Protection of minors and co-regulation in the Netherlands

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Protection of minors: linear media content

Rules that apply to both public service and private media:

- Seriously harmful programs: absolutely forbidden (directly supervised by the Dutch Media Authority CvdM)
- Harmful programs: only allowed if broadcaster joins an officially acknowledged classification organization

Protection of minors: non-linear media content

Rules that apply to public service media:

- Seriously harmful videos: absolutely forbidden (directly supervised by CvdM)
- Harmful videos: only allowed if an officially recognized classification organization is joined

Rules that apply to private media:

- Seriously harmful videos: only made available in such a way as to ensure that minors will not normally hear or see them
- No rules regarding harmful video's

Recognized content classification organization= NICAM

- Public service media and private media that wish to broadcast linear audio-visual harmful content are obliged to become members of and obey to regulations of Netherlands Institute for Classification of Audiovisual Media = NICAM (www.kijkwijzer.nl)
- Strong incentive for self-regulation: those wh affiliated with NICAM can only broadcast prc ages and are directly supervised by the Cvd

N I C A M

Broad representation in NICAM

- Public service media (PSM)
- Private broadcasters
- Film distributors
- Cinema operators
- Producers & importers of DVD, video and games
- Retailers of DVD, video and games

Protection of minors: CvdM

- Broadcasters which are not affiliated with NICAM can only broadcast programs for all ages and are supervised by the Dutch media authority CvdM
- Programs that can be seriously harmful: absolutely forbidden
- Seriously harmful: exceptional category
- Special committee installed by CvdM advices in specific cases whether seriously harmful program has been broadcast

Advisory Committee on seriously harmful content

- Different fields of expertise represented by composition of its members: pedagogue, children psychologist, criminal law expert, children psychiatrist, media ethics specialist
- Based on cases the commission developed 3 assessment criteria:
  1. the intensity and assumed impact of the audiovisual material
  2. the duration of the audiovisual material
 3. the context and function of the audiovisual material: glorifying violence of sexual abuse?

Meta supervision by CvdM

- NICAM controls quality of classifications of its members
- CvdM yearly checks the quality control by NICAM: check on check = meta supervision
- Questions: are classifications by NICAM reliable and valid? Is the system as a whole working correctly?
- CvdM reports its findings and conclusions yearly to the Minister
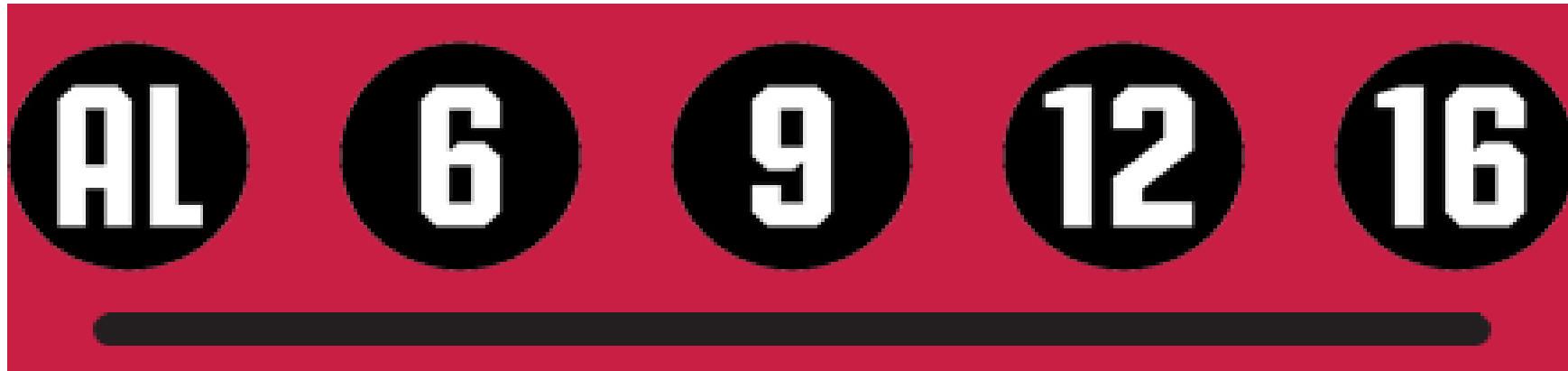- Shared responsibility of industry (NICAM) and public authority (CvdM) = co-regulation

