

**Interstate Treaty
on the Protection of Human Dignity and the Protection of Minors
in Broadcasting and in Telemedia**
(Interstate Treaty on the protection of minors – JMStV)

dating from 10 – 27 September 2002
in the version of the 19th Treaty for amending the Interstate Treaties
with regard to broadcasting law
(19th Interstate Broadcasting Treaty)
in force since 01 October 2016

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The State of Baden-Württemberg,
the Free State of Bavaria,
the State of Berlin,
the State of Brandenburg,
the Free Hanseatic City of Bremen,
the Free and Hanseatic City of Hamburg,
the State of Hesse,
the State of Mecklenburg-Western Pomerania,
the State of Lower Saxony,
the State of North Rhine-Westphalia,
the State of Rhineland-Palatinate,
the Saarland,
the Free State of Saxony,
the State of Saxony-Anhalt,
the State of Schleswig-Holstein, and
the Free State of Thuringia

conclude the following Interstate Treaty:

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Section I
General Provisions

Article 1
Objective of the Treaty

This Interstate Treaty provides for the consistent protection of children and adolescents against content in electronic information and communication media which impairs or harms their development or education, and for the protection against content in electronic information and communication media which violates human dignity or other legal goods protected under the German Criminal Code¹.

Article 2
Scope of application

(1) This Interstate Treaty shall apply to broadcasting services and telemedia services within the meaning of the Interstate Broadcasting Treaty.

(2) This provision shall be without prejudice to the Telemedia Act² and to the provisions of the Interstate Broadcasting Treaty³ applicable for telemedia.

Article 3
Definitions

(1) For the purpose of this Interstate Treaty:

1. “content” means programmes or telemedia content;
2. “provider” means a broadcaster or a telemedia provider.

¹ Strafgesetzbuch (StGB) of 15 May 1871, last amended 04 November 2016 – <http://www.gesetze-im-internet.de/stgb/>

² Telemediengesetz (TMG) of 26 February 2007, last amended 21 July 2016 – <https://www.gesetze-im-internet.de/tmg/>

³ Staatsvertrag für Rundfunk und Telemedien (Rundfunkstaatsvertrag – RStV) of 31 August 1991, last amended 3 December 2015 – http://www.die-medienanstalten.de/fileadmin/Download/Rechtsgrundlagen/Gesetze_aktuell/19_RAendStV_english_version.pdf

Article 4

Illegal Content

(1) Without prejudice to any liability under the German Criminal Code, content is illegal if it

1. represents propaganda instruments as defined in Article 86 of the German Criminal Code the content of which is directed against the free and democratic order or the spirit of understanding among nations,
2. uses insignia of organisations which are prohibited under the German Constitution⁴ as defined in Article 86a of the German Criminal Code,
3. incites hatred against parts of the population or against a national, racial, religious or ethnic group, encourages violent or arbitrary action against such a group or violates the human dignity of a person or group by insulting, maliciously degrading or defaming parts of the population or any of the aforementioned groups,
4. denies or plays down acts committed under the National Socialist regime as specified in Article 6 (1) of the International Criminal Code⁵ in a manner suited to disturb the public peace, or disturbs the public peace in a manner violating the dignity of the victims by endorsing, glorifying or justifying the National Socialist regime of arbitrary terror,
5. presents cruel or otherwise inhuman acts of violence against a person in a manner that glorifies or trivialises such acts of violence or presents the cruel or inhuman nature of the act in a manner which violates human dignity; this also applies to virtual presentations,
6. serves as an instruction to any of the acts specified as illegal in Article 126 (1) of the German Criminal Code,
7. glorifies war,

⁴ Grundgesetz für die Bundesrepublik Deutschland (GG) of 23 May 1949, last amended 23 December 2014 – <https://www.gesetze-im-internet.de/bundesrecht/gg/gesamt.pdf>

⁵ Völkerstrafgesetzbuch (VStGB) of 26 June 2002 – <http://bundesrecht.juris.de/bundesrecht/vstgb/gesamt.pdf>

8. violates human dignity, especially by presenting persons who are dying or who are or were exposed to serious physical or mental suffering while reporting actual facts without any justified public interest in such form of presentation or reporting being given; any consent granted in this respect shall be irrelevant,
9. presents children or adolescents in unnaturally blatantly sexual poses; this also applies to virtual presentations,
10. contains pornography involving children within the meaning of Article 184b (1) of the German Criminal Code or contains pornography involving adolescents within the meaning of Article 184c (1) of the German Criminal Code, or is pornographic and has as its subject acts of violence or sexual acts of persons involving animals; this also applies to virtual presentations, or
11. is included in Parts B and D of the list of media harmful to minors pursuant to Article 18 of the German Protection of Young Persons Act⁶ or is wholly or largely identical in content with any work included in this list.

