

# **NICAM**

The logo for NICAM features the letters 'NICAM' in a bold, black, sans-serif font. A large, light blue triangle is positioned behind the text, pointing towards the bottom right corner of the page. The triangle's top edge is horizontal and passes through the middle of the letters 'I', 'C', and 'A'. The bottom edge is diagonal, starting from the right side of the 'M' and extending towards the bottom right corner.

## **KIJKWIJZER REGULATIONS**

Version 2.0.0 January 2021

## Introduction

The Netherlands Institute for the Classification of Audiovisual Media (Nederlands Instituut voor de Classificatie van Audiovisuele Media/ NICAM), with its registered office in Hilversum, the Netherlands, has the following objective according to its Articles of Association: *promoting the provision of information by the entertainment industry itself regarding the potential harmfulness of audiovisual products for young people by means of a content rating system, and any and all actions relating or conducive thereto.*

The content rating system employed by the NICAM in order to reach this objective is known as Kijkwijzer.

The following parties are eligible to join NICAM as members: individuals or legal entities operating within the entertainment industry and involved in the production, distribution, release, broadcast and dissemination of Audiovisual Productions. This includes, among other parties, producers and providers of Audiovisual Productions, public and commercial media organisations, cinemas, retailers and representative industry organisations.

The affiliated parties are required to comply with all the provisions contained in these Kijkwijzer Regulations and the corresponding Manual for Kijkwijzer Rating Officers. The basic principle is that all members are bound by the same set of rules.

The Kijkwijzer Regulations were approved by the General Management on November 10th 2020 and will enter into force on 1 January 2021.

## Contents

### A. General Regulations: Kijkwijzer Rules for all Members

1. Rating
2. Previous rating
3. Information provision through the use of pictograms
4. Stills and clips
5. Protective measures: child protection features and airtimes
6. Previews
7. Audiovisual Productions offered live and semi-live
8. Sporting events, concert recordings and film festivals
9. News and current affairs programmes
10. TV series
11. Music videos
12. Erotic teleshopping adverts
13. Media services provided by a broadcasting network provider
14. Exhibitors, renters, sellers or lenders of Audiovisual Productions
15. Recommendations by the Coders' Committee
16. Provision of Audiovisual Productions
17. Intellectual property rights
18. Exemption
19. Scope and effect

### B. Complaints regulations

### C. Definitions

## A. GENERAL REGULATIONS: KIJKWIJZER RULES FOR MEMBERS<sup>1</sup>

### Article 1 CONTENT RATING

- 1.1 Members are responsible for the format, content, release and broadcasting of their Audiovisual Productions.
- 1.2 Members will ensure that their Audiovisual Productions are rated using the Kijkwijzer Content Rating System and are stored in the Database maintained by the NICAM, unless otherwise provided in these Regulations. If an Audiovisual Production has previously been rated, Article 2 applies.
- 1.3 Ratings must be assigned at the earliest possible stage, and in any event prior to the release date or airdate of the Audiovisual Production.
- 1.4 Members who are responsible for rating Audiovisual Productions are authorised to rate the Audiovisual Product again

### Article 2 PREVIOUS RATINGS

- 2.1 Members are authorised to use previous Ratings for Audiovisual Productions without assigning a new Rating, unless
  - a Member can reasonably suspect that this previous Rating is incorrect or no longer correct; or
  - this previous Rating was assigned at least five years ago at the time of the current release or broadcast.

In these cases, Members are required to re-rate the Audiovisual Production.

- 2.2 In these cases, Members must reassess the Audiovisual Production. If the Member considers the earlier Rating to be correct, the Member may adopt that Rating (in good faith). If not, the Member can:
  - a. request the Bureau to contact the Member of the previous Rating in order to change the Rating. The Bureau will endeavour to find a solution in consultation with the Members (or parties concerned); or
  - b. seek the advice of the Coders' Committee.
- 2.3 Members may request the Bureau for advice. If the Bureau recommends that a new rating should be assigned, it will contact the Member who issued the previous Rating and request that they cease to use this Rating. Such recommendations will not prevent an alternative opinion in the Complaints Procedure.
- 2.4 The Coders' Committee may also be asked for advice at a Member's or the Bureau's request.

