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Publisher:

European Audiovisual Observatory
76, allée de la Robertsau
F-67000 STRASBOURG

Tel. : +33 (0) 3 90 21 60 00
E-mail: obs@obs.coe.int
www.obs.coe.int

Comments and Suggestions to: iris@obs.coe.int

Executive Director: Susanne Nikoltchev

Maja Cappello, Editor • Sophie Valais, Amélie Lacourt, Olivier Hermanns, Justine Radel, Deputy Editors (European Audiovisual Observatory)

Documentation/Press Contact: Alison Hindhaugh

Tel.: +33 (0)3 90 21 60 10

E-mail: alison.hindhaugh@coe.int

Proofreading of machine translations:

Aurélie Courtinat • Paul Green • Marco Polo Sarl • Nathalie Sturlèse • Erwin Rohwer • Sonja Schmidt • Ulrike Welsch

Proofreading of original texts:

Olivier Hermanns and Amélie Lacourt • Linda Byrne • David Windsor • Aurélie Courtinat • Barbara Grokenberger

Web Design:

Coordination: Cyril Chaboisseau, European Audiovisual Observatory

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# EDITORIAL

If you are a parent of young children and have watched series like *Adolescence* or *Defending Jacob*, you may have felt uneasy and fearful for your children's mental health. The harms caused by social media are increasing, and nobody has yet found the magic formula to counteract them.

There are different recent developments that deserve mentioning here. For starters, the Commission has presented guidelines on the protection of minors, as well as a prototype of an age-verification app under the Digital Services Act (DSA). These aim to ensure that children and young people can continue to enjoy the opportunities the online world offers, while minimising the risks they face online, including exposure to harmful content and behaviours.

Media literacy is also a useful tool to help children defend themselves from online evil. Over in Cyprus, the Radio Television Authority has been actively promoting media literacy by holding seminars for students and teachers. Topics such as ethical and responsible online behaviour and the ability to critically evaluate information, especially in relation to fake news, resonated strongly with participants. A key factor in the project’s success was its wide accessibility and pedagogical flexibility, which allowed educators to select topics from a curated list based on the specific needs and interests of their students.

Meanwhile, the French courts have suspended an order requiring age verification for users accessing 17 different pornographic websites. This follows the Conseil d'État's decision to refer questions to the CJEU for a preliminary ruling on whether certain French legal provisions aimed at protecting minors online are compatible with the objectives of the E-Commerce Directive.

Otherwise, if you've ever wanted to know more about the concrete measures taken by European countries to ensure that our children and young people benefit from safe screens, then take a look at our AVMSDigest - Safe screens: protecting minors online.

Enjoy the read (and the summer)!

Maja Cappello, Editor

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# INTERNATIONAL

## COUNCIL OF EUROPE

## European Court of Human Rights: New judgment again finds a violation of Article 10 for unjustified interference with a journalist's work

*Tarlach McGonagle*
*Institute for Information Law (IViR), University of Amsterdam*

For the second time in the space of a couple of months, the European Court of Human Rights (Fifth Section) has found a violation of a journalist's right to freedom of expression in Armenia. In its judgment in *Gevorgyan v. Armenia* of 22 May 2025, the Court found a violation of Article 10 of the European Convention on Human Rights as a result of the arrest of a journalist while performing her professional work and the temporary confiscation and inspection of her camera while in custody, without justification. In its judgment in *Hayk Grigoryan v. Armenia* (3 April 2025, IRIS 2025-6:1/16), the Court had also found that a similar interference with a journalist's work amounted to a violation of Article 10.

On 12 February 2014, the applicant journalist was covering a leaflet-distribution event by the Armenian National Congress (ANC), an opposition political party, in Yerevan. A group of young people – supporters of the government – disrupted the event with aggressive behaviour. Police arrived at the scene and arrested members of both groups. Video footage shows police officers trying to pull an object out of the hands of the applicant, who resisted, shouting at them to let go of her camera and that she was a journalist. She was subsequently arrested and spent three hours in custody. At the police station, she was searched and her belongings, including her camera and memory cards, were taken for inspection. Her belongings were later returned to her (for which she signed a receipt) and she was released. The applicant later claimed that one of the memory cards was not returned to her and that three other memory cards were damaged during the inspection.

The applicant was appalled by the behaviour of the police officers and she filed a criminal complaint. The investigator subsequently decided not to prosecute the accused police officers for lack of *corpus delicti* in their actions – a decision which was upheld by a prosecutor. The applicant's appeals against the decision to discontinue the case were rejected, in turn, by the District Court, the Criminal Court of Appeal and the Court of Cassation.

Before the European Court of Human Rights, the applicant claimed that her rights under Article 3 (prohibition of torture) and Article 10 had been violated. As is often the case, the applicant and the State authorities differed in their respective

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versions of the facts of the case. Notwithstanding the availability of video footage, it was not possible for the Strasbourg Court to determine with certainty, for example, whether the police officers continued to try to grab the applicant's camera after they had arrested her, or whether one memory card had indeed been stolen and three others damaged during the inspection. Be that as it may, the Court still reached two main conclusions in respect of Article 3 and Article 10.

The authorities claimed that the police officers had removed the applicant from the scene as she was obstructing traffic on the road. The physical force used by the police officers caused a pea-sized bruise on the applicant's wrist. The Court considered several elements carefully, in particular: "the applicant's not having been under the control of the police officers or the target of the police force, the very brief nature of the encounter, which was minimal in intensity, the absence of any, or at least any obvious, intention on the part of the police officers to humiliate the applicant, their attitude as observed in the video footage provided to the Court, as well as the very minor nature of her injury". These elements led the Court to find that the conduct of the police officers did not reach the threshold of degrading treatment required to trigger Article 3 and it rejected the applicant's claim based on the same article as manifestly ill-founded.

As for the claim based on Article 10, the Court did not dwell on the need to determine all the finer factual details, insisting instead on the basic principle of non-interference with journalistic work. It held: "the fact remains that a journalist was arrested and her journalistic equipment was temporarily retained and inspected without her having behaved in a manner that could have justified resort to such measures". It elaborated that "there is nothing in the case file to indicate that the applicant belonged to the quarrelling crowd, hindered the actions of the police arresting the activists or obstructed the traffic, which might have justified her being taken into police custody and the subsequent police measures applied in her respect".

***Gevorgyan v. Armenia, no. 231/16, 22 May 2025. ECLI:CE:ECHR:2025:0522JUD000023116***

https://hudoc.echr.coe.int/eng?i=001-243188

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# European Court of Human Rights: Public interest in non-removal of online videos showing verbal aggression of a homophobic nature

*Tarlach McGonagle*
*Institute for Information Law (IViR), University of Amsterdam*

The European Court of Human Rights' judgment in the case of *Străisteanu v. the Republic of Moldova* adds to the growing body of case-law that underlines the importance of freedom of expression in the context of debate on matters of public interest. The case concerned the online posting and non-removal of videos showing verbal aggression of a homophobic nature. The Fifth Section of the Court delivered its judgment on 5 June 2025.

On several occasions over the course of a few days in May 2017, T.P., a lawyer and university Professor, verbally abused the applicant, also a lawyer, whose clients included an NGO involved in organising the Pride Festival in Chișinău. The verbal abuse included insults and threats, apparently motivated by the applicant's defence of persons belonging to the LGBTQ+ community and her presumed sexual orientation. The applicant filmed the verbal abuse. The applicant's office and T.P.'s apartment were located next to each other and they opened onto a communal courtyard. In the same period, oil was poured across the courtyard to the door of the applicant's office and on the wall of the office. The applicant filmed this too. The applicant posted these videos on her Facebook account to document the homophobic abuse to which she was being subjected. The videos were covered by various media and they generated considerable attention at the time (around 60,000 views), although the interest in the videos abated as time went on. The applicant filed a complaint with the police and contacted the President of the Union of Lawyers about T.P.'s behaviour.

