[DE] Discussion draft on the amendment of state youth protection treaty published

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Christina Etteldorf
Institute of European Media Law

On 15 March 2022, the *Rundfunkkommission* (Broadcasting Commission) of the German *Bundesländer*, which acts as a joint discussion forum and decision-making body on media policy and related legal questions for the Heads of the State and Senate Chancelleries, adopted proposals to reform the *Jugendmedienschutz-Staatsvertrag* (Interstate Treaty on the Protection of Minors in the Media – JMStV). The proposals were published in the form of a discussion draft and a consultation procedure was opened.

The reforms, which focus in particular on the improvement of technical measures to protect young people in the media in Germany, aim to enhance existing youth protection systems and link them together to make them as effective as possible. This new approach is designed to protect young people across multiple devices through systems that are easy to set up and configure. It places particular emphasis on operating systems and apps, since many children and young people use these to access the media.

According to the JMStV, where telemedia (i.e. all online media that are not broadcasting or telecommunications services) are concerned, certain services (e.g. simple pornography, certain content classified under the *Jugendschutzgesetz* (Youth Protection Act) and content harmful to minors) are only admissible if the provider ensures that they are only accessible to adults. This rule on so-called ‘closed user groups’ is expanded under the proposals, with the result that, in the future, the *Kommission für Jugendmedienschutz* (Commission for the Protection of Minors in the Media – KJM), in consultation with certified voluntary self-regulation bodies, will define the measures that must be taken to ensure that such closed user groups are set up, while providers will be able to submit their systems to a self-monitoring body for their suitability to be checked. The same rules will be created for technical systems that display age ratings (6, 12, 16 or 18) for services that are likely to impair the development of minors. A similar system already applies in relation to the age-appropriate design of youth protection software in the JMStV. The proposals also state that risks linked to the use of media services, that are likely to impair the personal integrity of children and adolescents, should be highlighted through optical and readable labels.

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The most important new provisions concern operating systems (defined in the new draft as system software that controls the basic functions of hardware or software and makes it possible to use software applications that provide access to services) and apps (defined as software-based applications that can be used to directly control telemedia programmes or content). According to the proposed new Article 12 JMStV, operating systems that are commonly used by children and young people must have a youth protection mechanism that can be easily, accessibly and safely set up, activated and deactivated. Operating systems must inform users that the youth protection features can be switched on when they are first used, when the features are first activated, and each time the operating system or youth protection features are updated, as well as assist with the activation process. The youth protection features must include the ability to set an age rating so that (i) the safe search function of the most commonly used online search engines is activated whenever a browser is used (browsers that do not have such a function will then not be accessible), (ii) apps can only be installed through the system's own sales platform and (iii) installed apps can only be accessed in accordance with the relevant age rating. If an app does not have an age rating or is not recommended for the age category set on the device, or if external browsers or apps (from a different sales platform) are used, access should only be granted on an individual, secure basis, and it should be possible to switch them off. Here also, the KJM, in consultation with the certified voluntary self-regulation bodies, will determine the criteria that should be met by the youth protection mechanism and safe search facility.

Under a new Article 12a JMStV, providers of apps that can be downloaded from an operating system's native sales platform must provide an age rating for their apps that can be read by the operating system.

Providers of apps and operating software should only process the captured data in order to meet their obligations under the JMStV and must delete it immediately each time the software is accessed.

The public consultation on the discussion draft will close on 20 June 2022.

Diskussionsentwurf zur Novellierung des Jugendmedienschutz-Staatsvertrages (JMStV), Stand: April 2022

https://www.rlp.de/fileadmin/rlp-stk/pdf-Dateien/Medienpolitik/04-22_JMStV-E_Anhoerung.pdf

Discussion draft on the amendment of the Interstate Treaty on the Protection of Minors in the Media, April 2022

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