



# Germany's new Youth Protection Act

## A potentially tougher ratings ecosystem emerges in Germany

Regulator: Federal Centre for the Protection of Children and Young People in the Media

### RISK BAROMETER:



### JURISDICTION RELEVANCE:

Germany

### TIMELINE:

Implementation from 1st April 2021, pending passage of the Bundesrat (Upper House)

### WHAT YOU SHOULD KNOW:

- Germany's federal parliament (the Bundestag) have passed the Second Law to amend the Youth Protection Act (YPA), with stricter rules for online providers and platforms covering age ratings, labelling, default settings and the implementation of special 'precautionary measures' to be enforced by a new regulator, the Federal Center for Protection of Children and Adolescents in the Media.
- There have been a series of last-minute changes, suggesting confusion amongst legislators. A statement in the Bundestag's [press release](#) that 'It is also planned to deactivate cost traps such as 'loot boxes' by default' has been deleted. Nonetheless, amendments to the Act itself mean that 'precautionary measures' may be triggered by a non-exhaustive list of in-game mechanics such as 'gambling-like mechanisms' or other 'purchase functionalities.' The list of 'precautionary measures' includes 18+ ratings and 'technical means of age verification.'<sup>1</sup>
- A caveat is that the Act provides for 'voluntary self-regulation' and the USK, the German Entertainment Software Self-Regulation Body on whose advisory Council sits Germany's youth protection agencies, [has endorsed](#) IARC (International Age Rating Coalition), which may preclude the need for 'precautionary measures' outlined at s24(a).
- Details surrounding the implementation of the Act remain unclear until the publication of guidance by the new regulator. In what may lead to a bureaucratic system of co-regulation, the Act appears to give Federal states say in whether a self-regulatory system makes the grade.<sup>2</sup> Penalties can include fines of up to €50 million.

### MOST TELLING:

**'This includes in particular risks due to communication and contact functionalities, due to purchase functionalities, due to gambling like mechanisms, due to mechanisms for the promotion of excessive media use, due to transferring account and usage data to third parties without consent, and due to purchase exhortations that are not age-appropriate, in particular through advertising references to other media.'** (Section 10b (3) YPA – Media Unsuitable for Certain Groups)

### DELANY & CO HOT TAKE:

It must be significant that for the first time in history, loot boxes are enshrined in European statute books through the euphemism 'gambling-like mechanism.' Although the YPA provides for the use of IARC, the specific list of in-game mechanics that can be expanded upon, combined with veto powers granted to state authorities, may open a debate around age gating and age assurance.