[NL] Modification of the Media Act and the Dutch Penal Code, and Revocation of the Act on Film Showings

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Further to the «Television without Frontiers» Directive a bill was introduced on 11 October 1999 to modify the Media Act and the Dutch Penal Code (PC), as well as to revoke the Act on Film Showings. The objective of this bill is to better protect young people against audio-visual images which are harmful for them. The starting-point of the proposal is self-regulation. Each audio-visual product will be classified on account of the possible harmfulness of exhibition to the young, under the responsibility of the area of business which puts the products in question on the market. The proposal adopts an interrelated approach of all relevant audio-visual media. In addition to the system of self-regulation, a legal safety net is offered. This safety net is composed of the modified version of Article 240a PC and the modifications of the Media Act. The purpose of Article 240a PC is to prevent persons under the age of 16 from being confronted by harmful images. The criterion of harmfulness must be objectified, which means that showing the image would be considered to be harmful for the relevant age group and that the harmfulness has to be proven.

Showing television programs which are harmful to the young is not covered by this article. However, Article 52d paragraph 1 of the Media Act fully excludes those parts of television programs which would severely harm any person under 16 years of age either physically, mentally or morally. With regard to those parts of television programs which indeed can harm young people, but which do not produce serious harm, transmission of the program cannot be forbidden in its entirety. Therefore, paragraph 2 of the article offers a framework for a system of self-regulation, in which broadcasting organisations and external experts will formulate classification criteria and rules of execution and create conditions to apply these consistently. To this end Article 53 paragraph 1 of the Media Act allows for the creation of an organisation which can examine after the fact whether the programs comply with the criteria. Considering that this system of self-regulation and classification also applies to other suppliers of audio-visual products, such as cinemas and video stores, the Act on film showings will become redundant. On the basis of the Act on film showings, an independent organ of the government takes care of the classification of age for feature films. Under the new policy this is considered to be a task for the media producer. Considering the developments within the audio-visual sector, it is most probable that an independent organisation for self-regulation will be set up. It is recommended that the demands made in the Act on film showings with regard to the publication of

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the age-limits and the consequences thereof for showing films to the young, be embodied in full in the regulations drawn up by this self-regulatory organisation.

Kamerstukken II 1999/2000, 26841, nrs. 1-3 en A.

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