German regulator opens proceedings against Twitter over pornographic content

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At the end of last year, the Medienanstalt Hamburg/Schleswig-Holstein (Hamburg/Schleswig-Holstein Media Authority – MA HSH), one of the 14 media regulators of the German Bundesländer, announced that it had instigated proceedings against social networking platform Twitter on account of breaches of provisions on the protection of minors in the media. According to the MA HSH, the US-based company, whose European headquarters are in Ireland, had already been asked to improve its youth protection procedures and the MA HSH had threatened further measures, possibly involving the Irish regulator, if Twitter failed to act.

Twitter is a social microblogging service in which registered users create a profile in order to post short, telegram-style messages in the form of images and text. Under standard settings, these so-called 'tweets' are visible to the public, that is, they can be viewed by users who are not registered with Twitter themselves. The MA HSH said that it had found freely accessible pornographic content within a number of profiles and tweets, including profiles advertising sexual services and products (sexcams, porn films), some of which contained photographs and videos clearly depicting sexual acts.

According to German legislation on the protection of minors in the media, telemedia content is illegal if it is pornographic and if the provider has not ensured through appropriate mechanisms, such as closed user groups, that it is only accessible to adults (Articles 4(2)(1) and 24(2) of the Jugendmedienschutzstaatsvertrag – Inter-State Agreement on the protection of minors in the media). However, the MA HSH did not believe Twitter had taken such measures. It was true that Twitter's 'sensitive media policy' required users who wanted to share content that was unsuitable for minors in live video or in profile or header images to mark their account as 'sensitive', which meant that a warning message would appear before the content was displayed. However, this warning could easily be dismissed and also relied on the active cooperation of the user who posted the content. In the MA HSH's opinion, the age verification process was therefore inadequate.

The MA HSH reported the profiles concerned to Twitter so they could be deleted or suspended – a measure that, according to Twitter's sensitive media policy, is

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expressly reserved for “accounts dedicated to posting sensitive media” and “sending someone unsolicited [...] adult content”. However, the MA HSH claimed that Twitter, referring to Irish law, had failed to comply with its request. The regulator therefore announced that, unless Twitter complied swiftly, it would, with the help of the Kommission für Jugendmedienschutz (Committee for the protection of minors in the media), take further steps to ensure that Twitter received a fine and a prohibition notice, and, if necessary, consult the Irish regulators through the European Regulators Group for Audiovisual Media Services (ERGA).

Pressemitteilung der MA HSH

https://www.ma-hsh.de/infothek/pressemitteilung/pornografie-auf-twitter-ma-hsh-leitet-verfahren-gegen-plattform-ein.html

MA HSH press release

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