The Ethics and Disciplinary Committee of the Union of Lawyers initiated proceedings against T.P., which it subsequently terminated due to procedural shortcomings. T.P., for his part, registered a complaint against the applicant at the National Centre for Personal Data Protection ('the Centre'), arising from the publication of his image and voice on Facebook without his consent. The Centre found in T.P.'s favour and ordered the applicant to remove the impugned videos. The applicant appealed the decision before the administrative courts, but her appeals were successively rejected. The courts considered the case to be a (private) dispute among neighbours and not a relevant topic of public interest. Meanwhile, the Centre had also charged the applicant with minor offences arising from the online posting of the impugned videos. The Chișinău Court discontinued that misdemeanour procedure, holding that the facts did not constitute an offence. The court moreover held that the Centre had failed to balance the competing rights involved, namely T.P.'s right to privacy and the applicant's right to freedom of expression. The Chișinău Court proceeded to conduct the balancing

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exercise and gave due weight to the public interest in the videos – depictions of homophobic aggression just before the Pride Parade was due to be held in Chișinău.

Having exhausted all domestic remedies, the applicant lodged an application with the European Court of Human Rights in respect of the ruling that she had to remove the videos from her Facebook page. The Strasbourg Court noted approvingly, albeit *obiter*, that the Chișinău Court had engaged in a proper balancing of the competing rights involved in the case and had given appropriate weight to the public interest. Although that decision was not part of the present application, the Court nevertheless dwelt on the reasoning employed by the domestic court. It noted the following conclusions: "the videos revealed homophobic acts committed on the eve of the Pride march, against a personality known for their activities in defence of sexual minorities; the case provoked a strong reaction in society; the videos contributed to a debate of general interest and were a means of raising public awareness of the problem of intolerance towards LGBTQ+ minorities and the dangers of homophobic remarks and actions; there was a European consensus on the need to combat homophobic acts and remarks; the applicant had therefore acted within the limits of her right guaranteed by Article 10 of the Convention in order to protect the rights of the LGBTQ+ community".

The Court found that the national administrative courts had failed to conduct a proper balancing of the interests and rights involved, using the Court's established criteria; and that they had not examined the necessity of the interference with the applicant's right to freedom of expression. Furthermore, it found that the national administrative courts had not taken into account the tone of T.P.'s words (which were "violent, licentious and homophobic") or the context in which they were uttered. In light of these reasons and the conclusions of the Chișinău court in the other proceedings, the Court considered that T.P.'s remarks "amounted to homophobic acts and that they conveyed a categorical message of intolerance and hatred towards an entire group, namely sexual minorities".

For the above reasons, the Court held that the national administrative courts' finding that the conflict between the applicant and T.P. lacked any public interest did not have a solid basis. Media interest in the videos and public reaction to them both attested to the public interest in the subject matter. By posting the videos on her Facebook page, the applicant – as a well-known activist for the LGBTQ+ community - was playing a public watchdog role for the purpose of Article 10. The order to remove the videos therefore led to a unanimous ruling by the Court that the applicant's right to freedom of expression had been violated.

***Străisteanu v. the Republic of Moldova, no. 9989/20, 5 June 2025. ECLI:CE:ECHR:2025:0605JUD000998920***

https://hudoc.echr.coe.int/fre?i=001-243369

*Străisteanu v. the Republic of Moldova, no. 9989/20, 5 June 2025. ECLI:CE:ECHR:2025:0605JUD000998920*

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# EUROPEAN UNION

## European Commission guidelines on the protection of minors

*Amélie Lacourt*
*European Audiovisual Observatory*

On 14 July 2025, the European Commission published the final version of its guidelines on the protection of minors, following the publication of a draft in May 2025 (IRIS 2025-6:1/13). The guidelines aim to safeguard minors and ensure their privacy, safety, security and well-being on digital platforms under the Digital Services Act (DSA). They address the risks that children face online, including grooming, exposure to harmful content, problematic and addictive behaviours, cyberbullying, and harmful commercial practices. The development of the guidelines involved consultation with youth, civil society, regulators, online platform providers and the Better Internet for Kids (BIK+) initiative.

The guidelines will apply to all online platforms accessible to minors, meaning any service under-18s are likely to access, regardless of the stated minimum age in the platform's terms and conditions. The only exception is for micro and small enterprises.

The guidelines include a non-exhaustive list of measures to protect minors, including regarding:

- Age assurance methods: Encouragement to adopt robust, reliable, and non-intrusive age verification tools, using the upcoming EU Digital Identity Wallet or the blueprint for age verification as a reference standard

- Content moderation: Strengthened moderation and reporting tools and improved parental control systems

- Recommender systems: Adapting algorithms to reduce exposure to harmful content by prioritising explicit user signals over behavioral data, and empowering children to control their feeds

- Well-being: Disabling by default features that promote excessive use (e.g., communication "streaks", "read-receipts", autoplay) and introducing safeguards around AI chatbots

An important principle from the guidelines is the integration of privacy-, safety- and security-by-design in the design, development and operation of the services. In light of this, providers are required to:

- Set minors' accounts to private by default, reducing exposure to unsolicited contact by strangers

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- Limit visibility of minors' content and prevent download or screenshotting by other users, reducing risks of unwanted distribution of sexualized or intimate content and sexual extortion

- Restrict features that exploit minors' lack of commercial literacy, (manipulative advertising, loot boxes, or certain virtual currencies

The guidelines further require online platforms to carry out periodic risk reviews, identifying risks faced by minors on their services and the effectiveness of the existing measures. These reviews should in particular consider:

- The likelihood of children accessing the platform

- Potential impact on privacy, safety, and security

- The impact of any additional new protective measures on children's rights

While voluntary, the guidelines will serve as a reference for assessing compliance with Article 28(1) of the DSA.

***Guidelines on measures to ensure a high level of privacy, safety and security for minors online***

https://ec.europa.eu/newsroom/dae/redirection/document/118226

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# European Parliament publishes study on generative AI and copyright

*Eric Munch*
*European Audiovisual Observatory*

On 9 July 2025, the European Parliament published a study, requested by the JURI Committee, examining how generative AI challenges core principles of EU copyright law.

The study highlights the legal mismatch between AI training practices and current text and data mining exceptions, and the uncertain status of AI-generated content. These developments pose structural risks for the future of creativity in Europe, where a rich and diverse cultural heritage depends on the continued protection and fair remuneration of authors. The report calls for clear rules on input and output distinctions, harmonised opt-out mechanisms, transparency obligations, and equitable licensing models. Furthermore, the author of the report indicates that the European Parliament is expected to lead reforms that reflect the evolving realities of creativity, authorship and machine-generated expression, to balance innovation and authors' rights.

The recommendations made in the study are based on four key ideas to achieve a future-proof legal framework. First, they aim to close regulatory gaps, particularly around transparency, remuneration and traceability. Second, they aim at clarifying normative boundaries, including authorship standards, liability attribution and the distinction between data analysis and content reproduction. Third, the recommendations aim to reinforce safeguards and procedural protections, through interpretative guidance, technical standards, and interoperable disclosure mechanisms. Lastly, they aim at fostering inclusive governance, through structured dialogue, educational resources, and investments in lawful training datasets.

The study also provides illustrative trajectories, previsions based on the full or partial implementation of this study's recommendation or on continued inaction. The first, it is estimated, would lead to legal certainty, remuneration and robust EU participation model development. The second would lead to a litigious status quo, yielding case-by-case ruling, weak incentives and market marginalisation. The third option would lead to creative erosion, with regulation inaction allowing for unchecked AI use, market extraction, and collapse of sustainable creative industries.

