

## **POSITION PAPER OF THE SWISS INTERACTIVE ENTERTAINMENT ASSOCIATION (SIEA)**

The Federal Council has submitted the draft of the new federal act on the protection of minors with regard to films and video games for consultation. The Swiss Interactive Entertainment Association (SIEA) as the association representing the Swiss video and computer games industry comments on the draft law in the following position paper. The comments outline SIEA's position. They should not be viewed as an integral response to the consultation on the new JSFVG.

### **Yes to the new JSFVG**

SIEA welcomes the new JSFVG. SIEA's aim is to establish video and computer games as the leading entertainment medium of the 21st century and to help ensure that everyone enjoys and benefits from these media. The new JSFVG sets a clear framework for achieving these aims.

## **1. Strengths of the JSFVG**

### **Sensible co-regulation**

The Swiss Confederation relies on co-regulation with the JSFVG: the federal act defines the requirements for the effective protection of minors. As the leading industry association, SIEA enforces the requirements and ensures effective control. In this complex and dynamic environment, this kind of co-regulation makes sense. It has proven to be an effective instrument for many years. This is why SIEA very much welcomes the fact that the new law retains this well-established international practice.

### **PEGI the best system**

The JSFVG recognises and supports the efforts of the Swiss video and computer games industry to protect minors. SIEA is committed to protecting minors and supports the use of the PEGI European age rating system as well as the internationally recognised IARC system to provide information on recommended ages. SIEA is committed to rigorous age control in retail through compliance with the "code of conduct". The criteria defined by the federal act on the protection of minors, namely assigning age ratings and descriptions to games, are already met today by the PEGI age rating system. SIEA therefore expects the PEGI system to be recognised as the only valid system for age rating and content descriptions in Switzerland.

### **Uniform framework**

The new federal act on the protection of minors with regard to films and video games strengthens the protection of minors for consumers, in particular parents and their children. It serves as a uniform framework for both film and video. From SIEA's point of view, the law is commensurate since it does not affect private us. It clearly focuses on games with a potential risk.

### **Uniformity in Switzerland and Europe**

The new federal act is aligned with the European Audiovisual Media Services Directive (AVMD) and defines uniform requirements for the protection of minors for all cantons and the whole of Switzerland. This prevents the protection of minors from being interpreted differently from canton to canton. SIEA very much welcomes this.

## **2. Challenges of the new JSFVG**

The new JSFVG, as defined in the present draft, still poses some difficulties and challenges in its implementation, which need to be closely assessed.

### **Enforceability on international platforms**

It is unclear to what extent the new act will be enforceable vis-à-vis international providers. Various providers, on-demand and platform services operate online shops that are not located in Switzerland. SIEA expects the Federal Council to clarify the issue of enforcement before the law enters into force.

### **Automatic PEGI 18 if no ranking is available**

The draft law stipulates that games that have not been defined by the manufacturer or the retailer are automatically classified as PEGI 18 and would therefore only be accessible to adults. SIEA welcomes measures that promote the enforcement of the law and result in a nationwide age ranking of online and video games. However, in practice, we think it is problematic to automatically classify games that are not defined. Many games – especially in Switzerland – are developed by small providers who do not have the tools to provide an accurate age rating. We propose that unrated games be treated the same as PEGI 18, but not classified as such.

### **Age control for on-demand services**

The new JSFVG also calls for an effective system of age control for on-demand services and effective measures to enforce parental control. SIEA very much welcomes this. However, we would like to ask whether there is truly a need for two complementary control systems. In certain cases, effective measures to ensure parental control may render an additional system for age verification obsolete. SIEA recommends that this option be explored further.

### **Uniform, easy to implement “18+” rule**

According to the present draft law, young people may purchase a video game or online game marked “18+” when accompanied by an adult. They may not, however, attend the same game in the company of the same adult as a spectator at an event, such as an ESport event. This makes little sense from SIEA's point of view. SIEA would like the same, easy to implement rule to apply to purchases as to events. If games labelled “18+” can be purchased when accompanied by an adult, young people should be able to watch them at events under the same conditions.

### **Deadline for comments in the event of objections**

If the age rating of individual games is objected to, the new law requires the submission of a complaint within 30 days. This deadline is too short. PEGI handles objections very carefully and has them meticulously reviewed by the PEGI Complaints Board. However, this international body cannot request complaints to be submitted within 30 days. A realistic deadline of 90 days must be set here.

### **Specifying sanctions more precisely**

The law does not explicitly prevent double sanctions by industry organisations or the cantons. However, the possibility of double sanctions must be ruled out. The law must therefore be amended in this respect. It is also important that the law provides for an appropriate gradation of sanctions according to the scope of the offence. According to the present draft, a cashier who is accused of a single, first-time offence could be fined up to CHF 40,000. This is neither expedient nor appropriate.

### **Sanctions for non-SIEA members**

The (SIEA) is responsible for enforcing the protection of minors under the PEGI system and has an effective sanctioning system for its members. However, the present draft law is not binding on non-members with respect to penalties, which urgently needs to be changed. In addition, the draft law does not allow the test results of blind purchases to be used by industry organisations for criminal prosecution. This is not expedient for the effective enforcement of the protection of minors. For effective co-regulation, as stipulated by the law, the test results of industry organisations must also be recognised and approved.

### **Effect of the law on television**

The new federal act on the protection of minors with regard to films and video games regulates the protection of minors in online and video games as well as in films. SIEA supports this uniformity. However, it remains unclear what effect the new law will have on television (free TV and pay TV). Do the same requirements apply to television?

### **Significant additional costs**

The video and computer games industry will incur considerable additional costs as a result of the new law:

- It has to establish a body or organisation which can exercise the control function and sanction non-compliant providers with penalties.
- The test purchases already carried out today must be noticeably expanded.
- Compliance with the new JSFVG at trade fairs and events must be ensured.
- The new, stricter requirements for the protection of minors will have to be repeatedly communicated.

All this is not free of charge and must be supported by the video and computer game industry as well as the players.

## **3. Conclusions**

SIEA largely supports the requirements for effective protection of minors formulated in the new federal act on the protection of minors with regard to films and video games. However, individual aspects still need to be assessed for whether they can be practised and enforced. In its detailed consultation response, SIEA will make concrete proposals in this regard.