For cases pursuant to numbers 1 to 4 and to number 6 above, Article 86 (3) of the German Criminal Code shall apply *mutatis mutandis*; for cases pursuant to number 5 above, Article 131 (2) of the German Criminal Code shall apply *mutatis mutandis*.

(2) Without prejudice to any liability under the German Criminal Code, content is furthermore illegal if it is

1. pornographic in any other manner,
2. included in Parts A and C of the List pursuant to Article 18 of the German Protection of Young Persons Act, or is wholly or largely identical in content with any work included in this List,
3. evidently suited to seriously impair the development of children and adolescents or their education into self-responsible and socially competent personalities, taking into account the specific effect of the media via which the content is provided.

⁶Jugendschutzgesetz (JuSchG) of 23 July 2002, last amended 03 March 2016 – <https://www.bmfsfj.de/blob/90278/5dfc739d692bf8783141e9b1ec54870a/juschg-englisch-2016-data.pdf>

In deviation from sentence 1 above, content is legal in telemedia services if the provider has ensured that such content is accessible for adult persons only (closed user group).

(3) Upon inclusion of content in the List pursuant to Article 18 of the German Protection of Young Persons Act, the prohibitions pursuant to (1) and (2) above shall remain effective even following major alterations of the content pending a decision by the Federal Review Board for Media Harmful to Young Minors⁷.

Article 5

Content impairing development

(1) Providers transmitting or making accessible content suited to impair the development of children or adolescents into self-responsible and socially competent personalities shall ensure that children or adolescents of the relevant age groups do not normally see or hear such content.

The age groups are

1. 6 years or older,
2. 12 years or older,
3. 16 years or older,
4. 18 years or older.

(2) Content is assumed to be suited to impair development as specified in (1) above if it has not been cleared for children or adolescents of the respective age group under the German Protection of Young Persons Act. Sentence 1 shall apply mutatis mutandis to content which is largely identical with the assessed content. Upon application by a certified organisation of voluntary self-regulation, the Commission for the Protection of Minors in the Media (KJM) shall confirm the age ratings established by such organisation. For the assessment by the KJM, Article 20 (3) sentence 1 and Article 5 sentence 2 shall apply mutatis mutandis. Age ratings which have been established by a certified organisation of voluntary self-regulation and which have been confirmed by the KJM shall be adopted by the supreme state youth authorities for clearing and labelling content which is fully or largely identical in accordance with the Protection of Young Persons Act.

⁷ Bundesprüfstelle für jugendgefährdende Medien (BPjM) – <http://www.bundespruefstelle.de/bpjm/Service/english.html>

(3) A provider may fulfil their obligation pursuant to (1) above by

1. making access and perception of the content impossible or very difficult for children or adolescents of the respective age group via technical or other measures, or by fitting the content with an age rating which can be read by suitable technical systems for the protection of minors pursuant to Article 11 (1) and (2) below,
2. scheduling transmission of or access to the content in a manner devised to ensure that children or adolescents of the respective age group do not normally see or hear the content.

Content which does not impair development may be labelled "no age restriction" and may be transmitted without restrictions.

(4) If an impairment of the development of children or adolescents as specified in (1) above can be assumed, the provider shall be deemed to fulfil their obligation pursuant to (1) above if they transmit or make accessible the content during the period 23.00 hours to 06.00 hours only. This shall apply mutatis mutandis for the provision of content made available during the period 22.00 hours to 06.00 hours only if an impairment of the development of children or adolescents under the age of 16 years is to be assumed. If an impairment of the development of children under the age of 12 years is to be assumed as specified in paragraph (1) above, the wellbeing of younger children shall be given priority in the scheduling of transmission.

(5) If an impairment only of children under the age of 14 years as specified in (1) above is to be assumed, the telemedia provider shall be deemed to fulfil their obligation pursuant to paragraph (1) above if the content is transmitted or made available on-demand separately from content aimed at children.

(6) Paragraph (1) above shall not apply to news broadcasts, current affairs broadcasting and similar content available as telemedia unless no justifiable interest in this specific type of presentation or report exists.

(7) For content reproducing the offers of periodical print products in words and pictures, the restrictions pursuant to (1) sentence 1 above shall apply only after the KJM has established vis-à-vis the provider that the content impairs development.

Article 6

Protection of minors in advertising and teleshopping

(1) Advertising for indexed content is permitted only subject to the terms applicable to the content in question itself. The List of media harmful to minors (Article 18 of the German Protection of Young Persons Act) must not be disseminated or made accessible for advertising purposes. In advertising, there must not be any reference to any pending or completed procedure for the inclusion of content or a data medium with identical content in the list pursuant to Article 18 of the German Protection of Young Persons Act.

