

# A Step Forward in Audiovisual Commitment to Minors: the Alternative to Co-Regulation for EU Countries\*

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## Abstract

The digitalization of audiovisual communication demands a new working framework where the legislation has a limited function and self-regulation is presented as a system, which, for the moment, cannot cover the shortcomings of regulation. Basic objectives such as the protection of minors require new formulas which can deal with this new situation. Thus, the recently passed 'Audiovisual Media Services Directive' in the European Union, which brings together the current European contributions and studies, supports the introduction of new mechanisms such as the co-regulation, the establishment of which in countries like the Netherlands calls for in-depth analysis of this new legislative technique.

*Keywords:* Audiovisual Media, Protection of Minors, Co-Regulation, Digitalization, 'Audiovisual Media Services Directive'.

## Resumen

La digitalización de los medios de comunicación audiovisual demanda un nuevo marco de trabajo donde la legislación tiene una función limitada y la auto regulación se presenta como un sistema, el cual, por el momento, no puede cubrir los rezagos de la regulación. Los objetivos básicos, como la protección de menores, requiere de nuevas fórmulas que puedan lidiar con esta situación. Por lo tanto, la recientemente aprobada Directiva de Servicios de Medios Audiovisuales de la Unión Europea, que recoge los más recientes estudios y contribuciones en Europa, promueve la introducción de nuevos mecanismos, tal como la co-regulación, un sistema que en estados como los Países Bajos ha ameritado un análisis detallado de esta nueva técnica legislativa.

*Palabras clave:* medios de comunicación, protección de menores, co-regulación, digitalización de medios, directiva de servicios de medios audiovisuales.

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Digitalization has brought about a new situation which requires revision of the audiovisual market framework, a re-defining of the main obligations that affect its protagonists and innovation of the way these obligations are articulated, so as to fulfil those historical objectives attributed to the media which appear at a crucial moment of exceptionally devalued social legitimacy. The old formulas no longer work, and the new 'Audiovisual Media Services Directive' shows the pressing need to make an effort to forge game-rules which can adapt to the new circumstances.

The issue, then, is what should be guaranteed by the new digital situation and how it should be done; that is, the debate continues to be on the public service obligations ascribed to the audiovisual media and television in particular. This debate is, on the other hand, an inherent part of the history of this medium. This is not the issue we wish to address in these pages, as the following reflections and proposals deal with what is perhaps the only point on which professionals, legislators, the media and consumers are in agreement: the need to adopt measures designed to protect minors from certain contents which are detrimental for this population group. The problems experienced relating to this objective are, to a large extent, common to different contents such as TV programs, movies or videogames. Nevertheless, and although we must not forget that the time spent on other supports is beginning to take the place of massive TV consumption, the problem of the protection of minors is still especially relevant, particularly on open television. Thus, taking into account that the solutions which are applicable to this medium can be adapted to the others, the following pages will begin in the area of television politics, and will then give an outline of solutions that are applicable to broader audiovisual content.

As with the other obligations, on the subject of protection of minors, the digital situation and the regulatory

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needs it entails demand new formulas which can face up to the new challenges involving the medium and which, once achieved, will contribute to recovery of the legitimacy of this medium in society. As has been said, legislation seems to be a necessary, indispensable instrument, but it is limited by its very nature, and cannot alone tackle certain social requirements and demands on the issue of minors. Self-regulation has not lived up to our expectations and, possibly because it has been overused, does not appear to be a suitable instrument at the present moment. However, there are still things to invent in this area, and we need but look at what has been done in other countries to find alternative formulas which should be tried and which have been given an opportunity by recent EU legislation: we refer to co-regulation.

### **1. The Route Towards Co-Regulation: a Turn of the Screw in Regulation and an Alternative to Self-Regulation**

The new 'Audiovisual Media Services Directive', although it does not entail obligations for Member States, clearly proposes the promotion of new measures which will cover cracks that contribute to the ever greater damage to the legitimacy of this means of communication within our society. However, we must ask ourselves what these measures are, as it is not easy to find an alternative to legislative measures which can dissuade the media and can maintain equilibrium between general interest obligations and the specific aims of the channels in terms of profit and audience in the short term. The answer to this question, although clear in the new Directive, has been carefully developed over the last ten years.