Kijkwijzers' co-regulatory design
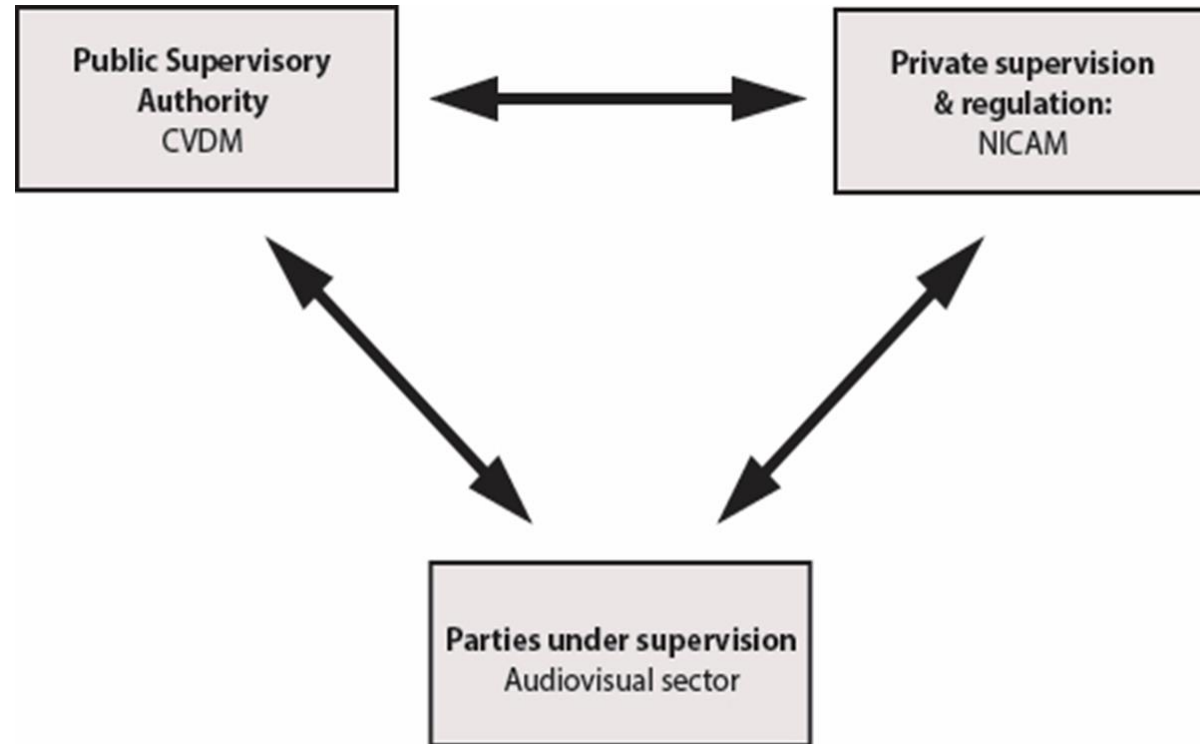
Kijkwijzer: age symbols and watersheds

AL 6 9 12 16

- Watersheds/timeslots:
- 12 years and older only after 20.00
- 16 years and older only after 22.00

Kijkwijzer: content descriptors

Initial steps to Kijkwijzer I

- Basic principle: wishes and expectations of parents and educators are leading
- Involvement of media and youth experts representing wide variety of academic disciplines: media ethics specialists, communications scientists, lawyers, sociologists, psychologists and pedagogues
- Classification system tested many times: by coders and audience test panels

