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ACT RELATING TO THE PROTECTION OF MINORS AGAINST HARMFUL AUDIOVISUAL PROGRAMMES

LOV-2015-02-06-7

Entry into force: 01.07.2015

Chapter 1 Introductory provisions

Section 1 (The objective of the Act)

The objective of the Act is to protect minors against the harmful effects of exposure to moving images.

Section 2 (Definitions)

The following definitions apply in this Act:

- a) *minors*: persons under the age of 18
- b) *audiovisual programme*: a set of moving images, with or without sound, that constitutes a defined unit
- c) *related material*: material which is made available before, during or after an audiovisual programme, including advertising, advertising for upcoming audiovisual programmes, trailers, etc.
- d) *videogram*: a disk, record, magnetic tape or other carrier of information containing stored information capable of reproducing an audiovisual programme
- e) *audiovisual programme distributor*: any party which holds, or has acquired, rights to make audiovisual programmes available on the Norwegian market
- f) *screening facility*: cinemas and other arenas for the public screening of audiovisual programmes
- g) *sales point*: a shop, website or similar point that sells tickets for screenings of audiovisual programmes or grants the general public access to physical videograms through sale or rental, etc.
- h) *harmful content*: portrayals in audiovisual programmes that may have an emotionally harrowing or cognitively disturbing effect on the wellbeing of minors
- i) *seriously harmful content*: portrayals in audiovisual programmes that may have a strong emotionally harrowing effect or be particularly cognitively disturbing for the wellbeing of

minors, particularly intimate portrayals of sexual activity, gratuitous violence and other deeply disturbing or frightening themes.

The Ministry may issue regulations on the interpretation of the definitions in this provision.

Section 3 (Scope of application)

The Act applies to the making available of audiovisual programmes to the general public through:

- a) television broadcasts and on-demand audiovisual media services encompassed by the Broadcasting Act
- b) screening at a public gathering in Norway, including at a cinema or other screening facility
- c) the making available of a videogram in Norway when the audiovisual programme is made available by an enterprise that is registered in Norway or has its business address in Norway or by a person who is a Norwegian citizen or resident in Norway, or the decision to make available is made in Norway.

The Act shall also apply to Svalbard and Jan Mayen. The Ministry can issue regulations prescribing exemptions and special rules as required by local conditions.

Chapter 2 Age limits

Section 4 (Age limits)

An audiovisual programme may not be made available without being assigned one of the following age limits:

- a) Permitted for all (“All”)
- b) 6 years
- c) 9 years
- d) 12 years
- e) 15 years
- f) 18 years

Classification shall be based on an assessment of whether the content of the audiovisual programme may be harmful to persons under the given age limit. Audiovisual programmes with seriously harmful content shall have an age limit of 18 years.

An exemption from the age-classification requirement in the first paragraph shall apply to audiovisual programmes that primarily contain:

- a) news and current affairs material
- b) educational and research material
- c) informational material about voluntary, political or religious activities
- d) music-related material
- e) sports-related material
- f) hobby-related, instructional and leisure-related material

g) live broadcasts.

The Ministry may issue regulations introducing additional exemptions from the requirement in the first paragraph.

Section 5 (Setting of age limits for cinema films)

Age limits for cinema films shall be set by the Norwegian Media Authority following prior review. *Cinema films* shall mean audiovisual programmes that are primarily produced for screening in cinemas or other screening facilities.

An exemption from prior review shall apply to cinema films that:

- a) will be screened with an 18-year age limit
- b) will be shown during film festivals and similar cultural arrangements
- c) include locally produced material.

The Norwegian Media Authority may not age-classify cinema films that the Authority considers to be in breach of section 236, section 311 or section 317 of the General Civil Penal Code.

Any party wishing to have an audiovisual programme reviewed by the Norwegian Media Authority shall pay a fee determined by the Ministry.

The Ministry may issue regulations on the prior review and payment of the fee.

Section 6 (Setting of age limits for other audiovisual programmes)

In the case of audiovisual programmes that are not subject to prior review pursuant to section 5, the age limit shall be set by the audiovisual programme distributor.