***Generative AI and Copyright - Training, Creation, Regulation***

https://www.europarl.europa.eu/thinktank/en/document/IUST_STU(2025)774095

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# NATIONAL

## BELGIUM

## [BE] Report on the impartiality of Flemish public broadcasting reports

*Olivier Hermanns*
*European Audiovisual Observatory*

The Flemish Media Regulator (VRM) recently published a report on the impartiality of news reporting by VRT, the public broadcaster of the Flemish Community of Belgium. The report was drawn up at the VRM's request by the University of Antwerp's *Media, Middenveld en Politiek* (Media, Civil Society and Politics – M²P) unit.

The report is based on monitoring of television news, current affairs and election programmes broadcast by VRT during 2024 and compares the results with those of the private broadcaster VTM.

The monitoring exercise covered the news programmes available in the *Elektronisch Nieuwsarchief* (Electronic News Archive – ENA) database, as well as metadata. It did not use samples, but took all news programmes into account.

The authors highlight the fact that 2024 was an unusual year marked by European, national, regional and local elections, the US presidential elections, as well as conflicts in Ukraine and the Middle East. They note that the results, in line with previous studies, demonstrate a "logic of power" characterised by a focus on political themes and political figures holding an executive office. However, more media attention than in the past was focused on party presidents. In addition, the far-right and far-left opposition parties in the Flemish Parliament received more coverage than in previous years. Although they received more speaking time than before, the report's authors point out that, compared with the governmental coalition parties, this was still below the level merited by their share of the vote. However, this was not the case where election broadcasts were concerned: here, the extreme-right Vlaams Belang party came second in Flanders in terms of speaking time (19.5%).

On the matter of whether the questions asked by journalists during election broadcasts are more critical of or favourable to the politicians interviewed, the report states that neither of these trends is more common than the other.

The study also looks at various indicators for categorising over 2,000 questions put to politicians. These indicators are the number of questions asked, the number of times the politician is interrupted by a journalist while replying, the number of times a question is repeated, the number of questions explicitly

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criticising his or her political party's position and the number of closed questions asked.

All political parties, including the radical ones, appear to be treated equally. The study does, however, highlight certain differences in approach between VRT and its private competitor, VTM. VRT uses traditional political journalists to ask questions, whereas VTM tends to use people from outside the world of journalism, who speak more freely.

### *Impartiality of VRT news reporting 2024*

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## CYPRUS

# [CY] Media Literacy Seminars conducted by the Cyprus Radio Television Authority

*Antigoni Themistokleous*
*Cyprus Radiotelevision Authority*

Pursuant to article 30C of the Radio and Television Broadcasters Law 7(I)/1998 (as amended) and to article 18D of the Cyprus Broadcasting Corporation Law, Chapter 300A (as amended), Media literacy constitutes a statutory mandate for the Cyprus Radio Television Authority (CRTA). In response to this mandate, *Media Literacy Seminars* project stands out as the most prominent and sustained media literacy intervention of CRTA in the field; it has been implemented in cooperation with the Cyprus Pedagogical Institute for more than 10 years. Its success is attributed to its wide accessibility, as it reaches diverse and large audiences (both in urban and rural areas of the Republic of Cyprus) and its pedagogical flexibility by allowing educators to choose from a curated set of topics according to the needs and interests of their students.

During the 2024-2025 school year the seminars were offered to the largest ever extent; a total of 68 seminars were delivered to 1,049 students, while 81 educators also attended the seminars. The thematic areas addressed focused on:

- Recognising and resisting misinformation, disinformation, and fake news: In this seminar, pupils discuss different news articles and are encouraged to reflect on the criteria they take into consideration to evaluate the reliability and accuracy of the information. By the end of the seminar, they understand the need to verify news and information, especially in the online environment and are aware of fundamental criteria to evaluate source credibility (both in terms of the author and the media) and the content of media messages.

- Protecting our digital footprint and online reputation: This seminar aims at developing students' digital skills and competencies and emphasises the necessity to protect personal data in the digital sphere, to recognise how digital footprint and online reputation are constructed and safeguarded.

- Being an ethical and responsible netizen: This seminar helps pupils to understand their rights and responsibilities when they navigate the digital environment, to take advantage of the opportunities online, while they also recognise the risks and efficiently and effectively address them. Ultimately, it seeks to enhance users' ethical digital engagement.

- Critical analysis and interpretation of advertising content and media messages: This seminar helps pupils to think critically about the construction of advertisements and to understand how different elements, such as colour, music,

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images, text, heroes are chosen to satisfy the purposes and goals of the creators. In this light they are urged to challenge stereotypical representations and to recognise and decode commercial intentions.

The most well-received seminar topics at primary education were those aimed at fostering ethical and responsible online behaviour, as well as enhancing pupils' ability to critically analyze and interpret advertising content and media messages. Whereas, at secondary education level the seminar that attracted the greatest interest focused on identifying and resisting misinformation, disinformation, and fake news.

The seminars are aligned with two fundamental pillars of media literacy theory: one refers to protection and concentrates on identifying potential dangers and risks of exposure to harmful media content and conduct. The other underlines empowerment – in this case of pupils as participants – and focuses on providing pupils with essential knowledge, critical thinking, and skills to become active and ethically responsible users of media in such a way that civic participation and active engagement are strengthened. In this light, the Media Literacy Seminars project reflects a proactive regulatory approach and demonstrates CRTA's regulatory commitment to fostering media literacy in the Republic of Cyprus.

***Περί Ραδιοφωνικών και Τηλεοπτικών Οργανισμών Νόμος 7(I)/1998 (όπως τροποποιήθηκε μεταγενέστερα), Άρθρο 30Γ***

https://www.cylaw.org/nomoi/enop/ind/1998_1_7/section-sc8759c4fe-8dd2-9faa-5322-93068b659547.html

*T he Radio and Television Broadcasters Law 7(I)/1998 (as amended), Article 30C*

https://www.cylaw.org/nomoi/enop/ind/1998_1_7/section-sc8759c4fe-8dd2-9faa-5322-93068b659547.html

***Περί Ραδιοφωνικού Ιδρύματος Κύπρου Νόμος, Κεφ. 300Α (όπως τροποποιήθηκε μεταγενέστερα), Άρθρο 18Δ***

https://www.cylaw.org/cgi-bin/open.pl?file=nomoi/enop/ind/0_300/section-scc3485fad-382f-a933-1e8a-e3c98089726e.html

*The Cyprus Broadcasting Corporation Law, Chapter 300A (as amended), Article 18D*

https://www.cylaw.org/cgi-bin/open.pl?file=nomoi/enop/ind/0_300/section-scc3485fad-382f-a933-1e8a-e3c98089726e.html

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## GERMANY

# [DE] Cologne Regional Court declares Netflix price increases unlawful

*Sandra Schmitz-Berndt*
*Institute of European Media Law*

On 15 May 2025, the *Landgericht Köln* (Cologne Regional Court – *LG Köln*) ruled in the second instance (case 6 S 114/23) that price increases for monthly usage fees may not be made unilaterally by a provider, but require the customer's express consent.

In the case at hand, a user had sued the streaming service provider Netflix for imposing three subscription price increases and demanded a refund of the overpayments. Price increases in December 2017, June 2019 and May 2021 meant that the price of the premium subscription originally purchased for EUR 11.99 per month had risen to EUR 17.99 per month. Contrary to the opinion of the *Amtsgericht Köln* (Cologne District Court) in the first instance, the regional court ruled that the plaintiff was not obliged to pay the higher price. It found that no agreements to increase the price had been concluded and that the original subscription had not been unilaterally amended in a valid way.

The court ruled that, in order to be effective, a contract amendment needed to be sufficiently specific and accepted by the customer. The use of a pop-up window with the option to click an "Agree to price increase" button did not fulfil these requirements. The price change was actually dependent on the customer's will, i.e. it needed to be voluntary. However, in a text box accompanying the "Agree to price increase" button, Netflix made it clear that the monthly price would be increased on a certain date. The amount and start date of the price increase had therefore already been fixed and the customer did not need to be involved. In its terms of use, Netflix also reserved the right to change the subscription prices at its reasonable discretion. In this regard, the court stated that, in a case where a provider had reserved a unilateral right to amend the contract in accordance with its general terms and conditions, the customer could all the more assume that an "Agree to price increase" button would merely implement this right and bring it to the customer's attention. Therefore, the customer had not declared effective acceptance of an offer, but had merely expressed the belief that they were obliged to do so.

