

NB: Unofficial translation,
Legally binding only in Finnish and Swedish

Ministry of Education and Culture, Finland
August 17, 2011

Act on Audiovisual Programmes

Act No. 710, of June 17, 2011

Chapter 1

General provisions

Section 1

Objectives of the Act

This Act provides for restrictions on the provision of audiovisual programmes for the purpose of protecting children.

Section 2

Scope of application

This Act applies to the audiovisual programme provision and its supervision in Finland, provided that the programmes are provided by television operations or by on-demand service subject to the Act on Television and Radio Operations (744/1998). The Act applies to other audiovisual programme provision and its supervision in Finland if:

1) the programmes are provided by an association or entrepreneur registered in Finland or with offices in Finland;

2) the programmes are provided by a Finnish citizen or a person with permanent residence in Finland; or

3) the decision on the provision of programmes has been made in Finland.

An audiovisual programme that is included in programming originating outside Finland and is provided in Finland simultaneously with the original transmission is only subject to the provisions of section 4(1—3) and sections 7 and 25—29.

Section 3

Definitions

For the purposes of this Act:

1) audiovisual programme means a motion picture, television programme, game or other content intended for viewing as moving pictures through technical means;

2) audience means a freely formed group of people or a group formed by a large number of people;

3) provision of an audiovisual programme means making the programme available to an audience for viewing;

4) audiovisual programme provider means a party that makes the programme available to an audience for viewing;

5) classification means an assessment based on a viewing of the audiovisual programme to determine whether the programme is likely to have a detrimental effect on the development of a child under a given age.

Chapter 2

Provision of an audiovisual programme

Section 4

Notification of the provision of audiovisual programmes

An audiovisual programme provider must submit a notification to the Finnish Centre for Media Education and Audiovisual Programmes when beginning to provide audiovisual programmes. The notification must be submitted if programmes are provided for economic purposes and on a regular basis. No notification is needed if the programmes provided are only of the kind that do not need to be classified and labelled under sections 9—11.

The notification shall contain the following information:

1) the name, business name, contact information and domicile of the audiovisual programme provider;

2) a description of the manner in which the audiovisual programme is provided;

3) the contact information of the place in which the audiovisual programme is provided.

The Centre must acknowledge receipt of the notification within one week. Any changes to the information mentioned in sub-

section 2 must be communicated to the Centre without delay.

Audiovisual programme providers must notify the Centre of the number of audiovisual programmes, referred to in section 16(2), that they have provided during the calendar year. The information must be submitted by the end of January the following year. At the Centre's request, an audiovisual programme provider must provide the Centre with a list of the titles of the said audiovisual programmes.

Section 5

Provision of an audiovisual programme

An audiovisual programme may be provided, unless otherwise provided in sections 9—11, only if it has been classified in accordance with section 16(1), and if a clearly visible label indicating the age limit and content is displayed on or in connection with the programme, or if it is an audiovisual programme referred to in section 16(3) and a clearly visible label indicating the age limit and content is displayed on or in connection with the programme. An audiovisual programme referred to in section 16(2) may only be provided if a clearly visible label indicating the age limit of 18 is displayed on or in connection with the programme.

The Finnish Centre for Media Education and Audiovisual Programmes defines the appearance of age limit and content labels referred to in subsection 1.

Section 6

Compliance with the age limit of an audiovisual programme

It is prohibited to provide an audiovisual programme that has the age limit of 18 to minors.

By derogation from subsection 1 above, a programme that has the age limit of 18 may be broadcast as a part of television programming at a time of day when people under the age of 18 normally do not watch television or as a television programme whose reception requires a descrambling device.

An audiovisual programme provider must ensure that an audiovisual programme with an age limit of 7, 12 or 16 is not available for viewing by children younger than the age limit. Measures for ensuring this include:

1) broadcasting the programme on television at a time of day when children normally do not watch television, provided that programme reception does not require the use of a descrambling device;

2) making the programme available in such a way that a service that can be used to prevent the programme from being viewed is offered in connection with the programme;

3) checking the viewer's age in another way when providing the programme.

A programme can be publicly exhibited to a person at the most three years younger than the age limit of 7, 12 or 16 given to the programme if the child is accompanied by a person aged 18 or more.

An audiovisual programme provider must communicate age limits and other measures used to promote the protection of children in connection with the provision of programmes.

Section 7

Transmission of foreign television programmes

When marketing television programmes originating outside Finland, it is obligatory to indicate that the programme may contain audiovisual material detrimental to the development of children and that the material included in the programme has not been classified and labelled in accordance with this Act. Such information must also be included in retransmitted programmes unless it is technically impossible or requires unreasonable effort.