### Article 3 INFORMATION PROVISION THROUGH THE USE OF PICTOGRAMS

- 3.1 Members will ensure that their Audiovisual Productions include the appropriate Rating, using the Pictograms approved by the NICAM to denote the various ratings.
- 3.2 When using the Pictograms, Members will generally not assign more than three content ratings in addition to the age rating. This is subject to the rule that the content pictograms which take precedence under the Content Rating System should be displayed first. The following order of precedence applies: violence (pictogram used: fist); fear/anxiety (pictogram used: spider); sex (pictogram used: two pairs of feet);

---

<sup>1</sup> See Chapter C for the definitions of capitalised terms contained in these Regulations.

profanity (pictogram used: shouting figure); discrimination and racism (pictogram used: group of people with one figure displayed in a contrasting colour); and drug and/or alcohol abuse (pictogram used: syringe).

- 3.3 Members will ensure that all Pictograms are displayed in a clearly legible and visible manner. This is done at the following times:
- immediately at the start of the screening or broadcast of the Audiovisual Production for a minimum of 5 seconds; or
  - during the full length of the broadcast, if the entire duration of the Audiovisual Production is less than 5 seconds.
- 3.4 Members will ensure that all Pictograms are displayed in a clearly legible and visible manner in the following ways:
- a. Pictograms are displayed in black the edges of the Pictograms are white.
  - b. For Programmes, Pictograms are displayed in the top right corner of the screen. If this is not possible, the Pictograms are shown in the top left corner of the screen. Pictograms for Audiovisual Productions offered through an On-demand Mediaservice are also positioned in a clearly visible manner close to the Programme title.
  - c. For both Programmes and Previews, the Pictograms have the size of a channel logo. For an image ratio of 16:9, this amounts to approximately 10% of the height of the image.
  - d. Audiovisual Productions, Promos excluded, offered through a linear Mediaservice with age ratings of 16 and 18 which are aired linearly contain:
    - for a minimum of five seconds, prior to showing the Audiovisual Production, a billboard in which the Pictograms are projected on a full screen, including an audio message;
    - the Pictograms are repeated for a minimum of five seconds after each commercial break;  
The Pictograms appear on the screen a second time after every 20 minutes if there are no commercial breaks.
  - e. In Promos for Audiovisual Productions rated 16 or 18 which are to be aired, the Pictograms appear on the screen during the entire Promo.
- 3.5 Members will ensure that the Pictograms regarding the Audiovisual Production are placed in (advertising) messages and (electronic) programme guides published by the Member itself. The Member will endeavour to ensure that the Pictograms are placed in all advertising communications (advertis) and information in (electronic) programme guides published by third parties.
- 3.6 The Content Rating Manual contains further rules regarding the use of Pictograms.

## Article 4 STILLS AND CLIPS

- 4.1 Audiovisual Productions featuring still images (stills) or clips from another Audiovisual Product or games shall be rated as a single production.
- 4.2 As still images or clips are displayed on the screens, the Pictograms are shown belonging to the Audiovisual Product from which the images or clips were taken.

## Article 5 PROTECTIVE MEASURES: CHILD PROTECTION FEATURE AND AIRTIMES

- 5.1 Members who offer their own Child Protection Feature or other technology designed specifically to protect children, must ensure that users can adjust reception such that Audiovisual Productions with specific Kijkwijzer Ratings can be viewed only after being unlocked.

- 5.2 Members who do not offer their own Child Protection Features or alternative technology designed specifically to protect children, will endeavour to ensure that users can adjust reception such that Audiovisual Productions with specific Kijkwijzer Rating(s) can only be viewed after being unlocked.
- 5.3 Audiovisual Productions offered through a linear Mediaservice will air at the following times:
- Audiovisual Productions rated 6 and 9 can be aired at any time of the day;
  - Audiovisual Productions rated 12, 14 or 16 air exclusively between 8:00 p.m. and 6:00 a.m.
  - Audiovisual Productions rated 18 air exclusively between midnight and 6:00 a.m.
  - Audiovisual Productions rated 16 or 18 will air only if the requirements set out in Article 3.4 d and e are satisfied.
- 5.4 Members will not air any Previews which refer to a Main Product with an age rating of 12, 14, 16 or 18 immediately preceding, during and/or immediately after an Audiovisual Production aimed at children with a rating of AL ('General Audiences') or 6. There will be a minimum of five minutes before, during and after the Preview and the Audiovisual Production. If the Previews refer to a Main Product with an age rating of 9, the Member will strive not to air this around the same time as an Audiovisual Production aimed at children with a rating of AL (General Audiences) or 6. The Member will strive that both immediately before, during, and immediately after the Audiovisual Productions concerned, there will be a minimum of five minutes between the Preview and the Audiovisual Production.
- 5.5 Previews with an age rating of 16 shall not be broadcasted during Audiovisual Productions with Classification AL (General Audiences), 6, 9 or 12 nor during live programmes.
- 5.6 Members are authorised to request exemption from the Bureau for the use of the airtimes, in the following cases:
- If the Audiovisual Productions are always broadcast protected by a specific technology (usually a PIN), either subject to a fee or free of charge, so as to generally prevent minors from being exposed to these Audiovisual Productions; or
  - If the Audiovisual Productions can be viewed only after the user has explicitly elected to receive these based on an 'open by default' format here from now on. 'Open by default' refers to a set-up where the Audiovisual Productions are never broadcast closed behind a specific facility. This is subject to the following terms and conditions:
    - Prior to the airtime of the Audiovisual Production, users are adequately informed about any Audiovisual Productions which could potentially be harmful to minors by displaying the Pictograms indicating the Rating of the Audiovisual Productions; and
    - users have the option to lock Audiovisual Productions which are potentially harmful to children at any time behind a specific technology (typically a PIN), thereby ensuring that minors cannot generally view such Audiovisual Productions, and the user will be clearly informed about this option.

