

[DE] KJM invalidates FSM's assessment of "JusProg" youth protection system

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On 15 May 2019, the Kommission für Jugendmedienschutz (Commission for the protection of minors in the media - KJM), which comprises 12 representatives of the highest federal and state authorities responsible for youth protection and directors of the Landesmedienanstalten (state media authorities), decided that the Freiwillige Selbstkontrolle Multimedia-Dienstleister e.V. (FSM) had exceeded its scope of discretionary power in its assessment of the suitability of "JusProg" as a youth protection system within the meaning of Article 11(1) of the Jugendmedienschutz-Staatsvertrag (Inter-State Agreement on the protection of minors in the media - JMStV). The KJM therefore unanimously declared the FSM's assessment invalid in accordance with Article 19b(2) sentence 1 JMStV. On account of its high level of public interest, the measure, which concerned the only youth protection system ever approved by the FSM, was declared immediately enforceable.

JusProg is a filtering program designed to protect children from inappropriate content on the Internet. It is installed on children's devices, with settings according to the child's age (0+, 6+, 12+ or 16+), and checks in the background whether websites visited by the child are age-appropriate. In order for the system to work, the software checks websites and gives them corresponding age ratings. Websites that the system does not recognise are blocked as a precaution below the 12+ setting, but displayed from age 12+ upwards.

According to the KJM, when assessing the system's suitability, the FSM should have taken into account the fact that JusProg does not cover a significant proportion of children's media consumption because it only works on Windows PCs using the Chrome browser. At the same time, providers are strongly favoured by the filtering system since they can distribute their age-rated content without any additional safeguards, even though the mobile devices and operating systems used by most children and young people are unable to read the age ratings.

The KJM believes a youth protection system must work across all platforms and devices and be oriented towards user behaviour. Otherwise, children and young people would not be protected in the areas where they spend most of their time online and there would be a significant gap in protection, which is incompatible

with the objective of an effective youth protection system.

Despite the KJM's decision, the "JusProg" youth protection system can still be used, so providers can continue to label their own websites with an age rating. However, the mere use of an age rating no longer gives them the privileged status that previously applied if they met their obligations under the Jugendmedienschutz-Staatsvertrag, and does not mean their services are compliant with youth protection rules. Rather, as a result of the KJM's decision, in order to ensure their service complies with youth protection law, providers of websites with harmful content must take other measures to make it impossible or very difficult for children and young people to watch such content. According to Article 5(3) JMStV, this can be achieved by imposing time restrictions (for example, making 18-rated programmes only available between 11 p.m. and 6 a.m.) or using other technical barriers (for instance, a youth protection PIN or an age check based on an identity card number).

Pressemitteilung der KJM vom 15. Mai 2019

<https://www.kjm-online.de/service/pressemitteilungen/meldung/news/kjm-stellt-fest-beurteilung-der-fsm-zur-eignung-von-jusprog-als-jugendschutzprogramm-ist-unwirksa>

