providers to confirm that these declarations had indeed been published. All of the 67 on-demand service providers and 75 television broadcasters who formally notified the association of their recognition of the code of conduct and rules of procedure have also published and/or linked to the youth protection declaration or the conduct guidelines from the self-regulatory body on their websites.

The individual providers are listed in the activity report published by the association: www.jugendmedienschutz.at/organisation.

Despite this widespread acceptance, the association's conduct guidelines and rules of procedure have yet to be formally recognised by a few providers of TV programmes and on-demand services. Convincing these providers of the merits of the self-regulation mechanism and the association's rules and guidelines will be a key task for the association over the next few years.

8. Effectiveness of the conduct guidelines, and type, number and outcome of complaints

Pursuant to Art. 32b Par. 4 KOG, the self-regulatory body for the protection of minors is to submit an annual report addressing the effectiveness of conduct guidelines provisions, as well as the type, number and outcome of complaints, to KommAustria by 31 March of the following year.

The Association for the Protection of Minors through Self-Regulation of Audiovisual Media Products and Services complied with its reporting duties by the due date.

By way of an overall summary and on the basis of the general criteria as specified by Art. 32a Par. 2 KOG, the self-regulatory body considers the following effectiveness criteria to be relevant:

- Conduct guidelines have been drafted that unequivocally define the objectives of self-regulation in youth protection for media services.
- The conduct guidelines have been recognised by the primary stakeholders.
- The conduct guidelines have been implemented and observed.

The association's formation, the drafting of the conduct guidelines, their provisions and progress towards their recognition by the primary stakeholders are presented above in detail.

The following measures for auditing conduct guideline implementation and compliance were set out in 2023:

8.1 Effectiveness audit

In 2023, the participating media service providers underwent an effectiveness audit, seeking answers to the following:

- 1.) Has the association's administrative office received a signed youth protection declaration from each television broadcaster and on-demand service provider (dated and with stamp, address, etc.)?
- 2.) Is this declaration published on the website and/or have the conduct guidelines been published on the media service provider's website by means of a link to the association's youth protection guidelines?

Auditing was carried out continuously throughout 2023. The media services were informed of any compliance weaknesses and instructed correspondingly. A final audit at the end of 2023 resulted in a score of 100%, with all 75 on-demand service providers and 67 television broadcasters successfully completing the effectiveness audit.

8.2 Auditing media service providers for youth protection conformity

In 2023, the administrative support team then conducted a youth protection conformity audit of the television channels and on-demand services that had declared their intention to comply with the conduct guidelines and recognise the rules of procedure. This audit consisted of random sampling of the audiovisual media services provided To determine compliance with:

- a) labelling requirements (announcement by means of an acoustic signal or the application of a visual identifier throughout the entire broadcast); and
- b) information requirements (age reference and harm reference).

An average of two audits were conducted each month. Smaller providers and on-demand services were increasingly prioritised in 2023.

These regular audits aim to strengthen cooperation with media service providers, where necessary notifying them of any failure to comply with labelling or information requirements.

Looking at the results of the effectiveness audit on the one hand and the youth protection compliance audits of media services on the other, the association found that the major providers and many smaller providers alike had acted to ensure adequate implementation of the conduct guidelines and the newly created information system in particular, including age and harm references, by the end of 2023. No major instances of non-conformity were identified. In the event of minor non-conformities, the media service was contacted and informed promptly, and the issues then resolved.

In all other respects, the association as self-regulatory body found no other evidence to suggest that media service providers who had formally recognised the conduct guidelines had not (or not adequately) implemented them in practice.

In its effectiveness report published at the end of 2023, the association accordingly concludes that the television broadcasters and on-demand service providers who have recognised the new rules also implement these rules in practice.

The association plans to continue the effectiveness audit and the youth protection conformity audits of media services in 2024, so as to monitor and provide evidence of the implementation of the conduct guidelines.

8.3 Type, number and outcome of complaints

The self-regulatory body publishes an annual activity report that informs the general public about a number of topics, including the measures and decisions adopted by the body in the reporting year, as well as the sanctions imposed in response to breaches of the conduct guidelines (Art. 32a Par. 2 No. 5 KOG).