Consequently, the validity of the price increase depended on whether the price adjustment clause in Netflix's general terms and conditions allowed the original contract to be unilaterally amended. The court initially found that the price adjustment clause unreasonably disadvantaged customers as it only allowed price increases and not price reductions. Furthermore, the contractual relationship – as was usual with streaming services – could be cancelled at short notice, meaning that there was no compelling reason for the clause and therefore no legitimate

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interest on the part of the provider. Netflix could react to cost increases by means of a change of contract notice and could not free itself from the risk of having to face competition by making a new offer in the context of a change of contract notice at its customers' expense. Prices were also not dependent on short-term, highly volatile markets such as electricity or gas, meaning that flexible pricing via such a clause was not justified. The price adjustment clause was therefore deemed invalid.

The Cologne Regional Court's decision is one of a number of decisions on the streaming service provider's price adjustment clauses, none of which have withstood a review of its general terms and conditions.

Previously, in November 2023, the *Kammergericht Berlin* (Berlin Court of Appeal), in injunction proceedings brought by consumer associations against Netflix's price adjustment clause, had ruled that unilateral intervention in a negotiated contract via such a clause was only permissible if there was a legitimate interest. In this case, however, there was no such interest for the aforementioned reasons. The *Bundesgerichtshof* (Federal Court of Justice), which also dealt with the matter in January and February 2025 following Netflix's appeal against the decision not to admit its appeal and its appeal for a hearing (case no. III ZR 407/23), emphasised that customers were unreasonably disadvantaged if price adjustment clauses allowed a provider to increase the initially agreed price without limitation beyond passing on specific cost increases, thus not only avoiding a reduction in profit but also generating additional profit.

In the specific case before the Cologne Regional Court, Netflix was obliged to reimburse the overpayments to its customer.

### *Entscheidung des LG Köln vom 15.5.2025*

https://nrwe.justiz.nrw.de/lgs/koeln/lg_koeln/j2025/6_S_114_23_Urteil_20250515.html

*Decision of the Cologne Regional Court of 15 May 2025*

https://nrwe.justiz.nrw.de/lgs/koeln/lg_koeln/j2025/6_S_114_23_Urteil_20250515.html

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# [DE] KIM Study 2024 sheds light on children's Internet use

*Sandra Schmitz-Berndt*
*Institute of European Media Law*

On 3 June 2025, the *Medienpädagogische Forschungsverbund Südwest* (mpfs), a research body acting on behalf of the *Landesanstalt für Kommunikation Baden-Württemberg* (Baden-Württemberg state media authority), the *Medienanstalt Rheinland-Pfalz* (Rhineland-Palatinate state media authority) and Südwestrundfunk (SWR), published its 15th study on childhood, Internet and media (KIM Study 2024). In a parent-child survey conducted as part of the study, 1,225 children aged between 6 and 13 were asked about their own and their family's media usage, leisure activities and interests. The results show that Internet use is a natural part of everyday life for many children and that more than half of the children who are online use the Internet on a daily basis. Compared with the KIM Study 2022, the report shows that the prevalence of Internet-enabled devices continues to increase, while the number of devices that can only be used offline is declining. Televisions, Internet access and smartphones are available in virtually all the households surveyed. Around 70% of families use streaming services and smart TVs. Around 60% own tablets, computers or home video game consoles. A third use digital voice assistants or special children's music boxes (e.g. Toniebox). As far as children's own media devices are concerned, the smartphone is the most widespread at 46%, with ownership increasing significantly with age. For example, 80% of 12- to 13-year-olds have their own smartphone. A third of children have their own television and Internet access, 25% own a handheld game console and 22% own a home gaming console. Children's music boxes are used by 20% of children, 13% of them have a laptop and 11% can access streaming services in their own room. As with smartphones, the number of personal devices increases with age. The KIM study shows that children regularly engage in both analogue and digital leisure activities, with a clear trend towards increasing media use as they get older. Meeting up with friends and watching TV are among the most common leisure activities (94% each), with TV remaining the most common media leisure activity and 67% of children watching TV every day. In addition to linear TV channels, a huge range of other video offerings are available. These include media libraries, YouTube, streaming services and social media. Overall, online video consumption is continuing to increase, while reading and listening to the radio are still declining. Socialising with friends is the most popular leisure activity, playing outdoors is in second place and digital gaming in third, equal with playing sport. Children are increasingly using media, especially digital games, mostly alone. While 59% of them surf the Internet alone, around half watch streaming content, research online for school or play alone on the computer. When it comes to joint activities with parents, listening to the radio dominates (57%), followed by school research (38%) and watching DVDs/Blu-rays (33%). Watching DVDs/Blu-rays or playing on game consoles are the most common activities with peers and siblings. The KIM study also looks at actual smartphone and Internet use, which also

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increases with age. The most popular Internet applications are WhatsApp and online videos/streaming. According to parents, the duration of daily media use is 62 minutes for television and 40 minutes for streaming services, while only 19 minutes are spent reading books.

The KIM study clearly shows that children today are growing up in a highly mediatised world; digital devices, especially interactive whiteboards and tablets, are also being used more in schools. However, this high level of media consumption also comes with risks. For example, children report seeing content that they were too young for, as well as anxiety-inducing or unpleasant content, with the frequency of such experiences also increasing with age. As a result, the study shows a shift towards more digital leisure activities and more individualised use of on-demand rather than linear offerings. In this context, the study recognises the growing importance of YouTube as particularly relevant. On this platform, age-appropriate and non-age-appropriate content can be found side by side, with children barely able to distinguish between them. The study criticises the fact that technical child protection systems are not yet being used consistently enough. Social media platforms are also being used on a daily basis by children under the official minimum age. In view of the risks and challenges associated with increased media use, the KIM study particularly emphasises the responsibility of parents to actively support their children as they enter the digital world, as well as the duty of platform providers to make their services child-friendly and safe.

### *KIM-Studie 2024*

https://medienanstalt-rlp.de/fileadmin/materialien/KIM-Studie_2024.pdf

*KIM Study 2024*

https://medienanstalt-rlp.de/fileadmin/materialien/KIM-Studie_2024.pdf

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# [DE] Public value determination procedure for content discoverability on user interfaces completed

*Christina Etteldorf*
*Institute of European Media Law*

At the beginning of June 2025, the German state media authorities completed a procedure for the second time to determine which media content should be treated as “public value” offerings on media platforms’ user interfaces, i.e. which content must be easy to find. In addition to 73 nationwide video, audio and telemedia offerings, 247 local, regional and state-wide offerings were awarded public value status. With a total of 320 offerings, this is 49 more than in the first determination procedure, which, according to the media authorities, demonstrates the high relevance of the discoverability rules.

The public value determination procedure is based on Article 84 of the *Medienstaatsvertrag* (state media treaty – MStV). This stipulates that user interfaces such as smart TVs must make all broadcast programmes they provide directly accessible and easy to find at the first selection level. Certain channels, such as those of public service broadcasters, must be particularly easy to find, along with private channels that “make a significant contribution to the diversity of opinions and offerings in Germany”. A similar rule exists for telemedia offerings, i.e. certain forms of online media. However, the state media authorities determine who receives this public value status. The criteria for assessing a service’s importance for diversity include the proportion of news content and regional information it provides, accessibility, European production quotas, the proportion of content for younger audiences, etc.