Section 8

Codes of Conduct

Audiovisual programme providers may draw up codes of conduct to promote best practices for providing audiovisual programmes and media education. The Finnish

Centre for Media Education and Audiovisual Programmes may inspect the codes of conduct to ensure that they comply with this Act.

Chapter 3

Classification of audiovisual programmes

Section 9

Audiovisual programmes exempted from classification and labelling based on content

An audiovisual programme is exempted from classification and labelling if it:

1) only contains educational or cultural material;

2) only contains music, sports or replays of exercise, culture or spiritual events or other similar events and gatherings;

3) only deals with hobby crafts, well-being, discussion, games and play, fashion, gardening, construction, cooking, interior decoration, quizzes and quiz shows, or other topics offered to people of all ages;

4) only contains marketing material for goods or services;

5) only contains informative material about ideological or political activities;

6) contains topical news material;

7) is a live transmission in terms of content.

By derogation from subsection 1, paragraph 4 above, an audiovisual programme that only contains marketing material for audiovisual programmes must be classified.

Section 10

Audiovisual programmes exempted from classification and labelling based on the purpose of production

An audiovisual programme is exempted from classification and labelling if it:

1) is made accessible in an online publication referred to in the Act on the Exercise of Freedom of Expression in Mass Media

(460/2003) and has been produced or acquired in connection with the editing of the publication;

2) is made accessible in a service providing programmes produced by private individuals and has been produced as a hobby by a private individual;

3) is provided as a part of educational or other cultural activities and has been produced in connection with such activities;

4) is a game that is made accessible in a service that provides games, and the service provider complies with the codes of conduct that he/she has drawn up for the said service and that have been inspected in accordance with section 8.

Section 11

Audiovisual programmes exempted from classification and labelling based on authorisation

Upon application, the Finnish Centre for Media Education and Audiovisual Programmes may grant authorisation to provide audiovisual programmes, without their being classified and labelled in accordance with this Act, at a special event arranged for the purpose of providing audiovisual programmes.

Authorisation may be granted for a single event or a fixed period of time. The authorisation may stipulate conditions on the time and place of audiovisual programme exhibition and the age of viewers.

The authorisation may be revoked if the authorised party infringes this Act or the conditions of the authorisation or if the content of the audiovisual programmes exhibited give other cause for such action. The authorisation can also be revoked if incorrect information was supplied to the Centre when applying for authorisation.

Section 12

Right to classify audiovisual programmes

An audiovisual programme may only be classified by an audiovisual programme classifier approved in accordance with section

13, as well as by an official of the Finnish Centre for Media Education and Audiovisual Programmes whose duties include classification.

Section 13

Approval as audiovisual programme classifier and classifier training

The Finnish Centre for Media Education and Audiovisual Programmes may approve as an audiovisual programme classifier a person aged 18 or more, who is deemed suitable for the duty and who:

1) has successfully completed the audiovisual programme classifier training referred to in subsection 2; or

2) has successfully completed the refresher training referred to in subsection 2, no earlier than six months prior to the application for a new approval, provided that the person applying for approval as audiovisual programme classifier has previously been approved as such a classifier pursuant to paragraph 1.

Audiovisual programme classifier training and refresher training shall contain, as a minimum, topics related to the provisions of this Act, the development of children, the classification of audiovisual programmes and the bases of classification, as well as the freedom of expression. The Centre shall define the requirements that audiovisual programme classifier training and refresher training must satisfy.

The approval as audiovisual programme classifier is valid for five years. A person approved as audiovisual programme classifier shall receive a certificate of approval.

Prior to deciding on approval, the Finnish Centre for Media Education and Audiovisual Programmes shall request the applicant to present an extract from the criminal records, referred to in section 6(2) of the Criminal Records Act (770/1993), to assess the suitability of the person. For the purpose of carrying out a criminal background check pursuant to this Act, the criminal records extract may not be older than six months.

The only entries that can be made in the personal information of the person who pre-

sented the criminal records extract are those indicating the extract was presented and those defining its identifier data. Any person who has viewed the extract pursuant to this Act may not take a copy of it. The criminal records extract must be returned without delay to the person who presented it.

Section 14

Working as an audiovisual programme classifier

Audiovisual programme classifiers and officials referred to in section 12 must perform the classification independently and impartially.

The provisions related to official liability under criminal law apply to audiovisual programme classifiers performing their duties pursuant to this Act. Provisions on the liability for damages of audiovisual programme classifiers are laid down in the Tort Liability Act (412/1974).

