

Position of the video game industry on the French law to strengthen parental control over means of Internet access.

1. The video game industry, a growing industry committed to youth protection

The video game sector in France represents a market of 5.6 billion euros, up 13.5% in two years. The console ecosystem (hardware, software and accessories) accounts for 49% of the total value of the video game market and generates €2.749 billion. In 2018, the industry employed 15,000 people in France, which represented a fivefold increase in the number of employees in the sector in 8 years. Moreover, 73% of French people, of all ages, play video games at least occasionally, and there are now as many male as female game players. In Europe, total revenues in 2020 were €23.3bn with a 22% year on year growth. The console ecosystem represents 44% of the total revenue. Europe had 90,000 employees in 2019, which increased by 11% from the previous year. 50% of the European population plays video games and 47% of these players are female¹.

20 years of minor protection commitment

The industry has a longstanding commitment to minor protection. In 2003, in response to a call from the Council of the European Union for a harmonised age rating system, the industry created PEGI (Pan European Game Information) – a hugely successful and best-in-class self- and co-regulatory system aimed at informing consumers and guiding the industry. Today, 38 countries in Europe use the PEGI system. www.pegi.info

The PEGI System is more than just the visual labels displaying the appropriate age for a specific game ranging from PEGI 3 to PEGI 18. The PEGI backbone is its Code of Conduct which is a set of rules to which every publisher that uses the PEGI system agrees contractually. The Code addresses age labelling, promotion and marketing, independent consumer redress, and, importantly, safe online gameplay.

Since 2007, the PEGI Code of Conduct includes DSA-like provisions, aimed at keeping any user-generated content free of content that is illegal, offensive, racist, degrading, corrupting, threatening, obscene or that may permanently affect minors' development. Since 2007, in order to protect children from potentially harmful or illegal content, including voice and video chat, signatories use a variety of tools and safeguards. These include age gating, reporting tools, filtering software, moderation and muting tools. This system is widely welcomed by professionals, administrations and consumers, and is considered an example of European harmonisation in terms of child protection and a model of sectoral self-regulation.

Parental control tools

Parental control tools such as those available on consoles, are a crucial pillar of the industry's safety by design' approach. Importantly, all video game console manufacturers have developed parental control tools which are in place for several years.

¹ [lessentiel du jeu video novembre 2021.pdf \(sell.fr\)](https://www.sell.fr/ressources/essentiels/essentiel-du-jeu-video-novembre-2021.pdf) ; <https://www.isfe.eu/wp-content/uploads/2021/10/2021-ISFE-EGDF-Key-Facts-European-video-games-sector-FINAL.pdf>

When the console is activated for the first time, it requires the creation of a user profile, which involves indicating the user's age. Depending on the age indicated, a certain number of parameters will be set (such as the possibility of online interaction, a list of accessible games, the possibility of making purchases, etc.). It is possible to set up several profiles if several users play on the console, protecting them with passwords to prevent young children from accessing an adult's profile.

In place since early 2000, and constantly evolving, these allow to - among other things - the restriction or limitation of play time as well as the restriction of communication with other players in the game and serve as a safeguard against children being exposed to inappropriate content introduced by other players. This is why illegal and harmful content is rare in in-game communication.

Education and information actions accompany the various industry measures

With a view to enabling a better understanding of the issues and risks linked to video games by families in France, SELL (the main French video game publishers' union) joined forces with the Ministry for the Family and associations involved in child protection to found the PédaGoJeux association in 2008.

Led by the *Union Nationale des Associations Familiales* (Unaf), PédaGoJeux publishes a reference site, www.pedagojeux.fr, which addresses all aspects of video games and aims to raise awareness and inform parents and educational mediators about the practice of video games.

The proposed law adopted by France requires manufacturers of terminal equipment intended for the use of online public communication services providing access to services and content likely to impair the development of minors to put in place a parental control system. The activation is proposed to the user when the equipment is first put into service.

In this context, although we welcome the law, we nevertheless fear that its implementation will create cumbersome technical constraints, and could lead to fragmentation in Europe if the law would impose on console manufacturers changes to longstanding practices that each console manufacturer has put in place. While parental controls such as those offered on consoles all achieve the same objective and include similar features: control access to age-appropriate games; limit or disable spend; control of play time; limit or disable online interaction, there are differences in how the controls are activated by parents and guardians on the device (profile creations, parents' accounts, children's accounts etc.). This flexibility needs to be maintained, otherwise this may lead to significant technical constraints and adaptations.

Any initiative that would reverse the industry-harmonised efforts in place for many years should be avoided.

2. Concerns regarding implementation

- a. The scope of the law and the question of minimum functions and technical characteristics (II. 1°)

Article 1 provides, in (1) of its II, that a decree must determine the minimum functions and technical characteristics of the parental control system.