(2) Advertising shall not cause any physical or moral detriment to children and adolescents, nor shall it

1. contain direct appeals to buy or rent goods or services directed at children or adolescents exploiting their inexperience and credulity,
2. directly encourage children or adolescents to persuade their parents or others to purchase the goods or services being advertised,
3. exploit the special trust children or adolescents place in parents, teachers or other persons of trust,
4. unreasonably show children or adolescents in dangerous situations.

(3) Advertising the content of which is suited to impair the development of children or adolescents into self-responsible and socially competent personalities shall be transmitted separately from content directed at children or adolescents.

(4) Advertising directed at children or adolescents or advertising in which children or adolescents are involved as actors shall not harm the interests of children or adolescents or exploit their inexperience.

(5) Advertising for alcoholic beverages shall not be aimed at children or adolescents nor specifically appeal to children and adolescents through its presentation, nor show them consuming alcohol.

(6) Paragraphs (1) to (5) above shall apply mutatis mutandis to teleshopping and sponsorship. In addition, teleshopping must not exhort children or adolescents to contract for the sale or rental of goods and services.

Article 7

Appointees for the protection of minors

(1) Providers of television programmes or services covering more than one German state shall appoint an appointee for the protection of minors. The same shall apply to commercial providers of telemedia content which is accessible for the general public and contains content which impairs the development of minors or harms minors, as well as to providers of search engines. The provider must keep relevant information regarding the appointee for the protection of minors available for easy, direct and permanent accessibility. It must in particular include the name and data permitting rapid electronic contact.

(2) Telemedia providers employing less than 50 members of staff or dealing with less than 10 million verified visits on the monthly average of a given year as well as providers of television programmes or services not transmitted nationally may do without appointing an appointee for the protection of minors if they affiliate to an organisation of voluntary self-regulation and require said organisation to execute the tasks of the appointee and if they involve and inform said organisation pursuant to (3) below.

(3) The appointee for the protection of minors shall act as the contact for users and shall provide advice to the provider concerning issues relating to the protection of minors. He shall be involved by the provider appropriately and in good time concerning issues relating to the production, acquisition, planning and concept of content and all according decisions so that the protection of minors will be

ensured, and shall be fully informed about the content in question. The appointee may propose restrictions or alterations of content to the provider.

(4) The appointee for the protection of minors must have the necessary expertise required to fulfil his tasks. He shall not be bound by instructions in his activities. He must not be disadvantaged due to the fulfilment of his tasks. He shall be provided with the necessary material resources to fulfil his tasks. He shall be exempted from his work as far as necessary for his tasks with payment of his earnings being continued.

(5) The appointees for the protection of minors of the providers shall enter into regular exchanges of experience.

Section II

Provisions applicable to broadcasting

Article 8

Scheduling

(1) The state broadcasting corporations forming the ARD network⁸, the ZDF⁹, the KJM¹⁰ or organisations of voluntary self-regulation which have been certified by the KJM may each provide for scheduling restrictions in guidelines, or individually for films to which the German Protection of Young Persons Act does not apply, in order to take account of the specificities of the transmission of films on television, especially concerning television series.

(2) The bodies or organisations as specified in paragraph (1) above may individually provide for scheduling restrictions for other broadcast formats if in an overall assessment the structure of a broadcast format is deemed to be suited to impair the development and education of children or adolescents according to its theme, thematic treatment, concept or presentation.

(3) If an organisation of voluntary self-regulation has issued a guideline pursuant to (1) above which keeps within the scope of discretionary power, this is to be given priority for application.

⁸ Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland (ARD) – www.ard.de

⁹ Zweites Deutsches Fernsehen (ZDF) – www.zdf.de

¹⁰ Kommission für Jugendmedienschutz (KJM) – www.kjm-online.de

Article 9

Exceptions

(1) Upon application by the director general, the respective governing body in the state broadcasting corporations forming the ARD network, of Deutschlandradio and of the ZDF as well as upon application by a commercial broadcaster, the KJM or an organisation of voluntary self-regulation which has been certified by the KJM may each deviate from the assumption pursuant to Article 5 (2) sentences 1 and 2 above in guidelines or for individual cases. This shall apply in particular to content with a rating dating back more than ten years. The supreme state youth authorities¹¹ shall be notified of such deviating assessments. Article 8 (3) shall apply mutatis mutandis.

(2) For digitally transmitted commercial television content the state media authorities¹² may specify by means of concordant statutes the terms under which broadcaster fulfil their obligations pursuant to Article 5 above. The broadcaster shall ensure that decryption by the user is possible only for the duration of the respective broadcasting programme or the respective film. The state media authorities shall specify in statutes pursuant to sentence 1 above which requirements in particular shall apply for encryption and blocking systems for programmes to warrant the effective protection of minors.

Article 10

Programme trailers and identification

(1) The content of programme trailers which are transmitted outside the scheduling time permitted for the programme in question must not be suited to impair the development of minors.