## Article 6 PREVIEWS

- 6.1 Members responsible for airing Previews must ensure that such Previews are rated. Articles 1, 2 and 3 apply to this with full force and effect.
- 6.2 In deviation of article 6.1 the Members are not obliged to Rate a Promo and/or to save the Rating of a Promo in the Database. In addition, Members are permitted to exclusively assess the Rating of the Promo in compliance with the Kijkwijzer content Rating System or the List of Key Points. This Rating – either assessed or rated and entered in the Database – determines when the Promo is to be aired.

- 6.3 When airing Previews, Members will always display the Rating of the Main Product to which the Preview relates. If the Rating of the Main Product is not yet known, Members can request an exemption from the Bureau at least two business days before the airdate of the Preview from displaying the Pictograms of the Main Product.
- 6.4 If a Member makes a Preview available to a third party to be aired, such Member will ensure that the Rating of the Preview is communicated.
- 6.5 Members who air a Preview use the Rating in order to be able to set the airtime and/ or determine during or around which Audiovisual Production it is authorised to air this. Articles 5.3, 5.4. and 5.5 art. 14.4 are equally applicable on Audiovisual Productions offered through a linear Mediaservice.
- 6.6 If the Member believes the Preview offered by a third party has not been rated or not been rated correctly, the Member will, prior to airing the Preview, request such third party in writing to assign a Rating at that time or rate the Preview itself, in order to comply with the foregoing paragraph.

## Article 7 AUDIOVISUAL PRODUCTIONS AIRED LIVE OR SEMI-LIVE

- 7.1 Contrary to Article 1, live and semi-live programmes need not be rated. If the programme is first aired (or aired again) 24 hours after being taped, assigning a Rating is required.
- 7.2 In determining the content and airtime of the live or semi-live programme, the Member must take into account the protective measures specified in Article 5.
- 7.3 If previously existing images are used in a live or semi-live programme, the following rules apply:
  - a. the Rating of such existing images determines the airtime and pictograms used for the live and semi-live programme; or
  - b. the Member assesses the previously existing images separately for potential harmfulness to young people, in compliance with the Kijkwijzer Content Rating System or the List of Key Points; or
  - c. the Member rates the previously existing images independently.The Age Rating of the full live or semi-live Programme is determined by the images receiving the highest evaluation or age rating.

## Article 8 SPORTING EVENTS, CONCERT RECORDINGS AND FILM FESTIVALS

- 8.1 Contrary to the provisions of Article 1, the following Audiovisual Productions are exempt from content rating:
  - Non-fictional Audiovisual Productions focusing on sporting activities (including martial arts involving people).
  - Audiovisual Productions focusing on concert recordings.
  - Feature Films, provided that the production is screened exclusively at film festivals and in film museums.
- 8.2 To the extent that previously existing images are used in the Audiovisual Productions specified in this article, Article 7.3 applies *mutatis mutandis*.

## Article 9 NEWS AND CURRENT AFFAIRS PROGRAMMES

- 9.1 Contrary to the provisions of Article 1, News and Current Affairs Programmes do not need to be rated. If a News and/or Current Affairs Programme contains images which could potentially be shocking to young viewers, the Member must announce this beforehand. as a warning, when the Programme is aired between 6:00 a.m. and 8:00 p.m.