It is important to stress here that these technical characteristics and minimum functions must take into account the diversity of the equipment concerned and their operation. This solution must be seen through a technology-neutral approach, so as not to create incompatibilities of use with certain

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technologies or excessive technical complexity. Furthermore, as the sector concerned by these systems is particularly innovative, it is important to ensure that the technical characteristics selected do not hinder innovation and can be adapted to future technologies.

The technical characteristics must be understood as simple minimum standards which will then allow each industry to put in place the best tool to achieve the objective pursued by this law. Here we agree with the position of the European Commission, which called in its Communication TRIS/(2022) 00554 on an earlier version of this law, for the compatibility of the planned system to depend on "the specification of 'technical characteristics' and 'minimum functionalities' of parental control tools and their compatibility with universal application, taking into account the diversity of device manufacturers in terms of scale and sophistication."

Nor should this regulation result in making it impossible to use existing parental control systems that provide a real protection for minors. A prior study of pre-existing tools and a consultation of all stakeholders is essential for the elaboration of the modalities of application of this law. This should enable the legislator to draw inspiration from existing and relevant systems put in place by manufacturers.

Finally, we must ensure that the new regulation does not create new barriers to trade between the different Member States. **A parental control system recognised in one Member State must be recognised in the same way in other Member States.**

b. The means used by the manufacturer to facilitate the use of the system (II. 1°)

We are concerned as regards the means that will be required from the manufacturer to facilitate the use of a system. Some manufacturers have already looked into the matter in order to set up a control system that is easy to access, protective and constitutes an essential step in the activation of a device. This is particularly true of the video game industry, which has set up profiles that must be activated before a piece of equipment is activated. The use of profiles has been designed to be as simple as possible, aiming both at preventing the child from deactivating, as well as to avoid any by-passing of this important step. We therefore consider that the system put in place by console manufacturers already meets this obligation.

Therefore, the obligation as regards this provision should not question or jeopardize the measures already put in place by the industry. Console manufacturers should be consulted on any of the proposed measures prior to adoption.

c. The question of certification (II. 1° a)

The law provides that manufacturers shall certify to importers, distributors and fulfilment service providers that terminal equipment placed on the market incorporates the parental control system.

This certification raises questions from the industry, which fears that it will lead to a significant administrative burden as well as a high financial cost. Indeed, if a third party certifier has to be involved before the launch of new products, this could cause problems of industrial property and additional delays.

The video game industry therefore prefers to set up a self-certification system, based on criteria defined by decree and controlled by the French National Frequency Agency. As a procedure for

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withdrawing and recalling non-compliant equipment has been put in place, such a system seems to us to be sufficiently protective for the public while leaving professionals the flexibility to deploy protective systems.

- d. The manners in which manufacturers contribute to the dissemination of available information (II. 3°)

Finally, the video game industry's last concern relates to its contribution to the dissemination of information on the risks associated with the use of online public communication services by minors, to the early exposure of children to screens and the means to prevent such risks.

For many years the video game sector has invested in information and education campaigns which are an integral part of the industry's minor protection commitment and the promotion of responsible gameplay towards parents, guardians and players.

The PEGI system was developed to address minor protection concerns and to enable everyone to easily be informed of the content of a game and its age suitability. The PédaGoJeux system deployed in France underpins the PEGI system by enabling families to better understand video games and establish a dialogue on responsible game play.

Communication campaigns are regularly carried out, as is the case in France with the regular campaigns run by the SELL. It is thanks to these repeated efforts that in France in 2021, 92% of parents are aware of the parental control tools present on consoles and almost one parent in two says they use them (an increase of more than 10 points compared to 2020).

While these figures show the growing interest of families in this subject, these efforts need to be renewed on a regular basis in our digital society. This is why SELL has joined forces with the Ministry for the Family and other industries concerned to draft a Protocol of Commitment for a reasonable and sensible use of screens. The aim of this protocol is precisely to inform parents of the existence of tools designed to protect minors from overexposure to screens and on the use of screens and tools to regulate screen time.

In this context, a national information system has been set up: the www.jeprotegemonenfant.gouv.fr portal, which is funded by the signatories of the protocol. Signatories also undertook to contribute, in a form to be determined, to inform the general public, in particular through general interest information campaigns on the responsible use of screens by minors, and on the means to prevent excessive use. It is in this context that information on parental control tools should be disseminated, in order to give maximum visibility to the easy-to-use instruments already in place. Regular communication campaigns are the best way to ensure reach and awareness. Families need access to the resources provided by the brands they know, as they know they can obtain reliable and complete information. This is the objective of the www.jeprotegemonenfant.gouv.fr website, which according to SELL and ISFE is the best vehicle for implementing this obligation.

Contact SELL: Nicolas Vignolles, Managing Director: n.vignolles@sell.fr

Contact ISFE: Ann Becker, Head of Policy and Public Affairs: ann.becker@isfe.eu