(2) Programmes which can be assumed to impair the development of children or adolescents under the age of 16 years must be identified at the start as unsuitable for the respective age group by acoustic means, or by visual means for the entire duration of the programme.

¹¹ Oberste Landesjugendbehörden

¹² Landesmedienanstalten – www.die-medienanstalten.de

Section III

Provisions applicable to telemedia

Article 11

Technical systems for the protection of minors

(1) Technical systems for the protection of minors are software programmes which read out age ratings as specified in Article 5 (3) sentence 1 number 1 above, and which identify content which is suited to impair the development of children and adolescents. They must be presented for assessment of their suitability to a certified organisation of voluntary self-regulation. They are suited if they permit age group-differentiated access and must provide for state-of-the-art identification performance. Furthermore, they shall be user-friendly and allow for autonomous use by consumers.

(2) Telemedia systems which are designed to identify individual age groups only or which permit access to telemedia within closed user groups may also be presented for assessment.

(3) The KJM may determine the criteria specifying the requirements for suitability pursuant to paragraph (1) and (2) above consulting with the certified organisations of voluntary self-regulation.

(4) A certified organisation of voluntary self-regulation which has found a technical system for the protection of minors to be suitable as specified in paragraph (1) or (2) above, must review the assessment at least every three years. It must work towards malfunctions being eliminated. Assessments as specified in paragraph (1) and (2) above and the findings of the reviews must be published in a suitable form without delay.

(5) Persons providing or making accessible telemedia content in a professional capacity or on a major scale shall also fit content which does not raise any concern regarding children or adolescents with a suitable certified system for the protection of minors pursuant to (1) and (2) above to the extent to which this is not unreasonable and can be realised without undue expenditure.

(6) The certified organisations of voluntary self-regulation may conduct model trials in consultation with the KJM for promoting the technical systems for the protection of minors and may agree on procedures. The same shall apply for age verification systems which are provided by certified organisations of voluntary self-regulation.

Article 12

Obligatory labelling

Providers of telemedia which are fully or largely identical with films or series on data media within the meaning of the German Protection of Young Persons Act must give a clear reference to a labelling pursuant to the Protection of Young Persons Act in their content. Versions of films and games in telemedia which can be presented for assessment like versions available on data media can be labelled according to the procedure laid down in the Protect of Young Persons Act.

Section IV

Procedures applicable to providers with the exception of public-service broadcasting

Article 13

Scope of application

Articles 14 to 21 as well as Article 24 (4) sentence 6 shall apply to content covering more than one German state only.

Article 14

Commission for the Protection of Minors in the Media

(1) The competent state media authority shall verify compliance with the provisions applying for the providers under this Interstate Treaty. The authority shall take the corresponding decisions in accordance with the provisions of this Interstate Treaty.

(2) In order to perform the tasks pursuant to paragraph (1) above, the Commission for the Protection of Minors in the Media (KJM) shall be established. The KJM shall serve the respective competent state media authority as an organ ensuring the fulfilment of the tasks of the authority pursuant to paragraph (1) above. On application of the competent state media authority, the KJM may also be called upon to review content covering one state only. This provision shall be without prejudice to paragraph (5) below.

(3) The KJM consists of 12 experts. Of these,

1. six members shall be delegated from the directors of the state media authorities following consensual appointment by the state media authorities;
2. four members shall be delegated by the supreme state youth authorities in charge of the protection of minors,
3. two members shall be delegated by the supreme federal authority in charge of the protection of minors¹³.

For the event of a member being prevented from participating, a deputy member shall be appointed for each member pursuant to sentence 2 above. The term of the members or deputy members shall be five years; they may be reappointed. At least four members and deputy members shall have the qualification for judgeship. A director of a state media authority shall act as chairman.

(4) The following persons may not be members of the KJM: members and employees of the institutions of the European Union, the federal and state constitutional organs, members of the governing bodies and employees of the state broadcasting corporations forming the ARD network, the ZDF, Deutschlandradio¹⁴, the European cultural television channel ARTE¹⁵, and the commercial broadcasters or telemedia providers as well as employees of companies which have a direct or indirect interest in them as specified in Article 28 of the Interstate Broadcasting Treaty.

(5) The KJM may set up examining boards. Each board must include at least one member of the KJM as specified in paragraph (3) sentence 2 numbers 1 to 3 above or, in the event of the member being unable to participate, the respective deputy member. The examining boards shall take decisions in place of the KJM unanimously in each case. At the start of the term of the KJM, the allocation of the examination procedures shall be determined by the KJM. The details shall be specified in the rules of procedure of the KJM.

(6) The decision on the confirmation of the age ratings pursuant to Article 5 (2) sentence 3 above shall be taken within 14 days and be notified to the applicant. For the procedure of confirmation, an individual examiner may be appointed.