In the 2023 calendar year, six formal complaints were submitted to the self-regulatory body in response to a breach of the conduct guidelines.

In two cases, the experts council at the association found that the broadcasts that were the subject of the complaint had not in fact violated the conduct guidelines.

Two complaints were dismissed due to lack of jurisdiction and one because of being incomplete.

The sixth complaint will be processed at the beginning of 2024, as it was received by the association's administrative office on 30 December 2023.

A summary of decisions taken to date by the experts council can be accessed here (in German): www.jugendmedienschutz.at/entscheidungen/

The number of complaints received tripled in 2023 compared with the previous year. This increase can be explained by growing awareness of the Jugendmedienschutzverein (association). It has been possible to establish a smooth workflow and thus a sound procedure thanks to regular evaluations and reviews of the complaints system.

8.4 Public relations and networking with stakeholders

In 2023, the association focussed on raising awareness of the association to ensure that the organisation's monitoring function is recognised and utilised by the interested public. This meant more intensive networking with private and public stakeholders, with both sides getting to know each other, exchanging views on important youth media protection issues, identifying common ground and providing insights into each other's work.

The focus in 2023 was increasingly on taking advantage of meetings, discussions and events in order to network with relevant stakeholders (e.g. Austrian League for Child and Youth Health, UNICEF, Saferinternet, federal pupil representatives, the ombudsperson for children and youth, federal youth representatives, emergency services for children and youth, the NOYB association, Medical University of Vienna, Epicenter. works, Ministry of Health, Children's Rights Network, bOJA, No Hate Speech Committee, Kinderfreunde association, Department of Communication at the University of Vienna, network policy spokespersons of various political parties, media lawyers and the Ministry of Education). Further meetings with stakeholders will be held in 2024.

Media relations work primarily took place through contacts with journalists active in trade and consumer media. Press releases were issued using the OTS service offered by the Austria Press Agency (APA) (e.g. APA-OTS on 9 March 2023: "Protection association for youth media presents its 2022 activity report"), interviews were given (e.g. via the professional media channels Horizont and Mediendiskurs as well as in the daily newspaper Der Standard) and public information meetings held. The association's social media presence on LinkedIn was also used for this purpose.

A presentation of the association and its activities also took place as part of the Kinderliga Lunch. The association was also a participant in the round tables on media literacy organised by RTR, and as part of the Media Days 2023, the head of the association's administrative office took part in the RTR panel on the topic of digital skills.

Folders and roll-ups were designed to be used at future events in order to present the association to the public as effectively as possible.

As is also indicated by the threefold increase in the number of complaints received by the association compared to the previous year, it is evident that the objective of public relations, namely to raise the association's profile among the wider public, is increasingly being met. The association is now often consulted for advice on issues relating to youth protection or youth media protection.

8.5 Summary for 2023 and outlook for 2024

Looking at the reports submitted for 2023, the association offers the following conclusions about the past and upcoming calendar years.

The association focused for the first time in 2023 on the practical application and verification of providers' compliance with the conduct guidelines. Spot-checking has shown that the majority of media services already comply with the media protection regulations for minors and thereby also adhere to the recognised guidelines.

A significant increase complaints was recorded, while the reasons for decisions also increased: there was a threefold increase in the number of complaints received compared with the previous year.

Another focus of the association's work in the past year was to ensure that the interested public is aware of the institution's monitoring function. This was achieved primarily by increasing cooperation with private and public stakeholders. With a large number of meetings, presentations and media work, it was possible to draw attention to the presentation and work of the association.

The declared goal of the association was and still is to improve the protection of minors in Austria from harmful media and bring the topic even more to the attention of the public.

From the association's perspective, the focus in 2024 will be on strengthening activities in the context of ongoing public relations and media work. The primary aim here is to further expand and intensify networking activities with private and public stakeholders, while also participating in conferences and organising in-house events to draw attention to the association's work. These activities were kicked off by the event held in February 2024 on the topic of 'Influencers – between rapid reach and responsible action'. The goal was to educate people and bring the professional group of content creators on board, such as by supporting them on their journey towards greater transparency and a heightened sense of responsibility. All of these planned measures are intended to raise awareness among providers and consumers and thus draw attention to media protection for minors.