Further details on this and rules on the procedure can be found in the state media authorities’ *Public-Value-Satzung* (public value statute), which requires broadcasters and telemedia providers to apply for public value status for individual programmes through a tendering procedure. The *Kommission für Zulassung und Aufsicht* (Commission on Licensing and Supervision – ZAK), as the central body of the media authorities, decides on the applications and the compatibility of the offerings with the criteria set out in Article 84 MStV. The first public value determination procedure, completed in 2021, was only valid for three years.

The public value determination procedure ensures that decisions on which media content is easier to find are not made exclusively by user interface providers. As part of the media system in Germany, which ensures the separation of state and media, the state media treaty requires the state media authorities to guarantee a wide diversity of opinions and offerings when making private media offerings easy to find. The media authorities believe that true diversity only exists if, for example, informative, independent and high-quality journalistic and editorial offerings are easy to find. Public value status also makes the huge diversity of socially relevant local and national providers more visible. In the media

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authorities' opinion, this diversity is the best media-related protective shield for German democracy. The large number of broadcasters that have received public value status demonstrates the industry's need for better discoverability.

The lists of services that must be easy to find will be published on the media authorities' website, probably in autumn 2025. These will then need to be taken into account by user interface providers. With the procedure now complete, the media authorities once again recommend a non-discriminatory sorting based on a sequential list.

### *Dokumente zum Public-Value-Status*

https://www.die-medienanstalten.de/aufgaben/vielfaltssicherung/public-value/

*Documents on public value status*

https://www.die-medienanstalten.de/aufgaben/vielfaltssicherung/public-value/

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## DENMARK

# [DK] New Danish production rebate

*Terese Foged*
*Legal expert*

Production discount schemes are an increasingly competitive parameter in film and series production. Therefore, Denmark has decided to strengthen the country's competitiveness in a global industry where films and series have become a powerful tool to tell stories, shape national identities and create economic growth. According to the political agreement of 10 June the new Danish production rebate scheme will come into force in 2026.

The scheme decided upon is organised as a reimbursement scheme, where 25% of eligible costs for production in Denmark can be reimbursed to the applicant.

A broad political majority has agreed on a production discount scheme for film and series production. DKK 125 million, equivalent to EUR 16.6 million, per year has been set aside for the scheme. It is divided into a pool of DKK 100 million for series, films and documentaries and a pool of DKK 25 million for animation.

In order to attract big blockbusters with weight and impact, the following minimum requirements have been set for the total budget of a production to be eligible for the production discount:

- Films: DKK 25 million

- Documentaries: DKK 4 million

- Animation: DKK 6.5 million

- Series: DKK 150 000 per minute and minimum DKK 15 million

To prevent a small number of larger productions from exhausting the pool, a ceiling of DKK 20 million, equivalent to EUR 2.7 million, has been set for support for any one production. This means that the scheme is attractive for larger, international productions, but also for Danish productions.

Further, according to the political agreement, the eligible costs are defined, to ensure that the support is granted to productions that locate a significant proportion of their production in Denmark. Thus, the minimum requirements for eligible costs are as follows:

- Films and series: DKK 3 million

- Documentaries: DKK 1 million

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- Animation: DKK 3 million

There will be two application rounds per year, where the selection of productions that can participate in the scheme will be based on objective criteria, including a production and culture test that rewards productions with many shooting days in Denmark and that make use of the strong Danish film industry and talent pool. Thus, the production and culture test will be using a scoring system to support works with a Danish cultural focus and specific production conditions.

It is further agreed that the production and culture test must accommodate the different conditions that apply to live action, animation and documentary. Animation and documentaries will be assessed according to separate criteria in the test in order for them to apply for the scheme on an equal footing with other productions.

The productions from the two pools with the highest scores in the test will be prioritised first when funding is awarded. Once these have achieved eligible costs of 25% or have reached the ceiling mentioned above, the productions with the next highest number of points will be prioritised and so on, until the pool of funds for the application round is exhausted.

The scheme also aims to attract capital for Danish productions from abroad. Therefore, each production must have a financing plan where at least 25% of the production's total budget comes from a foreign financing source.

The scheme funds are applied for based on an estimated budget for the costs associated with production in Denmark. However, 70% of the funding for the production's total budget must be confirmed at the time of applying for funding from the scheme. This ensures that funding is awarded to productions that can actually be realised.

Finally, it appears from the agreement that the support must target productions with experienced producers. Therefore, the main producer of each production must have produced at least one film, series, documentary or animation production with wide distribution in order to qualify for the scheme.

The scheme will be administered by the Agency for Culture and Palaces. The Danish Film Institute will promote the scheme internationally.

### *Aftale om produktionsrabat*

https://kum.dk/fileadmin/_kum/1_Nyheder_og_presse/2025/Aftale_om_produktionsrabat.pdf

*Agreement on production rebate*

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## FRANCE

# [FR] Question on determination of categories of persons subject to age verification system obligation rejected

*Amélie Blocman*
*Légipresse*

Webgroup Czech Republic AS and NKL Associates SRO raised a priority question of constitutionality in support of their requests for the annulment of decision no. 2024-20 of 9 October 2024 of the *Autorité de régulation de la communication audiovisuelle et numérique* (the French audiovisual regulator – ARCOM). The ARCOM decision concerns the reference framework for determining the minimum technical requirements applicable to age verification systems designed to prevent minors from accessing pornographic content, and was issued in accordance with Article 10(I) of the Law of 21 June 2004. The two companies claim that Article 10-2 of the aforementioned law infringes the principle of the individual nature of penalties enshrined in Articles 8 and 9 of the 1789 Declaration of the Rights of Man and of the Citizen in that it states that the said reference framework only applies to publishers of online communication services and video-sharing platform service providers, to the exclusion of "trusted third parties" brought in to ensure the "double anonymity" imposed by this reference framework, as established by the decision of 9 October 2024, and thus means that these publishers and providers may be fined for breaches that are not personally attributable to them.

The *Conseil d'Etat* (Council of State) noted that the mechanism for determining the categories of persons required, due to the nature of their activity, to implement age verification systems meeting the minimum technical requirements determined by the reference framework established by ARCOM was based on the second paragraph of Article 10(I) of the Law of 21 June 2004. The sole purpose of Article 10-2 was to specify the scope and conditions of application of these provisions, which depended on whether the persons concerned were established in France or outside the European Union on the one hand, or in another EU Member State on the other.

In these circumstances, the *Conseil d'Etat* held that the applicant companies, which had not intended to focus their priority questions of constitutionality on the provisions of the second paragraph of Article 10(I) of the Law of 21 June 2004 (which had, in any event, been declared to be in conformity with the Constitution in the grounds and operative provisions of the Constitutional Council's decision of 17 May 2024), could not validly complain that the provisions of Article 10-2 of the same Law infringed constitutional rights and freedoms by only requiring publishers of online communication services and video-sharing platform service providers to meet the technical requirements laid down under the reference framework established by ARCOM.

These questions did not need to be referred to the Constitutional Council because they were not considered new or serious.

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***CE, 10 juin 2025, n° 499624, Webgroup Czech Republic AS et a.***

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-06-10/499624

*Council of State, 10 June 2025, no. 499624, Webgroup Czech Republic AS et al*

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-06-10/499624

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# [FR] Rejection of application for annulment of decree on removal of terrorist content online

*Amélie Blocman*
*Légipresse*

A number of associations are seeking the annulment, on grounds of ultra vires, of decree no. 2023-432 of 3 June 2023 implementing Articles 6-1-1 and 6-1-5 of Law no. 2004-575 of 21 June 2004 on confidence in the digital economy (as amended by the Law of 16 August 2022), and Regulation (EU) 2021/784 of 29 April 2021 on addressing the dissemination of terrorist content online. This decree designates the administrative authority with jurisdiction to issue injunctions for the removal of terrorist content, specifies the procedures for exchanging information between the authorities concerned and lays down the procedural rules for appeals against such injunctions.