¹³ Oberste Bundesbehörde für den Jugendschutz

¹⁴ Deutschlandradio – <http://www.deutschlandradio.de/>

¹⁵ ARTE (Association Relative à la Télévision Européenne) G.E.I.E. – www.arte.tv/sites/en/corporate/?lang=en

(7) The members of the KJM shall not be bound by instructions in fulfilling their tasks under this Interstate Treaty. The provisions governing confidentiality pursuant to Article 24 of the Interstate Broadcasting Treaty shall also apply in the relationship of the members of the KJM with other bodies of the state media authorities.

(8) The members of the KJM shall be entitled to receive reimbursement of their necessary costs and expenses. The details shall be specified by the state media authorities by means of concordant statutes.

Article 15

Participation of the decision-taking bodies of the state media authorities

(1) The KJM shall continually inform the decision-making bodies of the state media authorities about its activities. It shall involve the chairpersons of the bodies in matters of principle, in particular when drafting statutes or guidelines.

(2) The decision-making bodies of the state media authorities which are competent pursuant to the respective state media legislation shall enact concordant statutes and guidelines covering the implementation of this Interstate Treaty. In so doing, they shall consult with the organisations of voluntary self-regulation which have been certified pursuant to Article 19 below, the state broadcasting corporations forming the ARD network and the ZDF and shall conduct a joint exchange of information regarding the application of the provisions for the protection of minors in the media with them and with the KJM.

Article 16

Competences of the KJM

The KJM shall be in charge of the definitive assessment of content pursuant to this Interstate Treaty. Without prejudice to the competences of certified organisations of voluntary self-regulation pursuant to this Interstate Treaty, under sentence 1 the KJM shall in particular be in charge of

1. monitoring the application of the provisions of this Interstate Treaty,
2. certifying organisations of voluntary self-regulation and taking back or revoking the certification,
3. confirming the age ratings pursuant to Article 5 (2) sentence 3 above,
4. scheduling transmissions pursuant to Article 8 above,
5. deciding on exemptions pursuant to Article 9 above,
6. assessing and licensing an encryption and blocking technology,
7. supervising the decisions of organisations of voluntary self-regulation pursuant to Article 19b (1) and (2) below,
8. issuing statements on indexing applications presented to the Federal Review Board for Media Harmful to Minors, and filing applications for listings with the Review Board,
9. deciding on administrative offences pursuant to this Interstate Treaty.

Article 17

Procedures of the KJM

(1) The KJM shall act ex officio; it shall commence an examination procedure once a state media authority or a supreme state youth authority forwards a case for examination. It shall take decisions with the majority of the votes of the statutory members; in the case of parity of votes, the chairperson shall have the decisive vote. The reasons for decisions shall be given. The reasons shall include the main factual and legal arguments. The decisions of the KJM shall be binding upon the other bodies of the competent state media authority. They shall be taken as a basis for the decisions of the state media authority.

(2) The KJM shall cooperate with the Federal Review Board for Media Harmful to Minors and the supreme state youth authorities and shall conduct a regular exchange of information with the Review Board.

(3) The KJM shall present reports on the implementation of the provisions of this Interstate Treaty to the bodies of the state media authorities, the supreme state youth authorities and the supreme federal authority in charge of the protection of minors every two years.

Article 18

“jugendschutz.net”

(1) The joint organisation of all German states for the protection of minors (“jugendschutz.net”) which was established by the supreme state youth authorities shall be organisationally linked to the KJM. The organisation “jugendschutz.net” shall be jointly funded by the state media authorities and the German states. The details of the funding of this organisation by the German states shall be decided and laid down in a statute by the Ministers of the states in charge of the protection of minors. The statute shall also specify the professional and budgetary independence of the organisation.

(2) “jugendschutz.net” shall support the KJM and the supreme state youth authorities in their tasks.

(3) “jugendschutz.net” shall examine telemedia content. In addition, “jugendschutz.net” shall also provide advice and training concerning telemedia content.

(4) In the event of possible violations of the provisions of this Interstate Treaty, “jugendschutz.net” shall notify the provider and shall inform the KJM accordingly. In the event of possible violations by members of a certified organisation of voluntary self-regulation the information shall at first be given to the respective organisation. The certified organisation of voluntary self-regulation must commence proceedings within one week and must notify “jugendschutz.net” accordingly. In the event that the certified organisations of voluntary self-regulation do not act, “jugendschutz.net” shall notify the KJM accordingly.

Article 19

Organisations of voluntary self-regulation

(1) Organisations of voluntary self-regulation may be established for broadcast services and for telemedia services.