The Finnish Centre for Media Education and Audiovisual Programmes supervises the activities of audiovisual programme classifiers and maintains a register of audiovisual programme classifiers in accordance with section 5 of the Act on the Finnish Centre for Media Education and Audiovisual Programmes (711/2011).

Section 15

Audiovisual programmes detrimental to the development of children

An audiovisual programme is considered to be detrimental to the development of children if the programme, by virtue of its violent or sexual content or its properties causing anxiety or any other comparable features, is likely to detrimentally affect children's development.

When assessing the detrimental nature of an audiovisual programme, the context and manner in which the programme's events are described must be taken into consideration.

Section 16

Classification of audiovisual programmes and labelling of the age limit of 18

If an audiovisual programme is detrimental to the development of children, as referred to in section 15, it shall be classified with an age limit of 7, 12, 16 or 18, depending on the programme's content, and be given a symbol that describes the programme content. If there is no reason to consider the programme to be detrimental to the development of children, it shall be classified as suitable for all ages.

A programme that is unambiguously produced for people aged 18 or more is not classified. A programme of this type may only be provided if a label indicating an age limit of 18 is clearly displayed on or in connection with the programme.

The Finnish Centre for Media Education and Audiovisual Programmes can approve an age limit and a symbol describing the programme content given in the EU for use in Finland, as referred to in this Act, without the programme being classified in Finland.

Section 17

Listing of audiovisual programmes

An audiovisual programme provider must register an audiovisual programme referred to in section 16, subsections 1 and 3, in the audiovisual programme list referred to in section 18.

The registration notification must include:

- 1) the name of the person submitting the notification;
- 2) the programme classifier and the classification date in Finland;
- 3) the original and Finnish name of the programme, the programme's duration and the year of production;
- 4) the programme's producer and the country of production;
- 5) the age limit of the audiovisual programme and the symbols describing its content;
- 6) a description of the programme's main content.

A notification of this kind need not be made if the audiovisual programme has been registered in the list referred to in section 18.

Section 18

List of audiovisual programmes

The Finnish Centre for Media Education and Audiovisual Programmes maintains a public list of audiovisual programmes. The information included in the list shall include that specified in section 17, subsection 2, paragraphs 2–6, as well as the measures pursuant to sections 21 and 30.

Chapter 4

Authority and supervision

Section 19

Supervisory authority

The Finnish Centre for Media Education and Audiovisual Programmes supervises compliance with this Act.

Section 20

Audience feedback

The Finnish Centre for Media Education and Audiovisual Programmes takes feedback from audiences concerning the provision of audiovisual programmes detrimental to the development of children.

The Centre acknowledges receipt of audience feedback. If the feedback leads to further measures, the Centre notifies the individual giving feedback of this.

Section 21

Acceptance of audiovisual programmes for classification

The Finnish Centre for Media Education and Audiovisual Programmes accepts audio-

visual programmes for classification on a well-founded request or if there is otherwise reason to believe the programme has not been classified in accordance with this Act.

The Centre may reclassify a previously classified programme if the passing of time and changes in social values have clearly led to the previous classification no longer being appropriate.

Upon the Centre's request, the audiovisual programme provider shall make the programme referred to in this section available to the Centre free of charge.

Section 22

Revocation of approval as audiovisual programme classifier

The Finnish Centre for Media Education and Audiovisual Programmes may revoke approval as audiovisual programme classifier if:

1) the person approved as audiovisual programme classifier no longer meets the requirements for approval laid out in section 13(1);

2) the audiovisual programme classifier has been convicted by a final judgment of a crime that proves the person to be unsuitable to act as an audiovisual programme classifier;

3) the audiovisual programme classifier has intentionally or repeatedly acted in a fundamentally erroneous manner.

In cases referred to in subsection 1, the Centre may, instead of revoking the approval, issue a caution to the audiovisual programme classifier, if revocation is deemed unreasonable in view of the classifier's situation.

Section 23

Inspection of labelling

The Finnish Centre for Media Education and Audiovisual Programmes has the right to carry out an inspection in the audiovisual programme provider's business premises or other facilities to ensure that the audiovisual programmes carry the required labelling.

The Centre may decide to authorise another authority to inspect the labelling. An outside expert may, at the Centre's request, assist in the inspection.

Section 24

Inspection

The Finnish Centre for Media Education and Audiovisual Programmes and the expert referred to in section 23(2) have the right to gain entry to audiovisual programme providers' business premises or other facilities that are used to store audiovisual programmes available or intended for provision, as well to gain access, free of charge, to all the information, reports, documents and other material needed for the inspection of labelling. The provider must assist in the inspection in every respect. Inspections may not be carried out in facilities used for permanent accommodation.