First of all, the *Conseil d'Etat* (Council of State) held that, contrary to the claims of the applicant associations, the contested decree did not authorise automated processing of personal data. The argument that the decree had been issued under an irregular procedure that disregarded the procedures established by the Law of 6 January 1978 was rejected.

On the merits, the associations challenged in particular the one-hour deadline given to hosting service providers to implement removal orders, which they considered incompatible with the right to an effective remedy and freedom of expression.

The *Conseil d'Etat* ruled that, although the one-hour time limit made it impossible in practice for a court to suspend the injunction before it had been executed, this in itself did not constitute a disproportionate infringement of the freedom of expression of the authors of the content in question, since Article 9 of the Regulation of 29 April 2021 provided that hosting service providers who had received a removal order, as well as content providers affected by such an order, were entitled to an effective remedy and required member states to put in place effective procedures for the exercise of this right.

The *Conseil d'Etat* also dismissed complaints relating to the specific measures imposed by Article 5 of the Regulation to prevent the further dissemination of terrorist content, ruling that they were defined in a sufficiently precise, targeted and proportionate manner, without imposing a general obligation to monitor content.

Lastly, the *Conseil d'Etat* rejected the allegation that the right to an effective remedy had been infringed, since the remedies provided for under domestic law, including before the administrative courts within restricted time-limits, met the requirements of European Union law.

The applicant associations and foundations therefore had no grounds for seeking the annulment of the decree on grounds of ultra vires.

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***CE, 16 juin 2025, n° 478441, La Quadrature du net et a.***

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-06-16/478441

*Council of State, 16 June 2025, no. 478441, La Quadrature du net et al.*

https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2025-06-16/478441

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# [FR] Suspension of order requiring age verification of users of 17 pornographic websites

*Amélie Blocman*
*Légipresse*

The operator of the xHamster website asked the interim relief judge to suspend the order of 26 February 2025 identifying, pursuant to Article 10-2 of the Law of 21 June 2004, 17 online video-sharing websites operated by providers established in another EU member state and requiring them to implement an effective age verification system for users of their sites that broadcast pornographic content, subject to financial penalties and blocking or delisting measures ordered by the *Autorité de régulation de la communication audiovisuelle et numérique* (the French audiovisual regulator – ARCOM).

Since, firstly, the *Conseil d'Etat* (Council of State) had considered it necessary to refer questions to the Court of Justice of the European Union (CJEU) for a preliminary ruling on the compatibility of Articles 10, 10-1 and 10-2 of the Law of 21 June 2004 with the objectives of Directive 2000/31/EC, having regard to the CJEU's interpretation of its provisions in its judgment of 9 November 2023 (Google Ireland Ltd and others), and secondly, the Paris Court of Appeal had stayed proceedings on the application to block the xHamster website pending the CJEU's response because it was likely to affect the outcome of the dispute, the interim relief judge ruled that the administration must be regarded as having issued an act whose compatibility with EU law was in serious doubt. This doubt was sufficient in itself to create an urgent situation without it being necessary to rule on the other grounds for suspending the contested order as a matter of urgency.

The Paris appeal court ruled that the claims that Article 10-2 of the Law of 21 June 2004, on the basis of which the contested order had been made, was incompatible with Directive 2000/31/EC because it failed to comply with the procedure laid down in Article 3(4)(b) of that directive, which requires a Member State intending to restrict a service provided from another Member State to give prior notification of its intention both to the state in which the provider was established and to the European Commission, gave rise to serious doubt as to the legality of the contested order.

As the two conditions of Article L. 521-1 of the Code of Administrative Justice were met (urgency to suspend execution of the order and existence of serious doubt as to its legality), the interim relief judge ruled that the order of 26 February 2025 should be suspended.

***TA Paris, 16 juin 2025, n° 2514377, Hammy Media LTD (décision non définitive)***

*Paris appeal court, 16 June 2025, no. 2514377, Hammy Media LTD (decision not yet final)*

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# UNITED KINGDOM

## [GB] Implementation of age verification requirements under the Online Safety Act 2023

*Alexandros K. Antoniou*
*University of Essex*

The UK's communications and online safety regulator, Ofcom, announced the implementation of new requirements obligating all online platforms that host pornographic content to deploy 'highly effective' age assurance measures by 25 July 2025. This regulatory shift stems from the Online Safety Act 2023 and aims to prevent minors from accessing harmful content, including pornography, while safeguarding adult users' rights to access legal material.

**Scope of application, implementation and compliance requirements**

The new age verification regime will apply broadly across the digital landscape, encompassing dedicated adult content websites, as well as platforms where pornography might appear incidentally, including social media, dating platforms, and gaming services. This marks a significant tightening of the UK's regulatory approach to content accessibility and positions age assurance as a central pillar of child protection online.

The introduction of these measures is grounded in new empirical evidence gathered by Ofcom, which indicates that 8% of children aged 8–14 in the UK accessed pornographic content online within a single month. Notably, 3% of children as young as 8–9 years old were exposed to such material. The data also highlights significant gender disparities, with 19% of boys aged 13–14 having visited pornographic services compared to 11% of girls in the same age group. These findings prompted urgent calls for intervention. Ofcom reports that 80% of UK adults support age verification for online pornography as a means to protect children.

Under the new framework, services must ensure that pornographic content cannot be accessed before users' ages are reliably verified. Specifically, Ofcom requires that age check processes are 'technically accurate, robust, reliable and fair'. Passive methods such as tick-box declarations or user self-certification will no longer be permissible.

Ofcom defines 'highly effective' age assurance to include both age verification and age estimation techniques. Acceptable methods may include, for instance:

· Facial age estimation using biometric technology;

· Open banking data to verify age through financial institutions;

· Digital identity wallets;

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· Credit card validation as proof of adult status;

· Email-based age estimation leveraging linked account activity;

· Mobile network data to confirm the absence of age restrictions;

· Photo ID matching combining document upload with facial comparison.

Providers may implement these directly or via specialist third-party age assurance services. They are also required to publish clear information about the nature of the checks used and how user data is handled.

Although the age assurance measures require the handling of sensitive personal data, Ofcom emphasises that they must comply with UK data protection legislation. Oversight lies with the Information Commissioner's Office (ICO), which will coordinate with Ofcom to ensure that users' privacy rights are upheld. Online services must maintain internal documentation demonstrating how their practices comply with data protection rules and minimise risk to personal information. This framework is designed to mirror existing societal norms regarding age-restricted goods in the offline environment, like alcohol and tobacco, while making suitable adjustments for the digital context.

**Industry adoption and enforcement**

In advance of the deadline, major pornographic platforms with UK audiences, including PornHub (the most visited porn service in the UK), RedTube, YouPorn and others, have confirmed their commitment to implementing compliant age checks. Several other smaller platforms have reportedly done so as well, reflecting broader industry alignment with the regulatory direction.

Earlier in May 2025, Ofcom launched investigations into porn providers suspected of non-compliance, highlighting a more proactive enforcement stance. The regulator has the authority to impose substantial financial penalties (up to £18 million or 10% of global qualifying revenue, whichever is higher) for non-compliance. In more serious cases, Ofcom may seek court orders to sanction third parties, including internet service providers, potentially leading to site access restrictions or blocks within the UK.

**Extension to broader harmful content**

The regulatory measures are not limited to pornography. From the same date, namely 25 July 2025, a wider cohort of online services, including social media and gaming platforms, must take steps to prevent children from encountering other categories of harmful content, such as material promoting suicide, self-harm, and eating disorders.

Where platforms rely on algorithmic recommender systems and pose a *medium or high* risk, they are required to configure these systems to avoid serving harmful content to child users. The *riskiest* services must incorporate highly effective age assurance to distinguish adult users from minors and tailor their content moderation practices accordingly.

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Providers may either follow Ofcom's Children's Codes or take alternative action that demonstrably meets the legal standard of care to mitigate the risks their services pose to children.

