

Potential higher age ratings for video games

Summary

Law	Sec. 10a, 10b Youth Protection Act				Effective date:		1 May 2021					
Applies to:	Social networks	Search Engines	Game distribution platforms	VoD platforms	App stores	Video games	Movies and shows	Video-sharing platforms	Media compilation apps and services	Smart devices/connected devices	Messenger services	
						Yes						
Content of the regulation — quick overview												
<ul style="list-style-type: none"> Age ratings for video games will no longer be determined only by content-related factors (e.g., violence) but also by risks resulting from communication and interactional risks. Examples are in-game text and voice chats, loot boxes, data transfers to third parties without consent and others. 					<ul style="list-style-type: none"> Newly introduced descriptors and preemptive youth protection measures have to be considered in the age-rating process and they can have a mitigating effect. Some video games might get higher ratings in the future. 					Applies to abroad companies?		Yes
										EU/EEA country of origin principle respected?		N/A

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I. Who is affected by the regulation?

- Companies that apply for an age rating to distribute video games in the German market.

II. What does the regulation say?

- In addition to classic content-related factors (e.g., violence, nudity and language), the amended Youth Protection Act now also allows factors to be considered that are not directly related to the game content but to what is understood as communication and interactional risks.
- The legislator considers in particular (but not exclusively) the following features as relevant communication and interactional risks can be in particular:
 - communication and contact functionalities (e.g., in-app or in-game voice, text or video chats and messaging features)
 - purchase functionalities (e.g., in-app and in-game purchases)
 - gambling-like mechanisms (e.g., loot boxes or simulated gambling)
 - mechanisms that encourage excessive media use (e.g., games that incentivize coming back to the game through time-dependent rewards or game mechanisms that could be considered to be encouraging excessive playing)
 - sharing user data without consent (e.g., sharing in-game progress/statistics or location data on social networks)
 - purchase exhortations that are not age-appropriate, in particular, advertising for other media (e.g., including trailers or ads for a 16+ game/movie in a 12+ game)

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- In extreme cases, the consideration of communication and interactional risks can result in different age ratings being issued for the same game, for example, if one version of the game includes communication or interaction features that are not included in the other (e.g., if released on another platform).
- Communication and interactional risks can only result in a higher age rating if both of the following occur:
 - They are a permanent part of the medium.
 - The risk cannot already be sufficiently addressed by assigning **content descriptors** in addition to the age rating. This means, for instance, that instead of increasing the age rating due to the inclusion of loot boxes in a game, the classification body can also decide that assigning a specific descriptor is sufficient
- In addition, **preemptive measures** taken by the video game provider against communication and interactional risks are considered when the age rating is determined. Where the game company has implemented robust preemptive measures (e.g., parental control settings and/or certain youth protection by design and default settings), a higher age rating can be avoided.
- There have been several reports in the press that video games that were traditionally rated with low ratings (e.g., USK 0 or 6), especially from the sports game genre, might in future be classified with significantly higher ratings (e.g., USK 16 or even USK 18) for their inclusion of interactional risks such as loot boxes. However, based on our early discussions with the rating authorities, such an extreme difference is unlikely, in particular, because preemptive measures can mitigate the impact (if implemented) and because the age-rating authority might consider the descriptors sufficient to address the risk.

III. Enactment and application in practice

- The amended Youth Protection Act came into force on 1 May 2021.
- The extent to which interactional and communication risks, content descriptors and preemptive measures will be considered in the age-rating process is currently unclear. The USK and the state youth protection regulators are currently working out the standards to form a future rating practice. Afterward, only time will tell how exactly these standards will be applied in practice.
- The new provisions will not affect games that already have an age rating, i.e., their age rating will not automatically be re-reviewed, unless the game is resubmitted to the USK.

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