(2) An organisation shall be certified as an organisation of voluntary self-regulation within the meaning of this Interstate Treaty, if

1. the independence and competence of the appointed examining staff are ensured and if representatives of the relevant groups of society who specifically deal with issues relating to the protection of minors are also included among the staff,
2. adequate resources are ensured by a large number of providers,
3. instructions are put in place concerning the decisions to be taken by the examining staff which are suited to warrant the effective protection of children and adolescents in the decision-taking procedures,
4. rules of procedure are put in place which provide for the scope of control, in the case of broadcasters also for the obligatory presentation of content, and which furthermore specify

possible sanctions and provide for a review of decisions also at the application of organisations for youth support set up under state law,

5. it is ensured that the providers concerned are heard prior to a decision being taken, the reasons for the decision are given in writing to the parties concerned, and
6. a body for dealing with complaints is set up.

(3) The competent state media authority shall take its decisions via the KJM. The competent state media authority shall be the authority in whose area of competence the organisation of voluntary self-regulation has its registered seat. If no competence can be established according to the above mentioned guidelines, the competent state media authority which received the application for certification shall be the authority. The organisation shall present to the KJM the documents required for assessing whether the requirements to be fulfilled for certification are being met.

(4) The KJM may revoke the certification in full or in part or may issue auxiliary provisions if the requirements for certification are subsequently no longer met or if the decision-taking practice of the organisation does not meet the provisions of this Interstate Treaty. Compensation for loss of assets due to the revocation of the certification shall not be granted.

(5) The certified organisations of voluntary self-regulation shall coordinate their activities regarding the application of this Interstate Treaty.

Article 19a

Competence and procedures of the organisations of voluntary self-regulation

(1) Certified organisations of voluntary self-regulation shall examine within their statutory remit that the providers which have affiliated to them adhere to the provisions of this Interstate Treaty as well as the pursuant statutes and guidelines. They are obliged to follow up on complaints relating to the providers affiliated to them pursuant to their rules of procedure pursuant to Article 19 (2) number 4 above without delay.

(2) The certified organisations of voluntary self-regulation shall assess the suitability of technical systems for the protection of minors pursuant to Article 11 (1) and (2) above and shall review their suitability pursuant to Article 11 (4) above. The competent certified organisation of voluntary self-regulation shall be the organisation which received the technical system for the protection of minors for assessment. The certified organisation of voluntary self-regulation shall notify the KJM in writing of its decision and the reasons for the decision taken.

Article 19b

Supervision of organisations of voluntary self-regulation

(1) The competent state media authority may via the KJM admonish decisions taken by a certified organisation of voluntary self-regulation which exceed the scope of discretion, and may require them to be repealed. If a certified organisation of voluntary self-regulation does not fulfil its tasks and obligations pursuant to this Interstate Treaty, the competent state media authority may require it via the KJM to fulfil them. No compensation shall be granted for any resulting loss of assets.

(2) If a certified organisation of voluntary self-regulation has assessed a technical system for the protection of minors pursuant to Article 11 (1) and (2) above as being suitable, and in so doing has exceeded its scope of discretionary power, the competent state media authority may via the KJM declare said assessment to be invalid within three months following the decision of the certified organisation of voluntary self-regulation, or may impose conditions on the provider of the technical system for the protection of minors. Paragraph 1 sentence 3 above shall apply mutatis mutandis.

(3) The competent state media authority shall be the authority of the state in which the certified organisation of voluntary self-regulation has its registered seat.

Section V

Enforcement procedures applicable to providers with the exception of public-service broadcasting

Article 20

Supervision

(1) If the competent state media authority finds that a provider has violated the provisions of this Interstate Treaty, it shall take the necessary measures against the provider.

(2) For broadcasters, the competent state media authority shall take the respective decision in accordance with state legislation via the KJM.

(3) If the KJM approaches a broadcaster with the allegation that the broadcaster has violated provisions of this Interstate Treaty, and if the broadcaster proves that the programme has been presented to a certified organisation of voluntary self-regulation prior to transmission within the meaning of this Interstate Treaty and that its instructions have been adhered to, measures by the KJM with respect to the adherence to the provisions for the protection of minors by the broadcaster are permitted only if the certified organisation of voluntary self-regulation has exceeded its scope of discretion with its decision, or lack of decision. The KJM shall notify the certified organisation of voluntary self-regulation of its decision including the reasons. If a provider of a programme which cannot be presented for assessment is accused of a violation of the provisions for the protection of minors, the certified organisation of voluntary self-regulation to which the broadcaster has affiliated shall be involved prior to the KJM taking measures; sentence 1 above shall apply mutatis mutandis. For decisions pursuant to Articles 8 and 9, sentence 1 above shall apply mutatis mutandis. This paragraph shall not apply concerning violations of Article 4 (1) above.

(4) For telemedia providers, the competent state media authority shall take the respective decision via the KJM in accordance with Article 59 (2) to (4) of the Interstate Broadcasting Treaty, paying due regard to the provisions governing responsibility pursuant to Articles 7 to 10 of the Telemedia Act.