Ofcom has committed to publishing a detailed report in 2026 evaluating the effectiveness of current age verification technologies and providing further regulatory guidance. This ongoing review is intended to ensure that the legal framework remains effective, proportionate, and responsive to both industry capabilities and societal expectations.

### *Age checks for online safety*

https://www.ofcom.org.uk/online-safety/protecting-children/age-checks-for-online-safety--what-you-need-to-know-as-a-user

### *UK's major porn providers agree to age checks from next month*

https://www.ofcom.org.uk/online-safety/protecting-children/uks-major-porn-providers-agree-to-age-checks-from-next-month

### *Ofcom's Children's Passive Online Measurement study*

https://www.ofcom.org.uk/siteassets/resources/documents/online-safety/research-statistics-and-data/protecting-children/ofcom-childrens-passive-online-measurement.pdf?v=399299

### *Ofcom enforcement programme to protect children from encountering pornographic content through the use of age assurance*

https://www.ofcom.org.uk/online-safety/protecting-children/enforcement-programme-to-protect-children-from-encountering-pornographic-content-through-the-use-of-age-assurance

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# [GB] Ofcom consultation on a review of changes to the Broadcasting Code

*Julian Wilkins*
*Wordley Partnership*

Following the High Court judicial review decision, *R (GB News Ltd) v. Ofcom* [2025] EWHC 460 (Admin), brought by GB News and challenging Ofcom's application of section 5 of the Broadcasting Code relating to due impartiality, the regulator launched a consultation which closed on 23 June 2025 entitled "Politicians presenting news: consultation on proposed amendment to Rule 5.3 of the Ofcom Broadcasting Code" (the Consultation).

The High Court decision determined that GB News was allowed to use Jacob Rees-Mogg (who was an MP at the time) to act as a newsreader in a news programme without exceptional justification. The court determined that Mr Rees-Mogg presented news during a current affairs discussion programme whereby news was incidental to the debate rather than a programme devoted to news coverage. The High Court determined that Ofcom had inaccurately interpreted the wording of section 5 and quashed Ofcom's decision.

Ofcom's original decisions centred around two episodes of *Jacob Rees-Mogg's State of the Nation*, a one-hour programme broadcast four times per week on the GB News channel and presented by Rees-Mogg. In one programme on 9 May 2023 the MP had interrupted his normal topical discussion format to read a "breaking news" bulletin covering the decision in civil proceedings in the US against President Trump, whilst in a later episode broadcast on 13 June 2023 he had once again diverted away from his normal format to cut live to a GB News security correspondent in Nottingham for an update on a breaking news story.

Ofcom had determined that Mr Rees-Mogg had acted as a newsreader in breach of section 5 of the code. It further considered that, because Rule 5.3 had been breached, it also constituted a *de facto* breach of the impartiality obligation at Rule 5.1.

Both Ofcom and GB News agreed that *Jacob Rees-Mogg's State of the Nation* was a current affairs programme as it is defined in the code. GB News disagreed with Ofcom's contention that it was *also* a news programme even though part of the programme was devoted to news presentation.

Section 5 of the code currently (i) requires that "news, in whatever form, must be reported with due accuracy and presented with due impartiality" (Rule 5.1)*;* and (ii) prohibits any politician from being used "as a newsreader, interviewer or reporter in any news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience" (Rule 5.3)*.*

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The use of the term "programme" is intended to separate items contained within a service into *distinct* categories by subject matter. News programmes are one category, and specific provisions apply to such programmes. Current affairs programmes and religious programmes are examples of other categories, with specific provisions applying to those. The High Court found that a programme could not be *both* a news programme and a current affairs programme.

Ofcom's subsequuent consultation concerns a proposed amendment to Rule 5.3 of the code. The Consultation's proposed change is that the code prohibits politicians acting as newsreaders, news interviewers or news reporters in *any type of programme*, except where there is exceptional editorial justification, and the broadcaster has made the political allegiance of that person clear to the audience.

Ofcom considers this change necessary to ensure the impartiality and accuracy of broadcast news content in whatever category it is presented. As part of the Consultation, it considers freedom of expression and the general impact upon consumers and citizens.

The Consultation's proposed prohibition on politicians will still require broadcasters to exercise a judgment as to when a politician presenter may be used as a "newsreader", "news interviewer" or "news reporter" in the above-mentioned circumstances.

The Consultation is the first review of section 5 since the Code's inception in 2005.

Ofcom intends to publish a statement in September 2025 in response to the Consultation responses.

### *R (GB News Ltd) v. Ofcom [2025] EWHC 460 (Admin)*

https://www.judiciary.uk/judgments/gb-news-v-ofcom/

### *Politicians presenting news: consultation on proposed amendment to Rule 5.3 of the Ofcom Broadcasting Code*

https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-3-4-weeks/consultation-politicians-presenting-news/main-documents/politicians-presenting-news-consultation.pdf?v=396619

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## NETHERLANDS

# [NL] Court grants preliminary relief in a dispute between the public broadcaster and the Dutch Media Authority

*Valentina Golunova*
*Maastricht University*

On 16 June 2025, the District Court of Central Netherlands issued a preliminary relief ruling, holding that the Dutch public broadcaster AVROTROS does not have to grant the Dutch Media Authority (*Commissariaat voor de Media*) access to two confidential research reports concerning workplace safety.

The request for preliminary relief was brought by AVROTROS following the Media Authority's request to inspect the reports regarding social safety and governance within the organisation drawn up by external parties in 2023. These reports formed the basis for AVROTROS's action plan, which was developed in view of the findings of the research committee investigating the work environment at public broadcasters, chaired by former minister Martin van Rijn. In 2024, the committee established that broadcasters had failed to combat widespread physical and verbal harassment of their staff members. The Media Authority argued that access to AVROTROS's reports outlining the outcomes of these investigations is essential for it to be able to exercise its supervisory role. To that end, it referred to its Supervision Approach 2024, under which the Media Authority committed to a closer scrutiny of the quality of the establishment and the proper functioning of the risk management processes for promoting a safer work environment. While AVROTROS shared the recommendations of both reports with the Media Authority, it refused to disclose the reports due to concerns regarding the privacy of its employees, who had cooperated on the reports on condition that their input remained confidential. AVROTROS also believes the issue of workplace safety at public broadcasters to be outside of the Media Authority's competence. As AVROTROS had failed to provide access to the reports, the Media Authority proceeded to impose a penalty.

In granting preliminary relief, the court established that AVROTROS had an urgent interest in preserving the confidentiality of its reports due to the irreversible consequences of their publication and inspection. However, the court avoided ruling on the scope of the Media Authority's powers. This matter will be addressed in the substantive proceedings by a multi-member chamber. Until then, AVROTROS is not obliged to hand over the reports, and the Media Authority may not impose a fine on AVROTROS for refusing to comply with its request.

***District Court of Central Netherlands, preliminary relief ruling of 16 June 2025, ECLI:NL:RBMNE:2025:2849***

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# [NL] Dutch Media Authority adopts new policy rule on classification of on-demand commercial media services

*Valentina Golunova*
*Maastricht University*

On 28 May 2025, the Dutch Media Authority published a new policy rule on the classification of on-demand commercial media services (2025 Policy Rule). It replaces the previous policy rule adopted in 2022, which covered a narrower group of video uploaders subject to the active supervision of the Media Authority. The final version of the 2025 Policy Rule reflects the outcomes of public consultation that followed the publication of the draft in March 2025 (IRIS 2025-4:1/15).

