



AGREEMENT OF 19 JULY 2023, OF THE AUDIOVISUAL COUNCIL OF ANDALUSIA, REGARDING THE FREE ACCESS OF MINORS TO INAPPROPRIATE CONTENT ON MESSAGING PLATFORMS AND OTHER NETWORKS

1. Since 2021, the Audiovisual Council of Andalusia (ACA) has been undertaking various activities in the field of protection of minors in the face of easy access through the Internet to pornographic content and the effects and risks associated with the same. Among them, in January 2021, a technical report by ACA's Content Department was prepared on age verification measures taken by Spanish web pages offering pornographic content¹. This led to the adoption of **Decision 5/2022 on the protection of minors from pornographic content on the Internet**², whereby, *inter alia*, the Council considered it essential to review the existing regulatory regime regarding controlling and accessing pornographic content on the Internet and urged the competent authorities in the field and those Internet platforms hosting this type of content to tighten their requirements for accessing said pages. Furthermore, following the entry into force of Law 13/2022, of 7 July, on General Audiovisual Communication (LGCA), through an **Agreement**³ of ACA's Plenary on 15 March 2023, the list of websites of registered companies failing to comply with the age verification requirements demanded by article 89.1 of LGCA was formally referred to the competent administrative body, the National Commission of Markets and Competition.

Continuing with this line of work, by an Agreement of 11 May 2023⁴, the Council noted and warned of the existence, on platforms commonly consulted by minors, of videos providing information on how to easily access adult content of a markedly sexual nature, as well as the existence of multiple resources on the Internet, beyond those videos, also allowing minors to access pornographic or inappropriate content. For this reason, the bodies with competence in the matter, as well as the main video-sharing platforms and social media mentioned in the report prepared for this purpose by the Content Department, were interested in adopting the relevant measures within the scope of their competencies in order to prevent minors accessing this type of content.

2. This last report opened a new avenue for research since it revealed that Telegram was one of the instant messaging platforms through which pornography could be easily accessed, content that could potentially reach the hands of minors with access to a mobile device hosting the abovementioned messaging application. Given the results of the latest investigations, ACA's Content Department has prepared a new report showing that,

¹ Our Report of January 2021, prepared by ACA's Content Department, considers those websites whose legal notice gives as the person responsible for the content a company established in Spain, to be Spanish.

² <https://consejoaudiovisualdeandalucia.es/2022/02/17/decision-5-2022-sobre-la-proteccion-de-los-menores-frente-a-los-contenidos-pornograficos-en-Internet/>

³ <https://consejoaudiovisualdeandalucia.es/2023/03/23/acuerdo-de-15-de-marzo-de-2023-por-el-que-se-traslada-a-la-comision-nacional-de-los-mercados-y-la-competencia-la-relacion-de-plataformas-de-intercambio-de-videos-de-pornografia-establecidos-en-espana/>

⁴ https://consejoaudiovisualdeandalucia.es/wp-content/uploads/2023/05/Acuerdo_11_05_23_acceso_pornografia_menoresF.pdf

SIGNED BY	JOSE FRANCISCO DOMINGUEZ DEL POSTIGO	20/07/2023	PAGE 4/5
VERIFICATION	Pk2jm4KBUTTLCNQ7ZDUBQR9GZ3EV6Q	https://ws050.juntadeandalucia.es/verificarFirma	



through simple search engines, it is possible to find a large number of results directing to Telegram groups and channels with explicit pornographic content from almost every country in the world and with a huge variety of themes.

In other words, a minor with an unsupervised mobile device can have unlimited access, through *Telegram*, to a type of content completely inappropriate for this audience. Likewise, although much less well-known than Telegram, the investigation has also located inappropriate material on *WhatsApp*, *Facebook*, and an *Instagram* account. From what has been observed, it could be presumed that the inappropriate material accessed through Telegram, with **pornographic and gore** content, seems **unlimited**, as set out in the following, non-exhaustive, lists describing the type of material that can be found:

a) **Pornography**⁵ of all kinds, advertised using some of the following headings:

- Stolen pornography
- Rape⁶
- Incest
- Child pornography (use of alternative spelling)
- Deep web pornography (use of alternative spelling)
- Teens
- *Omegle*⁷
- Child pornography (passworded)
- *Hentai*⁸
- Casting of virgin girls: minimum age, 13, maximum age 20.
- Spy voyeur

b) **Gore and extreme violence**

- Crime
- Murders
- Dismembered bodies
- Accidents
- Violent muggings using firearms
- Shootings

⁵ Some forms, of pornography and other inappropriate content, are recorded using a system of misspelling that aims to encode the textual words because they refer to banned practices, taboo terms or descriptions of illegal material or material that teases its illegality. That is, textual words that are encoded to prevent the detection of this type of content and thus circumvent any attempts to block or censor it by platforms, or to exploit people's morbid interest and curiosity, thus leading them to click on these links and generate traffic to these pages, groups, and channels. Occasionally this media, fails to offer the content they advertise to attract attention. To prevent them from being shared these misspellings or keywords are not reproduced literally here, but rather we describe the content that can be accessed through their use.

⁶ This has not been verified for Telegram, WhatsApp, Facebook, or YouTube, although there are gore and pornographic pages that, under the category of rape, offer a variety of videos advertised using this misspelling (for example, the website Theync.com).

⁷ Omegle: A free online chat and video website that allows users to socialise with others without registering. There are minors on this network. This

⁸ "Hentai" is a term used to refer to a genre of anime, manga, or pornographic content of Japanese origin involving explicit depictions of sexual activity. It should be noted that this type of content is exclusively for adults and may contain graphic and explicit images.