The Centre is entitled to seize an audiovisual programme that lacks the labelling referred to in section 5, if it is necessary in order to prohibit the provision of unlabelled audiovisual programmes, as well as any other inspected material if this is required to carry out the inspection. If only minor deficiencies are found in the labelling of audiovisual programmes, the Centre shall specify a reasonable time limit, without seizing the programmes, within which the deficiencies shall be remedied.

A record shall be kept of any material seized in connection with the labelling inspection, indicating the purpose of seizure and the material seized. Audiovisual programmes that lack the labelling referred to in section 5 shall be returned when legal grounds for their seizure no longer exist. Other material shall be returned immediately when it is no longer needed.

Section 25

Reprimand and penalty payment

If an audiovisual programme provider fails to fulfil its obligations laid down in section 6(2—5) or section 7, the Finnish Centre for

Media Education and Audiovisual Programmes may advise the provider to fulfil them. The Centre may impose a penalty payment to enforce its advice. Provisions on penalty payments are laid down in the Act on Penalty Payments (1113/1990).

Chapter 5

Fees

Section 26

Supervision fee

A supervision fee shall be collected for the Finnish Centre for Media Education and Audiovisual Programmes to cover the expenses resulting from the supervision of audiovisual programme provision.

The supervision fee shall be paid by corporations and persons subject to the notification requirement referred to in section 4.

The fee is collected for the first time for the calendar year in which the provision of audiovisual programmes is begun. The supervision fee or a part thereof will not be refunded should the provider cease activities before the end of the calendar year.

Section 27

Size of supervision fee

The annual supervision fees for the provision of audiovisual programmes are:

- 1) EUR 100 for the programme output of a regional television channel;
- 2) EUR 200 for business premises that publicly show audiovisual programmes and other corresponding facilities;
- 3) EUR 100 for business premises that provide audiovisual programmes as recordings and other corresponding facilities;
- 4) EUR 400 for on-demand services;
- 5) EUR 400 for a set of programmes of a party retransmitting foreign television broadcasts;
- 6) EUR 600 for the programme output of a national television channel.

Section 28

Determination and collection of supervision fee

The supervision fee is collected each calendar year. The fee is determined by the Finnish Centre for Media Education and Audiovisual Programmes.

Provisions on the direct distrainability of the fee, that is, the right to recover the fee without grounds for execution, are laid down in the Act on the Enforcement of Taxes and Duties (706/2007). Should the fee not be paid by the due date, annual interest for late payment shall accrue on the unpaid amount as provided for in section 4 of the Interest Act (633/1982). Instead of interest for late payment, the Centre may collect a late payment charge of five euro, if the amount of interest for late payment is less than this.

Section 29

Fees collected by the Finnish Centre for Media Education and Audiovisual Programmes for performance

Provisions on the fees collected for the duties performed by the Finnish Centre for Media Education and Audiovisual Programmes and by the Audiovisual Programme Board are laid down in the Act on Criteria for Charges Payable to the State (150/1992).

Chapter 6

Rectification request procedures and appeals

Section 30

Rectification request procedures

A party dissatisfied with a classification decision made by an audiovisual programme classifier may request rectification from the Finnish Centre for Media Education and Audiovisual Programmes. Provisions on the procedure applicable to rectification requests

are laid down in the Administrative Procedure Act (434/2003).

Section 31

Appeal against a decision made by the Finnish Centre for Media Education and Audiovisual Programmes

A party that wishes to appeal against an audiovisual programme classification decision made by the Finnish Centre for Media Education and Audiovisual Programmes shall lodge a complaint with the Audiovisual Programme Board. A complaint can be lodged by the party whom the decision addresses or whose right, obligation or benefit is directly affected by the decision. The complaint must be lodged within 14 days of receipt of the decision. The Board shall take up the complaint as an urgent matter.

Decisions made by the Centre other than those referred to in subsection 1 may not be appealed against. A party dissatisfied with a decision may apply for rectification within 30 days of receipt of the decision. Rectification requests shall be lodged with the Centre.

A decision on a rectification request may be appealed against as provided for in the Administrative Judicial Procedure Act (586/1996).

In its classification decision, the Centre may stipulate that the decision shall be complied with, even though it is not legally valid.

Section 32

Audiovisual Programme Board

The Audiovisual Programme Board comprises a Chairperson and a Deputy Chairperson, as well as four other members, each of whom has a personal deputy member. The members and deputy members are appointed by the Government for three years at a time.