Other essential aspects of the association's work in 2024 include processing incoming complaints, increasing the acceptance and awareness of the conduct guidelines and rules of procedure in the industry, and monitoring the implementation of these conduct guidelines by businesses in practice. The association is continuing to progress from a startup self-regulatory institution to becoming an established institution.

9. Evaluation, assessment and recommendations by KommAustria to improve effectiveness

Pursuant to Art. 39 Par. 5 AMD-G, a self-regulatory body for the protection of minors is to provide the regulatory authority with a report, describing the progress made towards achieving compliance with the obligation of media service providers to use references to inform the public (Art. 4 and Art. 32a Par. 2 No. 5 KOG). In its activity report, the regulatory authority is to present the current status in meeting the obligation described in Par. 4. The regulatory authority can attach to this report an evaluation suggesting improvements on how information is made available.

Pursuant to Art. 32b Par. 4 KOG, the self-regulatory body for the protection of minors is to additionally submit an annual report addressing the effectiveness of conduct guidelines provisions, as well as the type, number and outcome of complaints, to KommAustria by 31 March of the following year. The regulatory authority must publish an activity report presenting its assessment of and recommendations on effectiveness.

Firstly, it should be noted that the association successfully transitioned to regular operations in 2023. The plan for 2023 was to ensure that the institution's monitoring function is recognised and utilised by the interested public. The work therefore focused on raising the association's profile externally through increased public relations and media work.

The list of activities in this regard, as well as the threefold increase in the number of complaints in 2023, show that the association is on the right track in terms of raising its profile and heightening awareness among the public.

The increased number of complaints made it possible to further review and evaluate the functioning of the complaints system. While some additions and adjustments to the association's system in 2022 proved useful, this process was consolidated in 2023.

Furthermore, the association endeavoured to increase recognition of the self-regulation system among broadcasters and media service providers, with this process continuing to be successful in 2023. Another positive aspect is the self-regulatory body's ongoing monitoring of media service providers' compliance with the self-imposed guidelines. This is essential for the effectiveness of the system of self-regulation.

The association was of course only recently formed and only a small amount of empirical data related to its work has been obtained to date. As a result, there is little basis as yet for KommAustria to conduct a detailed evaluation pursuant to Article 39 Par. 5 of the Audiovisual Media Services Act (AMD-G), aimed at improving the effectiveness of the guidance provided in order to enable the assessment of the potential harms posed to minors by media content. Consequently, KommAustria is equally unable to present well-grounded recommendations on the effectiveness of the code of conduct within the meaning of Art. 32b Par. 4 KOG.

However, KommAustria welcomes the continued progress in the way of organisation and areas of activity, as presented in the reports, which the relatively new association has made following its year of formation in 2021. Conversely, KommAustria sees clear evidence that the self-regulation system established by the association is fundamentally effective and capable. This is seen in increasing professionalisation, a growing number of complaints and the routine auditing of effectiveness in the context of the system as presented in section 8.

In consideration of the above, KommAustria welcomes the following priorities as announced by the association for its future work.

The association is obviously correct in stating that the effectiveness of the conduct guidelines depends to no small degree on its recognition by the industry's 'primary stakeholders,' meaning the major television broadcasters and on-demand service providers. The association has presented a list of the television broadcasters and on-demand service providers who have formally recognised the self-regulatory body's conduct guidelines and rules of procedure. The number of television broadcasters increased compared to the previous year, although some Austrian media services have not yet agreed to the association's conduct and procedural guidelines. In light of these facts, KommAustria concurs with the association's assessment that a key objective for activities on into the future must be to convince these remaining providers of the merits of the self-regulation mechanism and of uniform conduct guidelines. Not least because, if it should fail to publish a youth protection declaration, the Austrian media service concerned is then required by law to draft and monitor its own specific conduct guidelines (cf. Art. 39 Par. 4 AMD-G).

Looking to the future, other practical tasks that will be crucial to ensuring the success of industry self-regulation as promoted by the relevant legislation include: increasing among the interested public the visibility and awareness of the self-regulatory body as an industry regulator, strengthening the industry's acceptance and knowledge of the conduct guidelines and rules of procedure, and completing a detailed analysis of how industry players are implementing the conduct guidelines.

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