SIGNED BY	JOSE FRANCISCO DOMINGUEZ DEL POSTIGO	20/07/2023	PAGE 4/5
VERIFICATION	Pk2jm4KBUTTLCNQ7ZDUBQR9GZ3EV6Q	https://ws050.juntadeandalucia.es/verificarFirma	



- Assaults
- Beheadings
- Dismemberments
- Throat cuttings
- Stonings
- Revenge (some with the corresponding explanation)
- Torture
- All kinds of bloody real-life scenes
- All kinds of extremely cruel real-life scenes
- Scenes of killings perpetrated by cartels
- Scenes of military and war cruelty
- Prison violence

c) Animal abuse

d) Suicide

e) Access to drugs and illegal substances

3. The Audiovisual Council of Andalusia is the audiovisual authority responsible for compliance with current regulations on audiovisual media and advertising, in keeping with the provisions of articles 1 and 2 of Law 1/2004, of 17 December, establishing it. In accordance with the tasks set out in Article 4, it is responsible for *“safeguarding the rights of minors, young people, the elderly, people with disabilities, immigrants and other groups in need of greater protection, regarding the content of programming and advertising broadcasts (...).”*

Within the framework of these competencies, ACA's Strategic Plan 2021/2023 contemplates as one of its aims and activities the protection of minors against audiovisual content, in general, and regarding content broadcast over the Internet, in particular.

The risks to which children are exposed and avoiding them is based on the best interests of the child, enshrined in Article 3 of the United Nations Convention on the Rights of the Child. It is also included in articles 2 and 3 of Organic Law 1/1996, of 15 January, on the Legal Protection of Minors and Law 4/2021, of 27 July, on the Children and Adolescents of Andalusia, respectively. Article 2 provides that: *“Every child has the right to have their best interests assessed and considered paramount in all actions and decisions concerning them, both in the public and the private sphere. When applying this Law and other regulations affecting it, as well as measures concerning minors adopted by public or private institutions, the courts or legislative bodies, the best interests of the same must prevail over any other legitimate interest that may concur.”*

Organic Law 8/2021, of 4 June, on the Comprehensive Protection of Children and Adolescents Against Violence dedicates its Chapter VIII to new technologies and expressly recognises the risks derived from inappropriate usage that may generate phenomena such as access to and consumption of pornography among the underage population.

SIGNED BY	JOSE FRANCISCO DOMINGUEZ DEL POSTIGO	20/07/2023	PAGE 4/5
VERIFICATION	Pk2jm4KBUTTLCNQ7ZDUBQR9GZ3EV6Q	https://ws050.juntadeandalucia.es/verificarFirma	



It is a reality that must be addressed through exercising the powers that the different institutions both at the state and regional level are entrusted with in terms of protecting minors, legality, the rights of the agents involved and the safe use of technology.

Given the above, as proposed by the Content Committee at the meeting held on 13 July 2023, the Plenary of the Audiovisual Council of Andalusia, in accordance with the provisions of sections 6, 17 and 24 of article 4 of Law 1/2004, of 17 December, at its meeting on 11 May 2023, and following the deliberation of its members agreed to take the following DECISIONS:

FIRST. - The ACA notes and issues a warning concerning the existence of videos providing information through messaging platforms such as *Telegram* and, to a lesser extent, *WhatsApp*, about facilitating access to adult and markedly sexual content. It also warns of the existence of multiple resources and sites on the Internet, beyond the abovementioned videos, which likewise allow minors to access pornographic or violent content which is, in every case, inappropriate for their age.

SECOND.- To submit this Agreement, together with the report prepared by the Content Department of the ACA, to the bodies with competence in the matter listed in the Annex, as well as to the messaging platform *Telegram*, so they can adopt the relevant measures within the scope of their competency to safeguard the best interests of any minors and prevent them from accessing inappropriate content.

In Seville, on 19 July 2023.

THE PRESIDENT OF THE AUDIOVISUAL COUNCIL OF ANDALUSIA

Signed: José Francisco Domínguez del Postigo.

SIGNED BY	JOSE FRANCISCO DOMINGUEZ DEL POSTIGO	20/07/2023	PAGE 4/5
VERIFICATION	Pk2jm4KBUTTLCNQ7ZDUBQR9GZ3EV6Q	https://ws050.juntadeandalucia.es/verificarFirma	



ANNEX

1. Spanish National Markets and Competition Commission. Directorate General of Telecommunications and the Audiovisual Sector
2. Spanish Data Protection Agency
3. Spanish Public Prosecutor. Chief Coordinating Prosecutor for Minors
- 4.
5. Ministry for Social Rights and the 2030 Agenda Directorate-General for the Rights of Children and Youth
6. Ministry of the Interior State Secretariat for Security. General Directorate of Police and General Directorate of the Civil Guard
7. Ministry of Economic Affairs and Digital Transformation State Secretariat for Digitalisation and Artificial Intelligence
8. Spanish National Cybersecurity Institute (INCIBE)
9. The Department for Social Inclusion, Youth, Family and Equality. Directorate-General for Children, Adolescents and Youth
10. Digital Agency of Andalusia

SIGNED BY	JOSE FRANCISCO DOMINGUEZ DEL POSTIGO	20/07/2023	PAGE 1/5
VERIFICATION	Pk2jm4KBUTTLN7ZDUBQR9GZ3EV6Q	https://ws050.juntadeandalucia.es/verificarFirma	