The provisions on the disqualification of judges are applied to the disqualification of Board members. Board members swear a judicial oath or give a judicial affirmation as provided in Chapter 1, sections 6a and 7, of

the Code of Judicial Procedure, unless they have previously done so.

The Chairperson and Deputy Chairperson of the Board shall hold a Master's degree in law. As for the other members and deputy members, some must be acquainted with issues related to the development of children and others with issues related to visual communication. The Board may use experts for assistance.

The Board is quorate if the Chairperson or Deputy Chairperson, a member familiar with issues related to the development of children and at least one other member are present. The position supported by the majority of the members will carry. In the event of a tied vote, the position more favourable to the appealing party will carry.

Section 33

Appeal against a decision made by the Audiovisual Programme Board

An appeal against a decision made by the Audiovisual Programme Board may be lodged by the party whom the decision addressed or whose right, obligation or benefit the decision directly affects. To do this, the party shall lodge a complaint with the Supreme Administrative Court within 14 days of receipt of the Board's decision. The Supreme Administrative Court shall take up the appeal as an urgent matter.

Chapter 7

Miscellaneous provisions

Section 34

Publicity of an audiovisual programme submitted for classification

An audiovisual programme submitted to an audiovisual programme classifier or the Finnish Centre for Media Education and Audiovisual Programmes shall be kept confidential, unless it is clear that disclosure of it does not breach the copyright of the programme or

cause financial losses to the provider or other party involved in the matter or endanger the purpose of classification. In other respects, the provisions of the Act on the Openness of Government Activities (621/1999) shall be applied to the Centre's documents.

Section 35

Administrative assistance

The Centre for Media Education and Audiovisual Programmes is entitled to receive necessary administrative assistance from the police, customs and border guard authorities in inspections referred to in sections 23 and 24.

Section 36

Penal provision

Anyone who deliberately or through gross negligence

1) fails to submit notification of the provision of audiovisual programmes or information about the number of audiovisual programmes or a list of the titles of audiovisual programmes as stipulated in section 4;

2) provides an audiovisual programme that has not been classified and labelled as stipulated in section 5;

3) classifies an audiovisual programme without the right to work as an audiovisual programme classifier, as referred to in section 12;

4) fails to submit registration to the list of audiovisual programmes referred to in section 17; or

5) fails to make an audiovisual programme available to the Finnish Centre for Media Education and Audiovisual Programmes under the conditions referred to in section 21,

shall be sentenced to a fine for audiovisual programme violation unless the act is punishable in accordance with Chapter 17, section 18b of the Criminal Code (39/1889) or unless a more severe punishment has been provided for elsewhere in legislation.

Section 37

Further provisions

Provisions on the meetings of the Audiovisual Programme Board, the duties of the Chairperson, the signing of decisions and statements, the fees of members, as well as the preparation of matters in the Audiovisual Programme Board are given by government decree.

Provisions on the identification of the labelling inspector referred to in sections 23 and 24 may be given by government decree.

Chapter 8

Entry into force

Section 38

Entry into force

This Act enters into force on January 1, 2012.

This Act repeals the Act on the Classification of Audiovisual Programmes (775/2000).

Section 39

Transitional provisions

Matters concerning the inspection of audiovisual programmes pending at the Finnish Board of Film Classification at the time this Act enters into force will expire.

Matters pending in the Appeal Board of Film Classification or in a court at the time this Act enters into force will be dealt with

pursuant to the provisions effective at the time this Act enters into force. Audiovisual programmes shall nevertheless be classified with an age limit of 7, 12, 16 or 18 or classified as suitable for all ages.

As for audiovisual programmes inspected and approved for exhibition and distribution to people under the age of 18 prior to the entry into force of this Act, the age limit of 15 determined in inspection decisions will be changed to 16 and the age limits of 13 and 11 to 12 when this Act enters into force.

An audiovisual programme provided prior to this Act taking effect for which no inspection decision has been made prior to the Act entering into force shall be classified as provided in this Act. However, programmes registered in the age limit database for games, maintained by the Finnish Board of Film Classification, may be provided without approval from the Finnish Centre for Media Education and Audiovisual Programmes, as referred to in section 16(3).

If an audiovisual programme provided prior to this Act entering into force for which an inspection decision was made before this Act took effect is provided again as a recording, it shall be classified in accordance with this Act.

If an audiovisual programme provided prior to this Act entering into force for which an inspection decision has been made is classified in order to give it a symbol describing the programme content within two years of the Act taking effect, no fee will be collected for classification pursuant to the Act on Criteria for Charges Payable to the State.

Measures required for the enforcement of the Act may be adopted prior to the Act entering into force.