Initial steps to Kijkwijzer II

- Involvement of several ministries: Public Health, Justice, Education, Culture and Science (Media)
- Mix of public and private funding
- All key players in industry were approached and convinced it would improve legal certainty and transparency, so worth the investments in time and money

Success factors Kijkwijzer I

- Right momentum: protection of minors was in focus of public debate and common understanding existing system (Film Censorship Act) was out-of-date
- Strong commitment and representation: all relevant stakeholders were involved
- Permanent publicity: public a
targeting TV, cinema, schools

Success factors Kijkwijzer II

- Flexible & dynamic: adapt itself easily to new values and expectations in society, viewer perception and user experiences are tested constantly
- Modern: fits perfectly in system of encouraging media literacy and media awareness
- Fair & consistent: media and platform neutral
- Objective & non-biased: founded on scientific surveys

Further voluntary compliance to Kijkwijzer

From the start in 2001:

- Public & private broadcasters
- Film distributers
- Cinema operators
- Producers, importers and retailers
  of DVD, video and games

Recent trends:

- 2012: agreement with HBO
- 2013: agreement with VodNed
- 2014: agreement with Netflix NL

You Rate It

- International classification tool
- Rating of User Generated Content (UGC)
- Developed by the British Board of Film Classification (BBFC) and NICAM
- Simple uniform tool to qualify UGC on UGC platforms on the basis of the answer to several simple questions http://www.yourateit.eu
- Ratings can differ from country to country to take into account different national sensitivities and concerns over content

You Rate It

ERGA protection of minors: factors hindering adequate protection

- Changing technology and consumption patterns
- Fragmentation of protection measures
- Audience expectations of consistent regulations across all platforms and devices
- Not all content is classified and current classification systems are not aligned
- Lack of incentives for industry to provide for appropriate tools

ERGA protection of minors: 5 key themes in first report (Report on the protection of minors in a converged environment, 27th november 2015)

1. Different standards linear and non-linear AV content
2. The harmonisation of key definitions
3. Protection measures: new challenges due to numerous techniques and distribution platforms
4. Effective enforcement, shared responsibilities, self- and co-regulation
5. Media literacy

ERGA protection of minors: recommendations in first report

- Levelling protection in linear and non-linear audio visual media services
- Encouragement industry to take up further development of protection and standardisation measures
- Uniform content categorisation but classification can depend on cultural differences and local specificities in countries
- Prominent role for codes of conduct and other co-regulation mechanisms
- Ongoing important role for the promotion of digital and media literacy

Uniform content categorisation but different (age) classification

Uniform content categorisation but different (age) classification

Uniform content categorisation but different (age) classification

ERGA protection of minors: observations last reports

- Clear tendency to aspire to higher standards of protection of minors mainly by following the international initiatives, especially among the broadcasters which are part of larger international media groups
- Protection of minors is seen as a service to the viewers by broadcasters rather than obligation to adhere to the binding legislation
- Every VOD platform examined had PIN system in place and age-ratings and content labels in VOD naturally follow those used in broadcasting
- There's an increasing use of specialised profiles and apps for children that allow for only children's content to be watched on particular VOD platform
- For protection of minors VSPs (Youtube) rely heavily on users; they actively try to create communities of attentive users

ERGA protection of minors: workshop on existing practices

- Wide coverage of relevant sectors in converged media landscape; linear services, VOD services, distributors, VSPs, social media, parental organisations, academia, researchers, regulators
- Workshop served as source of inspiration for further developments and actions within the industry
- Several participants expressed interest in and need for further harmonization of classification systems
- We have to rely on automated systems but human touch remains important especially to assess context of potentially harmful audiovisual content
- More harmonization of classifications will not require rocket science: willingness of media companies to share content rating data is crucial

AVMS Directive inspired by ERGA's recommendations

Importance of information and classification systems emphasized (article 6a, paragraph 3) ✓