## **A. The First Attempts at Community Legislation**

Almost 20 years ago, the first version of the ‘Television without Frontiers Directive’, already include a chapter (number five) on the subject of the “protection of minors and public order”, whose content, after consecutive updates, could be resumed as: protection of the physical, psychological and moral development of minors from certain programmes, particularly from scenes of pornography and violence; preventing the access of minors to this type of content by means of timetable restrictions and visual identification systems; vigilance so that programming should not include content which provokes hatred on the basis of race, gender, nationality or religion; adopting or support for measures intended to help with control by parents or tutors, such as the mechanisms for filtering or classifying the programmes seen by minors.

These measures have been positive for the approval of common basic regulation for all of the Member States; however, in the first place, this framework is inspired by an open generalist analogical broadcasting model, and its application must be adapted to the new technological context brought about by digitalization. On the other hand, this community regulation, in accordance with the principle of subsidiarity, only lays down some basic principles which can standardize the different legislations in the Member States. Its aim is to make the pursuit of common public interest objectives compatible with attaining a single market within the community audiovisual space, and also to avoid in as far as possible those discriminatory restrictions aimed at protecting national channels to the detriment of trans-frontier broadcasting. More specifically, the European Council stated in 1988 that the principles and norms on the protection of minors reflect cultural diversity and national and local feelings, and thus, in this context, must

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pay special attention to the application of the principle of subsidiarity.<sup>1</sup>

Beginning with these minimum objectives, the local and state authorities are the main groups responsible for guaranteeing the protection of minors on their respective TV markets, and, in accordance with this accountability, the European authorities have reiterated national responsibility for the identification, regulation and control of general interest missions, as social needs, although they may have a basis in common values and needs, vary depending on the social, political, economic and cultural context of each of the Member States. Thus, for example, before adopting the 1989 Directive, some Member States such as Luxembourg or Denmark did not have TV legislation on child protection, whereas other countries like the UK had ample regulation on the subject. That is, it would be incorrect and at odds with the proposal implied in the Community audiovisual policy if national lawmakers centred their aims on fulfilling what is set out in the 'Television without Frontiers Directive', as this norm is simply a springboard for the specific objectives of each Member State. However, for decades many countries have been satisfied with attempting to carry out the objectives required by the Directive, and have ignored the basis character of this European rule.

Nonetheless, over and above these minimum standards, since the 90's the community institutions have publicized their anxiety about child protection and television in many non-binding documents, which work as guides as they offer a global perspective and analysis of the policies adopted in the different Member States, and show the strengths and weaknesses of each. This helps to avoid the regulatory errors made in other countries, and thus the success-

1 OJ L 270 of 7.10.1998, [1], p. 49

ful formulas can be imported and it also establishes safe guidelines for national authorities.

On 20<sup>th</sup> December 2006, the European Parliament and the Council<sup>2</sup> in a Recommendation stated the need to adopt legislative measures at a Union level “on the protection of the physical, mental and moral development of minors in relation to the content of all audiovisual and information services and the protection of minors from access to inappropriate adult programmes or services”. In the same document, the European organizations maintained, “self-regulation of the audiovisual sector is proving an effective additional measure, but it is not sufficient to protect minors from messages with harmful content”.<sup>3</sup>

This is not the first time that the European establishment has tackled this matter, as since the publication of the ‘Green Paper on the protection of minors and human dignity in audiovisual and information services’,<sup>4</sup> which dealt with the same issues which are still at the forefront of the current debate, there have been numerous documents with this objective. Among the main aims referring to child protection are the following: aid for parental control; increased collaboration between Member States on illegal content; strengthened collaboration between national governments and the Commission and the industries involved, and measures to enlighten and inform the consumers.