(5) If a telemedia provider has affiliated to a certified organisation of voluntary self-regulation as specified in this Interstate Treaty, or subjects himself to its statutes, said organisation shall be involved prior to the KJM in the case of alleged violations of the provisions governing the protection of minors, except for violations of Article 4 (1) above. Measures pursuant to paragraph (1) above by

the KJM against the provider shall be permitted only if the certified organisation of voluntary self-regulation has exceeded its scope of discretion with its decision or lack thereof. In the event of violations of Article 4 above, objections and legal challenges brought by the provider of telemedia shall not have a suspensory effect.

(6) The competent state media authority shall be the authority of the state in which the licence of the broadcaster was granted or in which the telemedia provider has their registered seat, seat of residence or, failing that, their permanent domicile. If no competence can be established under the above provisions, the competent state media authority shall be the state media authority in whose area of competence the cause for the official action is raised.

(7) If the KJM, a competent state media authority or "jugendschutz.net" approach a provider claiming that he has violated provisions of this Interstate Treaty, they shall advise him of the possibility of affiliating to a certified organisation of voluntary self-regulation and the resulting legal consequences.

Article 21

Right to Information

(1) A provider of telemedia shall be obliged to provide the KJM with information on the content and the measures taken to comply with the provisions for the protection of minors, and shall upon request grant access to the content to the KJM for control purposes free of charge.

(2) The viewing or the use of content for the purpose of supervision, punishment of violations or control shall be free of charge. Providers have to ensure access accordingly. The provider must not block content from viewing or information-gathering by the competent body and must not impede viewing or information-gathering.

Article 22

Appeal to the Federal Administrative Court

Appeals to the Federal Administrative Court in a judicial proceeding may also be made on the grounds that the judgement being challenged is based on a violation of the provisions of this Interstate Treaty.

Section VI

Punishment of violations by providers with the exception of public-service broadcasting

Article 23

Sanction

A prison sentence of up to one year or a fine shall be imposed on anyone who - in violation of Article 4 (2) sentence 1 number 3 and sentence 2 – transmits or makes accessible content which is obviously suited to seriously impair the development of children or adolescents or their education into self-responsible and socially competent personalities, taking into account the specific effect of the transmission media. If the perpetrator acts negligently, the prison sentence will be up to six months or the fine will be up to 180 rates per diem.

Article 24

Administrative offences

(1) A provider commits an administrative offence if they, either intentionally or through negligence:

1. transmits or makes accessible content which
 - a. in breach of Article 4 (1) sentence 1 number 1 represents propaganda instruments as specified in the German Criminal Code,
 - b. in breach of Article 4 (1) sentence 1 number 2 uses insignia of organisations which are prohibited under the German Constitution,

- c. in breach of Article 4 (1) sentence 1 number 3 incites hatred against parts of the population or against a national, racial, religious or ethnic group, encourages violent or arbitrary action against such a group or violates the human dignity of a person or group by insulting, maliciously degrading or defaming parts of the population or any of the aforementioned groups,
- d. in breach of Article 4 (1) sentence 1 number 4 1st alternative, denies or plays down acts committed under the National Socialist regime as specified in Article 6 (1) of the International Criminal Code in a manner suited to disturb public peace,
- e. in breach of Article 4 (1) sentence 1 number 4, 2nd alternative, disturbs public peace in a manner violating the dignity of the victims by endorsing, glorifying or justifying the National Socialist Regime of arbitrary terror,
- f. in breach of Article 4 (1) sentence 1 number 5 presents cruel or otherwise inhuman acts of violence against persons in a manner that glorifies or trivialises such acts of violence or presents the cruel or inhuman nature of the act in a manner which violates human dignity; this also applies to virtual presentations,
- g. in breach of Article 4 (1) sentence 1 number 6 serves as an instruction to any of the acts specified as illegal pursuant to Article 126 (1) of the German Criminal Code,
- h. in breach of Article 4 (1) sentence 1 number 7 glorifies war,
- i. in breach of Article 4 (1) sentence 1 number 8 violates human dignity, especially by presenting persons who are dying or are or were exposed to serious physical or mental suffering while reporting actual facts without any justified public interest in such form of presentation or reporting being given,
- j. in breach of Article 4 (1) sentence 1 number 9 presents children or adolescents in unnaturally blatantly sexual poses; this applies to virtual presentations,