Importance of media literacy and empowerment of users emphasized (article 33a) ✓

Importance of self- and co-regulation emphasized (article 4a) ✓

VSP's have been given responsibilities on system level to protect general audience against incitements to hatred and provocations to commit criminal offences such as terror acts and child pornography and secure clear separation between editorial and commercial content (article 28b) ✓

Critical succes factors for co-regulation

- Crystal clear public policy purposes connected to values you want to serve
- Wide coverage and strong commitment of relevant industries
- Responsibilities shared amongst public and private actors and clear role
- General foundation in formal legislation
- Room for frequent evaluation
- Serious backstop powers in case of failure and non-compliance
- Make publicity and look for cheerleaders: make also clear to general audience what is added value and importance
- Be flexible and ask yourself relevant questions when drafting system; ERGA's explorations and observations

Transparency commercial communciation online videos

CURRENT FRAMEWORK

- Lineair and non lineair

  ✓ AVMS (VOD) eg Netflix

- TV-like criterion AVMSD/Media Act

  ✓ Social influencers on VSP outside scope Media Act and supervision CvdM

SUPERVISORY AUTHORITY (I)

- Take action irrespective since:

  - ✓ Protection of minors
  - ✓ Creating a level playing field

- All relates to the core values of our Authority:

  - ✓ Independence
  - ✓ Diversity
  - ✓ Accessibility

Samen sterk voor transparantie!

SUPERVISORY AUTHORITY (II)

- Actions:

  - Survey transparency, results published
    - 100 largest influencers
    - 80% not transparent

  - Media-coverage, o.a. Nieuwsuur, NOS

  - Tweet Saske de Schepper

Samen sterk
voor
transparantie!

CREATION SOCIAL CODE (I)

- Stimulate setting rules by youtubers
  - ✓ By brainstorming with experienced and well-known YouTubers
  - ✓ Insights from scientific research
  - ✓ First outcomes discussed with agencies / mcn's,
  - ✓ Later also with branch organization and other stakeholders

CREATION SOCIAL CODE (II)

- How to introduce the code (according to YouTubers)?
  - ✓ Convince as many YouTubers as possible to participate
  - ✓ At the moment there is sufficient support among the 'top' YouTubers, launch the rules through their own channels.
  - ✓ Seek publicity trough more traditional channels to create further support

RESULTS: SOCIAL CODE YOUTUBE

In November 2017, a group of Dutch YouTubers introduced the Social Code: YouTube. It is created in cooperation with the Dutch Media Autority.

- The group of YouTubers wants to be upfront about commercial content and clearly disclose the fact that they are advertising.

- They also want to take first steps towards the new Audio-visual Media Services Directive.

- The code contains guidelines on how to be transparent about commercial content. Four different situations are explained. Focus: online videos on YouTube.
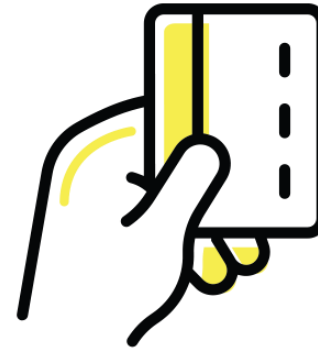
Advertising in online video's (II)

Situation 1: the youtuber has been paid to advertise for a brand, product or service

Situation 2: the youtuber has been paid to make publicity for a good cause

Situation 3: the youtuber has been provided with a product or service for free

Situation 4: the youtuber has purchased a product or service at his own expenses

Launch website

- The YouTubers launched a website dedicated to the Social Code: Youtube.