Age limits set pursuant to section 5 shall be followed in connection with all subsequent making available of the same audiovisual programme for a period of 10 years from the most recent decision date. Classification shall otherwise be undertaken on the basis of guidelines adopted by the Norwegian Media Authority.

The Norwegian Media Authority may by individual decision review age limits set by audiovisual programme distributors pursuant to the first paragraph.

The Ministry may issue regulations regarding exemptions from the requirements in this section and more detailed rules on the preparation of age-classification guidelines.

Section 7 (Duty to provide information)

Prior to the making available of an audiovisual programme, the general public shall be informed of the age limit in a clear and neutral manner.

Information about the age limit of the audiovisual programme shall, as a minimum, be made available in the following ways:

- a) In the case of television broadcasting, the service provider shall specify the age limit acoustically before the programme starts or clearly mark the audiovisual programme

with an age limit throughout its duration. The service provider shall also specify the age limit in programme schedules and electronic programme guides.

- b) In the case of on-demand audiovisual media services, the service provider shall specify the age limit before the individual request is finalised, as well as in presentations and descriptions of the audiovisual programme.
- c) In the case of public screenings, screening and sales facilities shall specify the age limit in advertising and in connection with ticket purchases.
- d) In the case of the making available of videograms, the audiovisual programme distributor shall specify the age limit on the front cover of the videograms.

The Ministry may issue regulations laying down more detailed rules on the duty to provide information, including on exemptions and labelling.

Chapter 3 Age control and other protective measures

Section 8 (Duty to implement protective measures)

Anyone who makes available audiovisual programmes shall implement suitable measures to protect minors against harmful and seriously harmful content.

The Ministry may issue regulations on age control and other protective measures.

Section 9 (Protective measures in connection with television broadcasting)

Audiovisual programmes with seriously harmful content may not be broadcast on television.

The service provider shall, by selecting the time of the broadcast or by any technical measure, ensure that minors will not normally have access to audiovisual programmes with harmful content. News and current affairs programmes shall be exempt from the provisions of this paragraph.

Section 10 (Protective measures in connection with on-demand audiovisual media services)

The service provider shall implement measures to ensure that minors will not normally have access to audiovisual programmes or related material with seriously harmful content.

The service provider shall offer measures that can be activated by a guardian or others acting on behalf of the guardian, to ensure that minors will not normally have access to audiovisual programmes or related material with harmful content. News and current affairs programmes shall be exempt from the provisions of this paragraph.

Section 11 (Protective measures at public screenings)

Screening and sales facilities shall develop procedures for and perform age control in connection with the making available of audiovisual programmes classified pursuant to sections 5 and 6.

Related material shall be adapted to the age limit of the audiovisual programme.

If accompanied by a guardian or others acting on behalf of the guardian, minors may be granted access to screenings of audiovisual programmes with an age limit one category higher than indicated by the minor's actual age. However, the 18-year age limit is absolute.

Section 12 (Protective measures in connection with the making available of videograms)

Sales facilities shall develop procedures for and perform age control in connection with the making available of audiovisual programmes classified pursuant to sections 5 and 6.

Related material shall be adapted to the age limit of the audiovisual programme.

Chapter 4 Supervision and appeals, etc.

Section 13 (Supervision)

The Norwegian Media Authority shall conduct supervision to ensure compliance with the provisions laid down in or pursuant to this Act.

If, during the course of its work, the Norwegian Media Authority becomes aware of an audiovisual programme that infringes section 204 a of the General Civil Penal Code, the matter shall be reported to the police.

Section 14 (Duty to store and duty to deliver)

Audiovisual programme distributors shall retain an audiovisual programme for at least two months after the audiovisual programme was screened publicly for the first time or otherwise made available. If an appeal is made pursuant to section 16, the audiovisual programme shall be stored until the appeal has been settled. If notice is given that legal proceedings have been instituted, the audiovisual programme shall also be stored until the case has been settled with binding legal effect.