The 2025 Policy Rule aims to put into effect the provisions of the Dutch Media Act of 2008. This act was amended in 2020 in the course of the implementation of revised Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in member states concerning the provision of audiovisual media services (Audiovisual Media Services Directive). A service qualifies as an on-demand commercial media service and is subject to active supervision if, in addition to falling within the definition of Article 3.29a of the act, it also meets the criteria set out under the policy rule. The previous policy rule determined that audiovisual media made available through the use of a video platform service offered by a third party, for which the video uploader bears editorial responsibility, can constitute an on-demand commercial media service under certain circumstances. In order to clarify which video uploaders are subject to Dutch media law, the policy rule included a decision tree featuring five cumulative criteria. However, the scope of the Media Authority's active supervision was limited to video uploaders with at least 500 000 followers. This criterion has now been revised. The new criteria under the 2025 Policy Rule are as follows:

1. a video uploader has an account on YouTube, TikTok and/or Instagram;

2. a video uploader has posted at least 24 videos in the past 12 months;

3. a video uploader benefits from making or publishing videos on their account;

4. the benefit gained by the video uploader from making or publishing videos accrues to a business registered with the Chamber of Commerce.

Importantly, the 2025 Policy Rule exempts video uploaders with less than 100 000 followers from the obligations to report to the Media Authority regularly and to pay a supervision fee. At the same time, they must comply with other provisions under the Media Act, including rules on advertising, sponsorship, product placement and the protection of minors against harmful audiovisual media content. In the event of an infringement, the Media Authority may take enforcement action.

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The adoption of the new policy rule was prompted by the latest developments within the online media environment, such as the growing popularity of micro-influencers. It also contributes to one of the commitments under the Media Authority's multi-year strategy, namely, to promote a safe online environment for young people.

***Policy Rule of the Dutch Media Authority for the classification of on-demand commercial media services (Policy Rule for the classification of on-demand commercial media services of 2025)***

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## SWEDEN

# [SE] New rules on the purchase of sexual acts making acts performed remotely illegal

*Erik Ullberg & Amanda Jonsson*
*Wistrand Advokatbyrå, Gothenburg*

On 1 July 2025, amendments to Chapter 6, Sections 11 and 12 of the Swedish Penal Code entered into force. These legislative changes expand the scope of criminal liability for the offences of purchase of sexual services and procuring to also encompass acts performed remotely, i.e., without physical contact, for example via webcam or other digital means. Although the revised statutory provisions do not explicitly refer to acts performed remotely, the legislative intent is that such conduct, through modifications to other constituent elements of the offences, shall be included.

The reasons behind the amendments included a degree of legal uncertainty as to whether the previous wording of the provisions covered remotely performed acts. As guiding case law is lacking in this area, the legal ambiguity suggested that, under the previous framework, courts were likely to be precluded from applying the provisions to remote sexual transactions due to the principle of legality. However, as sexual offences committed remotely are considered just as serious as physical offences, and due to the development of internet-based platforms, the previous wording was deemed inappropriate. The amendments criminalising the aforementioned offences thus constitute a step towards adapting the legislation to today's digital reality. As of 1 July 2025, it is illegal to pay someone to perform sexual acts remotely, for example via video, livestream or on-demand clips. Expanding the scope of criminal liability for procuring also makes it illegal to promote or profit from such acts. However, for such conduct to be deemed illegal, the person paying for the acts must be able to influence the content. If the paying party is not able to influence the content, for example if the material is pre-recorded, the provisions remain inapplicable.

### *Brottsbalk (1962:70)*

https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/brottsbalk-1962700_sfs-1962-700/#K6

*Criminal Code (1962:70)*

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## SLOVAKIA

# [SK] Amendments to Statute on Media Services enter into force

*Andrei Richter*
*Comenius University (Bratislava)*

Amendments to the 2022 Statute of Slovakia “On Media Services and on Adoption of Amendments to Certain Statutes” (the Statute on Media Services, see IRIS 2023-2:1/10) were adopted by the National Council (Parliament) of the Slovak Republic on 27 June 2024, and partially entered into force on 28 June 2025. Their purpose is to align national legislation with the Digital Services Act (Regulation (EU) 2022/2065).

The amendments expand the mandate of the Council for Media Services (RpMS), the current national regulation authority (NRA) in Slovakia, beyond audiovisual media to include intermediary services, online platforms, and internet search engines. As of 28 June 2025, the mandate of RpMS is to provide state regulation in the field of broadcasting, retransmission, provision of on-demand audiovisual media services, provision of content sharing platforms, provision of information society services which are intermediary services ("intermediary services"), provision of online intermediary services, and provision of online search engine services – to the extent defined by the Statute on Media Services (para 108). Supervision of compliance with the legal regulations governing these fields is also now part of the mandate (para 109).

The amendments provide that the RpMS becomes the competent authority designated as Digital Services Coordinator (DSC) in the sense of the EU Digital Services Act (DSA). According to the amendments to the Statute on Media Services (para 110), that includes an obligation to participate in the work of the European Digital Services Board, and make decisions:

- to certify the body where the out-of-court dispute resolutions shall take place, and to revoke this certification (in the sense of Art. 21 of the DSA);

- to award, suspend and cancel the status of a “trusted flagger” (in the sense of Art. 22 of the DSA);

- to award the status of “vetted researcher” and to terminate the access of a “vetted researcher” to data (in the sense of Art. 40 of the DSA).

New articles of the Statute on Media Services (133a-133g) detail certain procedures and activities of the Slovak national regulation authority to enable its new functions, including effectiveness of the supervision in the field (inspection rights, cooperation with the governmental institutions, interim measures, compliance, etc.). New Article 145b establishes the amounts of fines that shall be

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imposed on providers of intermediatory services, providers of online intermediary services and providers of online search engine services in case of the violations of the Statute: they may reach 6 percent of the provider’s global annual turnover.

***Zákon ktorým sa mení a dopĺňa zákon č. 264/2022 Z. z. o mediálnych službách a o zmene a doplnení niektorých zákonov (zákon o mediálnych službách) v znení neskorších predpisov a o zmene a doplnení niektorých zákonov, N 203/2024, 27 June 2024***

https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/2024/203/

*Statute On Additions to the Statute N 264/2022 on Media Services and on Adoption of Amendments to Certain Statutes (Statute on Media Services), as amended, and on amendments to certain acts*

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## UNITED STATES OF AMERICA

# [US] Lawsuit filed by Disney & Universal against Midjourney

*Justine Radel-Cormann*
*European Audiovisual Observatory*

Disney and Universal filed a lawsuit against Midjourney for direct and secondary copyright infringement before the United States District Court for the Central District of California on 11 June 2025 (under the Copyright Act (17 U.S.C. § 101 et seq.). It is the first case brought by major Hollywood studios against a generative AI company.

In the complaint sent to the Court, the plaintiffs argue that Midjourney directly reproduces, publicly displays, and distributes reproductions and derivative works of Disney and Universal content.

For instance, if a Midjourney user enters the prompt “Chewbacca, screenshot from movie”, it appears that the genAI accesses data about Disney’s copyrighted works stored by the genAI, and then reproduces, displays and makes available for download an image output looking similar to Disney’s Chewbacca.

The complaint lists various examples of prompts whose results display images similar to Disney’s works.

The plaintiffs argue that Midjourney copied their works to train its system without obtaining permission from the plaintiffs. Consequently, the outputs created by Midjourney are copies and derivative works of Disney’s and Universal’s work. According to the complaint, Midjourney’s conduct usurps the Plaintiffs’ control over the exercise of their exclusive rights in their Copyrighted Works, interfering with the Plaintiffs’ exploitation and licensing strategies.

In case Midjourney argues that it is not the direct infringer of Disney’s and Universal’s copyrighted works but its own subscribers, the plaintiffs plead in the alternative that Midjourney is still liable for secondary copyright infringement as Midjourney has the right and ability to exclude copyrighted works from its training data, and has the ability to control its subscribers' prompts.

***Disney Enterprises and others v. Midjourney, Case No. 25-5275***

https://www.courthousenews.com/wp-content/uploads/2025/06/disney-ai-lawsuit.pdf

***US Copyright Act, Copyright Law of 1976***

https://www.wipo.int/wipolex/en/legislation/details/3923

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