The 2006 Recommendation updated this document, and it was here that the European authorities admitted the failure of the measures taken and that the European policies on the issue would have to be changed: on the one hand, it recognised the obsolete character of the current legisla-

2 OJ L 378 of 27.12.2006, [3], p. 72

3 *Ibidem* [12], p. 73

4 COM (1996) 483 final

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tion and, on the other, the clear failure of self-regulatory measures.

### **B. The Need for a New Technological Scenario**

As the latest comments from the European Parliament and Council reflect, there is no doubt that the continual development of new technologies has to a certain extent thwarted the success of European legislation. Thus, a Commission report stated, “traditional regulation alone, which worked in the analogue environment, is not necessarily the appropriate approach in the digital age”.<sup>5</sup> Driven by the development of Internet, digital broadcasting and videogames, an unavoidable change in context exists and demands taking measures which will, at least in part, be common to the different media. However, this is not the only reason why minors are undefended in this area.

As the Parliament itself recognises, the fundamental aim of European institutions since the 80’s, with reference to these markets, has been to “create the necessary conditions to ensure the free movement of television broadcasts and other information services, in compliance with the principles of free competition and freedom of expression and information”.<sup>6</sup> For decades, apart from some basic provisions and the very occasional intervention of the courts, the community institutions have disregarded the protection of other public interest objectives, such as that of minors, and have considered it as a matter of responsibility fundamentally for local, regional and national authorities. The 2006 text, however, pointed out the need to raise these other general interest objectives to the highest level of community politics. Whether this statement turns out to be fact or fiction, it will make national authorities become

5 COM (2001) 106 final, p. 4.

6 OJ L 378 of 27.12.2006, [5], p. 72

aware of the need to adopt a new working framework for the protection of minors within this context.

Another innovation in the 2006 Recommendation was its admission of the failure of self-regulation as a mechanism to specify and complete the brevity and flexibility found in legal texts. Since the mid-90's, the community texts have urged the companies to establish a national self-regulatory framework by means of cooperation with each other and with other interested parties, as a system which would be capable of speedily adapting to the acceleration of technical progress and market globalization.<sup>7</sup> At the same time, due to the worldwide nature of communication networks, they also recognised the need to adopt a supranational approach, which would include cultural diversity and national and local feelings on the subject.

Then again, self-regulation codes have not been very successful, or at least, they have not succeeded in delivering effective protection of minors in their access to potentially harmful contents. As they are not breaking the law, the pressure on the channels to fulfil the objectives of the self-regulatory codes is of little importance. And, when in doubt, priority is given to economic profit over and above other issues whose fulfilment would mean running a series of risks, which in most cases the management of the channels is not prepared to accept.

A possible solution to these problems had already been proposed in a 2003 Report,<sup>8</sup> where, for the second time,<sup>9</sup> the results of the application of what was established in the 1998 Council Recommendation were explained. It stated:

7 OJ L 270 of 7.10.1998, [13], p. 49.

8 COM (2003) 776 final

9 The first being the above-mentioned COM (2001) 106 final



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A coregulatory approach may be more flexible, adaptable and effective than straightforward regulation and legislation... Coregulation implies however, from the Commission's point of view, an appropriate level of involvement by the public authorities. It should consist of cooperation between the public authorities, industry and the other interested parties, such as consumers.<sup>10</sup>

### **C. Supporting Co-Regulation. Definition and Main Virtues**

Co-regulation may be a suitable option to make up for the deficiencies in legislation, the expansion or intensification of which could impose excessive limits on the freedom of expression of television programmes and, then again, may be the solution to the proven failure of self-regulation.