- They also created two animated videos that explain the Code in an easy way to other YouTubers, followers, multi-channel-networks and advertisers.
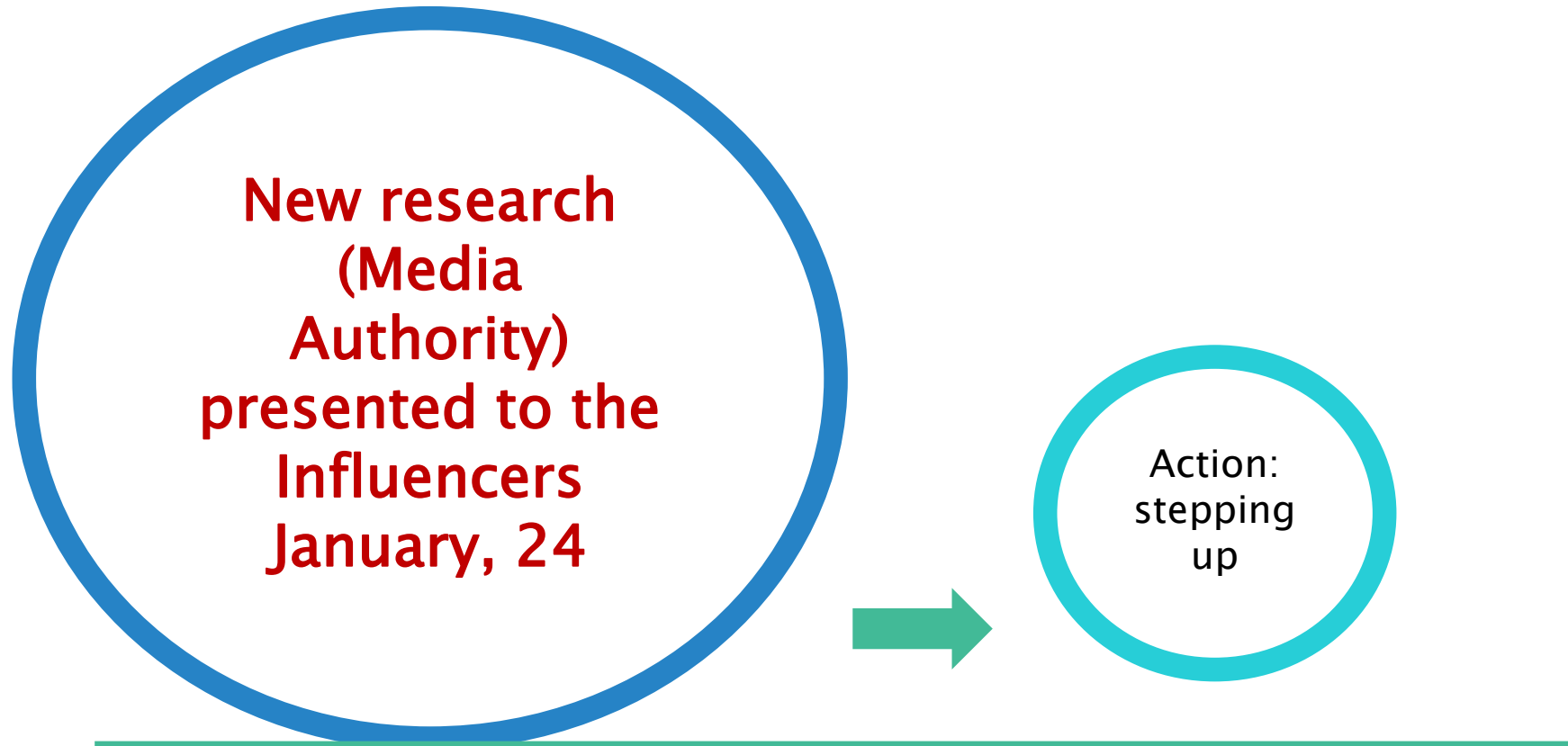
Launch website(II)

Voice-overs from two famous Dutch YouTubers with a large group of followers: Mascha Feoktistova and Dylan Haegens

NEXT STEPS INFLUENCERS

New research (Media Authority) presented to the Influencers January, 24

Action: stepping up

RESEARCH HAS SHOWN THAT…

- ✓ An entry must be seen and understood
- ✓ Minimum 6/8 seconds
- ✓ As little distraction as possible
- ✓ Shown in advance
- ✓ Contrast
- ✓ Textually, no icons
- ✓ Explicit text (advertising, paid brand name, purpose)

QUESTIONS?