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- k. in breach of Article 4 (1) sentence 1 number 10 contains pornography involving children within the meaning of Article 184b (1) of the German Criminal Code, or which contains pornography involving adolescents within the meaning of Article 184c (1) of the German Criminal Code, or
 - l. in breach of Article 4 (1) sentence 1 number 11 is included in parts B and D of the list pursuant to Article 18 of the German Protection of Young Persons Act or is wholly or largely identical in content with any work included in this List,
 2. in breach of Article 4 (2) sentence 1 number 1 and sentence 2 transmits or makes accessible content which is pornographic in any other manner,
 3. in breach of Article 4 (2) sentence 1 number 2 and sentence 2 transmits or makes accessible content which is included in parts A and C of the list pursuant to Article 18 of the German Protection of Young Persons Act or which is wholly or largely identical with any work included in this list,
 4. in breach of Article 5 (1) transmits or makes accessible content which is suited to impair the development of children or adolescents into self-responsible and socially competent personalities, without ensuring that children or adolescents of the respective age groups do not normally see or hear such content, unless in breach of Article 5 (3) number 1 he negligently labels the content with an age group that is too low,
 5. in breach of Article 6 (1) sentence 1 and (6) transmits or makes accessible advertising or teleshopping for indexed content,
 6. in breach of Article 6 (1) sentence 2 and (6) disseminates or makes accessible the list of media harmful to minors,
 7. in breach of Article 6 (1) sentence 3 and (6) provides information specified therein,
 8. in breach of Article 7 does not appoint an appointee for the protection of minors,

9. transmits programme formats in breach of the scheduling provisions pursuant to Article 8 (2) above,
10. transmits broadcasting programmes which are assumed to be suited to impair the development of minors pursuant to Article 5 (2) above without the KJM or an organisation of voluntary self-regulation certified for this purpose having deviated from the assumption pursuant to Article 9 (1) sentence 1,
11. in breach of Article 10 (1) transmits programme trailers with moving images outside the suitable transmission time and in unencrypted form,
12. in breach of Article 10 (2) transmits broadcasting programmes without identifying their transmission with an acoustic signal at the start or without labelling them with visual means for their entire duration,
13. transmits content without the necessary warning pursuant to Article 12,
14. in breach of an enforceable order issued by the competent state media authority pursuant to Article 20 (1) does not act,
15. in breach of Article 21 (1) does not fulfil their obligation to provide information,
16. in breach of Article 21 (2) sentence 3 blocks content from viewing by the competent state media authority.

(2) A provider also commits an administrative offence if he

1. in breach of Article 11 (5) wrongly labels telemedia content to be suited for children or adolescents of the respective age group,
2. provides wrong data in the framework of a procedure for certification of an organisation of voluntary self-regulation pursuant to Article 19 (3) above.

(3) The administrative offence may be penalised by a fine of up to Euro 500,000.

(4) The competent administrative authority within the meaning of Article 36 (1) number 1 of the Administrative Offences Act¹⁶ shall be the competent state media authority. In the cases of (1) and (2) number 1 above, the competent state media authority shall be the authority of the state in which the licence of the broadcaster was granted or the telemedia provider has his registered seat, office, or, failing that, his permanent domicile. If no competence can be established under the above provisions, the state competent media authority shall be the state media authority in whose area of competence the cause for the official action occurred. In the event of a breach pursuant to (2) number 2 above, the competent state media authority shall be the authority of the state in which the organisation of voluntary self-regulation has its registered seat. If no competence can be established under the above provision, the competent state media authority shall be the state media authority which received the application for certification. The competent state media authority shall take its decisions via the KJM.

(5) The competent state media authority shall inform the other state media authorities about the opening of proceedings without delay. In cases in which proceedings have been initiated in several states pursuant to this provision, the competent authorities shall coordinate their activities with regard to the question which authority will continue the proceedings.

(6) The competent state media authority may determine that complaints following a violation of provisions of this Interstate Treaty as well as decisions in an administrative offence proceeding which are legally binding pursuant to paragraph (1) or (2) above shall be transmitted or made accessible by the respective provider in their content or service. The content and the scheduling of the announcement are to be determined with due discretion by the competent state media authority.

(7) The prosecution of the administrative offences specified in paragraph (1) and (2) above shall come under the statute of limitations of six months.

¹⁶ Gesetz über Ordnungswidrigkeiten (OWiG) in the version of 19 February 1987, last amended 21 October 2016 – www.gesetze-im-internet.de/englisch_owig/index.html

Section VII
Final Provisions

Article 25
Transitional Provision

Certified technical systems for the protection of minors pursuant to Article 11 (2) of the Interstate Treaty for the Protection of Minors in the Media of 10 to 27 September 2002 in the version of the 13th Treaty for Amending the Interstate Treaties with regard to broadcasting law shall remain unaffected by this Interstate Treaty entering into force until the end of 30 September 2018.

Article 26
Duration, termination

This Interstate Treaty shall remain in force for an indefinite period. It may be terminated by any of the contracting states subject to twelve months' notice at the end of the calendar year. Termination shall be made in writing to the Chairman of the Prime Ministers' Conference. Termination by one of the German states will be without prejudice to the validity of the contractual relationship to one another among the other states; however, each of the other states may terminate the contractual relationship at the same time with a period of three months following receipt of the notice of termination.

Article 27
Notification

Amendments to this Interstate Treaty are subject to obligatory notification pursuant to Directive EU 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.