The European Parliament has defined co-regulation as

the mechanism whereby a Community legislative act entrusts the attainment of the objectives defined by the legislative authority to parties which are recognised in the field (such as economic operators, the social partners, non-governmental organisations, or associations).<sup>11</sup>

And again the new Directive<sup>12</sup> states “co-regulation gives, in its minimal form, a legal link between self-regulation and the national legislator in accordance with the legal traditions of the Member States”. In a systematic definition co-regulation may be understood as:

<sup>10</sup> COM (2003) 776 final, p. 5

<sup>11</sup> Interinstitutional Agreement on better law-making, OJ C 321 of 31.12.2003

<sup>12</sup> Directive 2007/65/EC, [36], p. 31

The set of processes, mechanisms and tools created by the competent public authorities and other agents of the sector, in order to establish and implement a working framework appropriate to the regulations, mid-way between the interests of industry and of the public, and which will result in specific, effective praxis, whereby all the parties involved will be co-responsible for its proper functioning.<sup>13</sup>

Co-regulation is a legislative technique which, along with traditional regulation, involves the direct contribution of the authorities in the development of rules, and in their application and the imposition of penalties if they are broken, and, with self-regulation, active collaboration in the process both by the operators and the other parties involved. There are three main advantages in this new procedure.

First, the prospects offered by co-regulation respond to historical demands such as: obligatory intervention by the authorities due to the sociocultural implication of television (and by extension, of other audiovisual media), and simultaneously, the indispensable elimination of administrative interference in the exercise of freedom of expression and the right to information; co-regulation fits the proper characteristics of television, as it is compatible with technical development and, therefore, flexible and adaptable to the new and varied technological circumstances.

Secondly, co-regulation is a technique which has been constantly proposed by Community Law. On the one hand, from a general perspective, the documents published in the last ten years have insisted on the need for modernization of governing systems whose legitimacy has been overly reduced at every level (European, national and local), and have stated the need to simplify the legal framework and the obligation to involve society in specific processes for the regulation and control of certain activities: 'European gov-

13 Muñoz-Saldaña and Mora-Figueroa, 2007

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ernance - A white paper';<sup>14</sup> the European Parliament decision on the conclusion of the Interinstitutional Agreement on Better Law-Making between the European Parliament, the Council and the Commission;<sup>15</sup> Communication from the Commission - Action plan 'Simplifying and improving the regulatory environment';<sup>16</sup> Communication from the Commission 'Updating and simplifying the Community acquis';<sup>17</sup> Communication of the Commission 'Implementing the Community Lisbon programme: A strategy for the simplification of the regulatory environment';<sup>18</sup> Commission working document - First progress Report on the strategy for the simplification of the regulatory environment.<sup>19</sup>

And, on the other, in those texts on audiovisual regulation intended more specifically for the protection of minors in this area, such as: 'Green Paper on the protection of minors and human dignity in audiovisual and information services';<sup>20</sup> Communication from the Commission of 18 November 1997 on the follow-up to the Green Paper on the protection of minors and human dignity in audiovisual and information services;<sup>21</sup> Council Recommendation 98/560/EC on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity;<sup>22</sup> Recommendation 2006/952/EC of the European Parliament and of the Council on the protection of minors and human dignity and on the right of reply in re-

14 COM (2001) 428 final - OJ C 287 of 12.10.2001.

15 P5\_TA (2003) 0426.

16 COM (2002) 278 final.

17 COM (2003) 71 final.

18 COM (2005) 535 final.

19 COM (2006) 690 final.

20 COM (1996) 483 final.

21 COM (1997) 570 final.

22 OJ L 270 of 7.10.1998.

lation to the competitiveness of the European audiovisual and on-line information services industry<sup>23</sup>. Nevertheless, it can also be found in general documents on audiovisual policy, such as the Study on Co-Regulation Measures in the Media Sector of 2006, which culminated in the 'Audiovisual Media Services Directive'.

Thirdly, the establishment of co-regulatory systems in some European countries has been exceptionally positive. The case of the Netherlands is worth studying with the intention of drawing conclusions which may be applicable to other European countries.