Audiovisual programme distributors shall deliver, upon request, audiovisual programmes pursuant to the first paragraph to the Norwegian Media Authority and the Norwegian Media Appeals Board.

The Ministry may issue regulations on the duty to store and the duty to deliver, including on who is covered by the obligation and how storage is to be effectuated.

Section 15 (Duty to provide information)

All persons shall be obliged to provide the Norwegian Media Authority with the information it requires to be able to perform its tasks pursuant to the Act or to fulfil Norway's commitments vis-à-vis a foreign State or international organisation. The requirement may entail providing the information in written form or verbally within a set deadline.

The Ministry may issue regulations on the duty to provide information, including on who is covered by the duty to provide information and what information may be demanded.

Section 16 (Appeals)

Appeals against individual decisions made by the Norwegian Media Authority under this Act shall be dealt with by the Norwegian Media Appeals Board. The Norwegian Media Appeals Board shall not have power to reverse decisions by the Norwegian Media Authority on its own initiative.

Audiovisual programme distributors and the Ombudsman for Children in Norway shall have the right to appeal against decisions concerning the age classification of cinema films made by the Norwegian Media Authority pursuant to section 5. The rules in chapter VI of the Public Administration Act shall otherwise apply.

The Norwegian Media Appeals Board shall be appointed by the King. The King shall appoint the chairperson and deputy chairperson of the Board, and may issue regulations specifying the size, composition and tasks of the Board.

Any legal proceedings shall be addressed to the State, represented by the Norwegian Media Appeals Board.

Section 17 (Limitations on the power of reversal and the power to issue instructions)

The Ministry shall not be permitted to instruct the Norwegian Media Authority or the Norwegian Media Appeals Board in individual cases, or to reverse decisions made by the Authority or the Board pursuant to this Act.

The Ministry may order the Norwegian Media Authority to consider a case.

In cases involving matters of principle or matters of major social significance, the King in Council shall have power to reverse decisions made by the Norwegian Media Authority or the Norwegian Media Appeals Board in accordance with the provisions of section 35, second, third and fifth paragraphs, of the Public Administration Act.

Chapter 5 Penalties

Section 18 (Warning)

If this Act or provisions or conditions laid down pursuant to this Act are violated, the Norwegian Media Authority may issue a warning to the person responsible for the infringement.

Section 19 (Financial penalty)

In the event of infringement of provisions laid down in or pursuant to this Act, or of individual decisions made pursuant to such provisions, the Norwegian Media Authority may impose a financial penalty on the person responsible for the infringement, payable to the State and calculated in accordance with detailed rules laid down by the Ministry.

The Ministry may issue regulations on higher penalties in the event of repeated violation. In special cases, the Norwegian Media Authority may waive imposed penalties.

Imposed financial penalties provide grounds for the seizure of assets. The Ministry may issue regulations on the imposition of financial penalties, including on recovery procedures and payment deadlines. It may be decided that interest shall be paid on an imposed financial penalty.

Section 20 (*Coercive fine*)

To ensure compliance with obligations laid down in or pursuant to this Act, the Norwegian Media Authority may impose a coercive fine on the person responsible. A coercive fine may be imposed when a violation is discovered.

The coercive fine may take the form of an accruing fine or a fixed penalty. In the case of an accruing fine, the Norwegian Media Authority may decide whether the fine is to be set per day, week or month. The coercive fine shall begin to accrue when the deadline for compliance with the obligation has expired. In the case of a fixed-penalty coercive fine, the Norwegian Media Authority may decide that the fine shall fall due for payment on a separately specified deadline for performance of the obligation, if this deadline has expired without compliance with the obligation.

Coercive fines shall be paid into the Treasury for the State, and provide grounds for seizure of assets.

In special cases, the Norwegian Media Authority may reduce or relinquish accrued coercive fines, including interest.

The Ministry may issue regulations on the imposition of coercive fines, including on the conditions for and size of coercive fines and interest in the event of delayed payment.

Chapter 6 Entry into force and amendments to other acts

Section 21 (*Entry into force*)

This Act shall enter into force on the date determined by the King.