

Dear Mr Gritsak,

Further to your letter (undated) regarding the programmes XXL and Playboy TV we can inform you as follows:

Our authority, the CvdM, has indeed granted licenses (duration of 5 years) for both programs channels. The license for XXL was granted to the service provider Thematic Netherlands BV on 20 December 2011 and the license for Playboy TV was granted to STV International per 21 September 2010. It has been renewed very recently for a new period of 5 years starting per 21 September 2015.

The service providers have to obey to the regulations laid down in the Dutch Media Act 2008. This means both service providers have to respect also the rules of the Audiovisual Media Services Directive (AVMS Directive) including those regarding the protection of minors since the AVMS Directive is implemented in the Dutch Media Act. As you will be aware of the stipulations of the Convention Transfrontier TV are in line with those of the AVMS Directive.

Regarding the system of the protection of minors in our country against harmful audiovisual content we can inform that:

More than 15 years ago the Netherlands have opted for a system of co-regulation. This means there is a shared responsibility between CvdM and NICAM; the Netherlands Institute for the Classification of Audiovisual Media.

Primarily the responsibility lies with NICAM. If a media service provider is affiliated with NICAM, respects the watersheds (20.00 and 22.00) and shows the applicable symbols (age and content descriptors based on Kijkwijzer system) the provider will be entitled to show harmful content. It is important to mention that the classification is not done by NICAM but by the media service providers themselves. For more info regarding the Kijkwijzer please check: <http://www.kijkwijzer.nl/english>

The watershed 20.00 applies to programmes which are considered to be potentially harmful for minors younger than 12 years old. In addition, programmes potentially harmful for minors younger than 16 years old may not be broadcast before 22.00. When a media service provider can ensure by specific technical measures like a pin code that harmful programs cannot be accessed by minors it is also allowed to show harmful programmes outside of these watershed periods. All these requirements will be checked by NICAM.

Media service providers that are not affiliated with NICAM may only broadcast programmes suitable for all ages and will be subject to direct supervision of the CvdM. In practice this means that adult content related programmes are totally prohibited. According to our information both service providers offering these channels are affiliated with NICAM.

Programmes which can seriously harm the development of minors are not allowed to be broadcast at all, this regardless the time and technical manner of broadcasting and regardless the responsible media service provider is

affiliated with NICAM or not. Regarding seriously harmful content (usually a very exceptional category) the CvdM has installed a special Advisory Committee which advises the CvdM in cases such content would occur. The committee is comprised of five experts from the field of youth, media, law and ethics.

Another aspect of the co-regulation system in the Netherlands is that the CvdM yearly evaluates the work of NICAM by carrying out so called "meta supervision".

The responsibilities are shared as follows:

- NICAM controls structural and ad random quality of classifications of its members
- CvdM checks yearly the quality control by NICAM: check on check = meta supervision
- Questions: are classifications by NICAM reliable, valid, stable, consistent and precisely?
- CvdM reports its findings and conclusions yearly to the Minister
- Shared responsibility of industry (NICAM) and public authority (CvdM) = co-regulation

We hope this information is helpful to you.

Best regards,

Commissariaat voor de Media

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