## **2. A Co-Regulation Model for the Protection of Minors: the Case of the Netherlands**

In the Netherlands, the protection of minors from potentially harmful content on TV, cinema, DVD, videogames and mobile phone services has been tackled very successfully with co-regulation. One crucial point for this success is the participation, on different levels, but in collaboration, of the Dutch government, of the independent audiovisual regulatory authority (CvdM, which stands for *Commissariaat voor de Media*), of the media industry (either through the direct participation of the companies or indirectly through sectorial associations) and of an intermediary organ created, financed and developed by the Civil Service and the operators themselves: the Dutch Institute for the Classification of Audiovisual (NICAM, which stands for *Nederlands Instituut voor de Classificatie van Audiovisual Media*). In fact, the Dutch system was considered a suitable example for co-regulation at the Expert Conference organized by the European Commission and the German Government in Leipzig, 10/11 May 2007.

23 OJ L 378 of 27.12.2006

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### A. The Dutch System for the Classification and Marking of Audiovisual Content

The present system began with an initiative of the Dutch government, seconded by large sectors of the audiovisual industry. The result of these early efforts was NICAM, in 1999, with the cooperation of the Ministry of Education, Culture and Science, the Ministry of Healthcare, Health and Sports, and the Ministry of Justice.

After months of negotiations and agreements, February 2001 saw the establishment of the *Kijkwijzer*, a rating system carried out by independent experts, lead by NICAM, which was valid for TV programmes and for films, both during the cinema stage and for the stage of rental in video or DVD format. Shortly afterwards, the system spread to videogames; actually, the PEGI (Pan European Game Information) international system is based on the *Kijkwijzer* system and there is very little difference between them as they work in a very similar way, except that PEGI has more (and more exact) age groups levels, and includes a thematic description which refers to whether the product described teaches to play or encourages gambling). Since April 2005, *Kijkwijzer* is used also to certain audiovisual services which are accessible by mobile phone.

The Dutch law reflected the spirit of creation of the NICAM, and strengthened the foundations of the system in its Section 53, which made the *Kijkwijzer* law. Specifically, this law stated that those programmes which might be harmful to the physical, mental and moral development of children under the age of 16, could only be broadcast if the operator was a member of NICAM and was subject to its rules and supervision.

The specific functions of NICAM are:

- the establishment and development of classification of the audiovisual material of its members;
- laying down rules for rating and TV broadcasting schedules;
- providing the audience with information;
- supervision of the implementation of the system and processing of complaints on the subject;
- imposition of the appropriate sanctions.

The NICAM board is made up of representatives of the TV operators (both public and private), film distributors and producers, rental businesses, and commercial intermediaries, together with an independent member from the audiovisual industry as a whole. In order to carry out its mission in every respect, NICAM has several advisory committees, which aid in the development, implementation and updating of the *Kijkwijzer* system.

The NICAM members undertake to fully implement the rating norms, to use the agreed symbols, and to respect the established schedules. In the case of breach of the regulations, NICAM may impose the following sanctions: warnings, fines (maximum €135,000) and expulsion from NICAM in the case of an extremely serious infraction or repeated infringements of the system.

Those operators who chose not to belong to NICAM will be directly under the supervision of the independent audiovisual regulatory authority, CvdM, which will ensure that particularly harmful (gratuitous violence and pornography) or simply illegal content will not be broadcast, and will also be in direct control of the actions and workings of NICAM. This “meta-supervision” by CvdM is specified in that each year it must be informed by NICAM on how to ensure the quality of the rating system, and its trustworthy, valid, stable, consistent and practical role. Each year, before the

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1<sup>st</sup> March, NICAM must send the pertinent information to CvdM, and, before the 1<sup>st</sup> July, the latter must forward it to the corresponding Secretary of State. Moreover, at least once every two years, with a view to improving the system, it must be compared with the systems in use in other European countries, in order to update and, if possible, improve it.

It is, then, an essentially representative system, where all parties involved have obligations and responsibilities, and work together for the correct functioning of the system, in which the share of responsibility ensures proper application.

