

# Germany reforms Online Youth Protection Requirements



## Complex new rules for 2011

With some of the strictest youth protection rules in the world, German video games can be quite different from those sold in other countries. Human opponents become “Androids” and red blood is turned into green lubricant. And, of course, swastikas are out. Too much violence in a game and it’s “listed”, which means you can’t advertise or allow customers to register online without first physically checking their ID cards.

The latest reform of online youth protection regulations will come into effect on 1 January 2011. The reform has everything you would expect from the Germans: strict and complex, but ultimately logical. Importantly, the reform should help game providers looking to publish games in the German market.

## What's changing and what's not?

The German youth protection system has two branches, the Youth Protection Act (YPA) and the State Treaty on Youth Protection in the Media (STYPM). The reforms impact the STYPM part of the rules and there are two areas that will be of particular interest to online game providers.

Firstly, the changes are designed to create more suitable rules for providers of online content by taking into account the increasing convergence of online and offline media. The aim is to make it easier for parents to assume their individual responsibility.

Secondly, binding age ratings will make an appearance in the online world for the first time. These are currently only available for offline media. Providers will be encouraged to make their offerings compatible with youth protection software that parents can install on their home computers.

## Three types of restricted content

German youth protection rules and criminal law distinguish between three types of games content:

- There are games considered inappropriate for a certain age group, or even inappropriate for all minors. These games receive an age rating. Where these games are available online, technology or organizational measures must be taken to prevent children accessing them.
- Games can also be considered youth endangering. This means they are more than just inappropriate for minors. They are considered liable to impair a young person’s sound development and education. These media, which typically include FPS or other action games with a somewhat detailed depiction of violence, blood

and gore, are “listed” by the Federal Department for Media Harmful to Young Persons (FDMY). This means they can only be sold to adults, cannot be publicly advertised, cannot be sold in stores where minors have access, and cannot be made available online unless the provider ensures that only adults are granted access.

- Finally, some games are altogether prohibited in Germany. This includes games sporting excessive levels of gore and violence, or displaying symbols of anti-constitutional organizations like the Nazi swastika or the SS runes. These games can not be advertised, imported, sold or made available online.

Breaches of any of these content restrictions carry administrative fines, and in the case of youth-endangering or prohibited content, even criminal sanctions (see below for details).

## Online age ratings: four degrees of voluntary self-control

While access restrictions apply to both offline and online content unsuitable for a particular age group, binding state-approved age ratings are currently only available for content distributed on physical data media. This excludes online games. It is the provider’s sole responsibility to evaluate its content and implement the appropriate youth protection measures – risking fines or even criminal liability if the authorities take a different view.

The new STYPM introduces a graduated range of age rating mechanisms for online content. Game providers can opt for the scheme that best reflects their individual flexibility and legal security needs. Age ratings are strictly voluntary for any online content, with one exception. If a game is distributed on a physical medium carrying an age rating, the same age rating must be displayed if the game is also distributed digitally.

For any other online content, providers desiring an age rating may (1) rate their content according to their own standards, (2) rate their content using the rating standards of a recognized self-control organization, (3) charge a self-control organization with age rating, or (4) have a government authority approve the age rating established by a self-control organization. The level of protection and the consequences of any mistakes (i.e. too “generous” rating of sensitive content) differ considerably.

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	(1) Provider rating	(2) Provider rating using self-control standards	(3) Self-control organization rating	(4) Government-approved rating
<b>Administrative control of age ratings</b>	Authorities can intervene & impose fines if ratings are inappropriate	Authorities can intervene, but <b>no fines</b>	Authorities must involve with self-control organization, intervention against provider is second step only, <b>no fines</b>	Rating is legally binding, <b>no intervention or fines</b>
<b>Can media be "listed"?</b>	Yes	Yes	Yes	No
<b>Criminal liability</b>	Yes	Yes	Yes	Unlikely, good legal defense arguments

Specific rules apply for sections of a website including user-generated-content, like the forums and chat systems accompanying most MMO games. These areas can receive age ratings, but the provider must ensure that any content inappropriate for the relevant age group is immediately removed.

## Controlling access: invisible labels

Determining the appropriate age group for online content is only the first step. Content providers need to act on the age rating and take appropriate steps to keep out anyone too young to play. Currently methods for restricting access include age verification and blocking routines or disabling access to the content altogether between 6am: and 10pm German time.

The new STYPM provides a new strategy to control access to restricted content. In the future, it will be sufficient to include invisible labels on websites that can be read by filter software installed on customer PCs. Unlike with traditional selective access procedures, the responsibility to use and correctly configure such filters will be with the parents and not with the game provider.

The invisible content labels are based on a key-and-lock principle. Parents can set the youth protection filter software to a certain age level. Only websites that provide the right digital "key" can pass the filter and will be displayed.

## Youth protection breaches

Breaches of youth protection law carry different sanctions and can have civil law consequences. It is a criminal offence to give children access to youth endangering content online or offline. The same applies to any distribution of prohibited material. Breaches of the access restriction requirements for age-rated content carry administrative fines of up to EUR500,000. In addition, any breach of the rules is considered an act of unfair competition, allowing competitors and watchdog organisations to issue costly cease & desist letters or even court injunctions.

## Practical consequences

Age ratings are voluntary under the law. However, the market might make them mandatory. Websites without age rating labels have a very high risk of being blocked out by client filtering software. To ensure highest range and visibility of websites targeted at young customers, it is therefore essential to have an age rating system.

Game providers should seize this opportunity and review the design of their entire web offerings. If a page otherwise suitable for all ages contains one element of content unsuitable for children – like an advertisement promoting the the latest shooter game on a website – the rating for the entire page will go up, hiding it from parts of its intended audience.

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The revised STYPM provides for some quite complex mechanisms, and many details are still unclear. For a more comprehensive look at the reforms and their implications for the games industry please contact:



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