### **B. The Kijkwijzer code**

*Kijkwijzer* is a dual system, as apart from rating the content, it also puts special emphasis on information, for which it establishes a multitude of channels through which its system arrives. This system warns parents of the potential harmful effects on the physical, mental or moral development of children of TV programmes (the *Kijkwijzer* code also affects music video-clips, which are subject to the norms and restrictions in force for other TV programmes), films, DVD productions, videogames and certain mobile phone services, of their suitability by age groups and the reasons for this.

The code is based on a series of pictograms which are inserted into the audiovisual productions included in the system, which show parents, guardians and educators the proper age children should be to watch, play or consume the audiovisual product in question. *Kijkwijzer*, in fact, has the double meaning of “wise vigilance” and “guide to viewing”.

*Kijkwijzer* became operative in 2001 and the fact that it is continually updated can be seen in that the system cur-

rently used is called “*Kijkwijzer 1.2*”, which has been in use since September 2003. During these years, over 20,000 films and TV programmes have been classified and over 2,200 companies have joined the scheme on a voluntary basis, either directly or indirectly through sector or intermediary organizations.

The system is based on a market research report, which asked a large number of parents about the type of content they considered dangerous for their offspring. A second study, in 1999, confirmed parent’s wishes to have information on content and to have a system based on age-grouping in order to know what level the different audiovisual contents were considered, and why they were potentially harmful for minors. As it promoted public participation from the beginning, the result is that 90% of Dutch parents know *Kijkwijzer*, and 90% of that number believe it to be useful and appropriate. All in all, three of every four parents use the system.

The basis of the system is a breakdown by age, into four groups: “For the general public”, “Not recommended for children under 6”, “Not recommended for children under 12” and “Not recommended for children under 16”. The system is similar to that used in all countries, but with certain nuances, as, in general, the criteria and the age categories are more restrictive. For practical reasons, the idea of including other in-between categories was rejected.

The main innovation was the inclusion of six categories which may be harmful to minors: violence, sex, discrimination, vulgarity and/or drug and alcohol abuse.

Another key aspect of the system is the classification process for content. Those in charge of NICAM train the staff of the companies (at present 200 people carry out this job), and they are entrusted with product codification. They access the *Kijkwijzer* website and, using their password, answer a series of questions which, using a com-



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puter program, automatically code the audiovisual content into the four age categories. The questions, apart from the above-mentioned categories, include queries on the type of audiovisual production (fiction/non-fiction, type of animation, etc.). Depending on the content, productions are catalogued in each of the categories with a certain number of questions<sup>24</sup> and are given a precise age rating; the highest number determines the global classification of the audiovisual product. Thus, the company “codifiers” do not catalogue as a group, but have to answer questions which are studied by the computer program that, using a mathematical formula, catalogues the product in question automatically.

The use of content pictograms responds to what corresponds to the definitive age group, or groups, although to avoid confusion there is a limit of three pictograms, preferably for the descriptors of violence, horror and sex. Being included in a category has consequences for TV programmes: programmes which are not recommended for the under-12’s can only be broadcast after 8 p.m., and those not recommended for the under-16’s, after 10 p.m.

The pictograms can be inserted and found at the start of TV programmes, in TV guides, in film guides and cinemas, on movie websites, on the packaging of DVD’s and videos, on advertising spots and on teletext. Moreover, the *Kijkwijzer* site has a database online where the classification of all these products can be consulted directly.

### C. Evaluation of the system

The *Kijkwijzer* is an ambitious attempt to be objective in a particularly subjective area, as is the definition of which

<sup>24</sup> Valkenburg, P. et al., 2001. *Kijkwijzer: The Dutch Rating System for Audiovisual Productions*

contents are or may be harmful to the physical, mental and moral development of minors, and to what degree. However, the system in itself, where adults who are qualified and highly trained on the subject evaluate the suitability of audiovisual content for children, while it is the only viable one at present, cannot avoid the subjectivity of the people involved, although it does, to a great extent, attenuate their possible preconceived notions and the predominance of their moral prejudice.

Whatever the case, the NICAM system has three main advantages as a procedure for the rating and labelling of audiovisual content:

1. The system is based on active co-participation and collaboration between the government and the audiovisual industry.
2. The system has feedback and auto-control due to the participation of all the parties involved: NICAM trains and oversees the companies (which are a fundamental part of the system) and, simultaneously, is answerable to the audiovisual authority (CvdM), whose responsibility it is to inform the Dutch government.
3. Membership is voluntary, which increases freedom, and thus, the responsibility of the operators.
4. It is worthwhile for the operators to belong to NICAM, because those who do not are subject to greater restrictions.
5. The sanctions for breach of the rules are of great consequence, and include expulsion and direct supervision by the audiovisual authority.
6. The system is integrative, as it includes the main audiovisual contents: programmes, films and videogames, on their many supports (cinema, TV, video-consoles, computers and mobile phones).

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7. It is a versatile system, as the traditional age rating system is complemented with a typology of harmful content. The best proof of the system is that the PEGI code for videogames and computer games, which is in force in almost all European countries, is based directly on *Kijkwijzer*.
8. The system is flexible and open to constant change and updating. For example, the inclusion of a new age category, which would refer to the under-9's, has been proposed and is under discussion.
9. Information is considered a crucial aspect, and so updating and accessibility from multiple supports, including an alert service on e-mail, are given precedence.
10. The objectives of regulation are achieved: proportionality, openness, transparency, clarity and efficiency.

Nonetheless, the system can be improved and certain failings and weaknesses have been noted:

1. Some groups have criticised debatable attempts to spread a “radically liberal” credo in society.
2. The system is more effective for TV Programmes than for cinema; the reason may be that for the former the regulations are obligatory and so there has been greater permissiveness for the latter.
3. In the videogame sector there is an obvious need to give greater incentives to the main market representatives.
4. The characteristics of the system only allow parents to be informed of harmful content, but not of content that is educational or particularly suitable.
5. Some associations have asked to have a more representative role within NICAM.

### 3. Can the *kijkwijzer* code be exported to other countries?

The Dutch system for rating audiovisual content is, in its essence, a model which could be exported to other countries in the same area, as apart from the beneficial effects it has on society, it would not be difficult to put into practice as what it does is simply to harmonise and implement tools which already exist in most European states. In fact, the European Union, with its numerous communications and recommendations, has insisted on the need for rating systems which would bring the different audiovisual contents together in one single code. The relentless technological revolution and the resulting convergence of sectors and industries recommend and simultaneously allow uniform national systems. The interest shown in Turkey and Poland, and the fact that the UK is already working on a uniform rating for a wide range of audiovisual products, irrespective of the support used for their broadcasting, corroborates the viability of carrying this out in different territories.

The possible establishment of a pan-European rating system for audiovisual content is a different issue. The huge cultural contrasts between countries imply great differences between them, as can be seen in the study promoted by the European Commission in 2003 on 120 films, which showed that there were differences of at least six years in the ratings of audiovisual products<sup>25</sup>. And although the criteria for rating may be very different from one country to another, the system of symbols could be consistent and would be extremely beneficial. As the 'Study on parental control of television broadcast. Communication from the

<sup>25</sup> Olsberg-Spi and Kea European Affairs, 2003, *Empirical Study on the Practice of the Rating of Films Distributed in Cinemas Television, DVD and Videocassettes in the EU and EEA Member States*. [http://europa.eu.int/comm/avpolicy/stat/studi\\_en.htm](http://europa.eu.int/comm/avpolicy/stat/studi_en.htm) [accessed on 7 May 2008]

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Commission to the Council, the European Parliament and the Economic and Social Committee'<sup>26</sup> states the standardization of the different systems in force at present is in need of an extremely simple, clear system, which would be of great help for formation and information. The success of the PEGI system for computer and video games proves that it is not a quixotic ideal, and demonstrates that it could be a solid foundation for an effective and beneficial system for most Europeans.

### 4. References

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