- 9.2 The Provider of News and Current Affairs programmes determines what types of images are perceived as shocking to young viewers.
- 9.3 To the extent that previously existing images are used in the Audiovisual Productions specified in this article, Article 7.3 applies *mutatis mutandis*.

## Article 10 TV SERIES

- 10.1 Contrary to the provisions of Article 1, it is sufficient for Members to Rate a TV Series based on a sample, with the proviso that the Member will remain responsible for any broadcast of each episode of the TV Series.
- 10.2 Each season of the TV Series must be rated separately.
- 10.3 Members can determine independently which Audiovisual Productions they wish to regard as TV Series.
- 10.4 The Rating of the TV Series is determined by the episode(s) with the strictest Rating, i.e. which prompted the highest age rating and the corresponding content Ratings.
- 10.5 Instructions for conducting this sample are set out in the Content Rating Manual.

## Article 11 MUSIC VIDEOS

- 11.1 Music videos must be rated using the Content Rating Form for Music Videos.
- 11.2 If Music Videos are shown in successive timelines, Members will, on commencement of each new timeline, display the age and content pictograms for the Music Video with the strictest rating/highest age rating.
- 11.3 Audiovisual Productions consisting of multiple Music Videos (i.e. video compilations) are rated as a single production.

## Article 12 EROTIC TEleshopping ADVERTS

- 12.1 Contrary to the provisions of Article 1, Erotic Teleshopping Adverts are not rated.
- 12.2 In order to determine at what times Erotic Teleshopping Adverts can be aired, Members must assess these adverts for potential harmfulness.
- 12.3 Contrary to the provisions of Article 5 of these Regulations, Erotic Teleshopping Adverts are subject to special airtimes; these are listed in the Instructions for Erotic Teleshopping Adverts.

## Article 13 MEDIA SERVICES PROVIDED BY A BROADCAST NETWORKING PROVIDER

- 13.1 Notwithstanding the duty of care with regard to Rating as specified in Articles 1, 2 and 3, Providers of Broadcasting Networks are responsible for the Audiovisual Productions they offer through their services in the following ways:
  - a. When airing Audiovisual Productions previously rated by another Member, the Broadcast Networking Provider must ensure that the Pictograms for the Rating are displayed and that the protective measures specified in these Regulations are complied with.
  - b. When airing Audiovisual Productions which have not, or not yet, been rated, the Broadcast Networking Provider must ensure that this Audiovisual Product is rated, or (for Previews or Live programmes) that it is assessed, that the Pictograms for the Rating in question are displayed and that the protective measures specified in these Regulations are respected.



## Article 14 EXHIBITORS, RENTERS, SELLERS AND LENDERS OF AUDIOVISUAL PRODUCTIONS

- 14.1 Exhibitors, Renters, Sellers and Lenders of Audiovisual Productions will endeavour to ensure that Age Ratings are considered when screening, renting, selling or lending Audiovisual Productions.  
For the sake of completion, we refer here to Section 240a of the Netherlands Code of Criminal Procedure<sup>2</sup>.
- 14.2 The Exhibitor, Renter, Seller or Lender will ask the child to provide an identity document if they know, or should reasonably suspect, that the child is younger than sixteen years of age and that the Audiovisual Production has an age rating of 16 or 18. If the child in question is unable to provide such identification or if the identity document reveals that the child is under sixteen years of age, the Audiovisual Production cannot be exhibited, rented, sold or loaned to the child, irrespective of whether the child is accompanied by an adult at that time.
- 14.3 If a child is under twelve or under fourteen years of age and is accompanied by an adult, the Exhibitor, Renter, Seller or Lender will be authorised to exhibit, rent, sell or lend an Audiovisual Production to the child with an Age Rating of 12 or 14. In this case, the Exhibitor, Renter, Seller or Lender shall again make reference to the Age Rating of the Audiovisual Production.
- 14.4 If Audiovisual Productions are aired on a linear basis in a (semi-)public space, such as a cinema or a shop, the Exhibitor shall follow the airtimes set out in article 5. As Exhibitor in this respect shall be considered the organisation responsible for exploitation of the (semi-) public space.
- 14.5 Exhibitors, Renters, Sellers and Lenders must be aware of all laws and regulations relevant to Kijkwijzer and to offering Audiovisual Productions to minors under the age of 16. They warrant that their staff or any third parties whose services they engage also comply with this requirement.  
Exhibitors, Renters, Sellers and Lenders possess sufficient information regarding Kijkwijzer to share this with visitors, tenants, buyers and lenders of Audiovisual Productions on request.
- 14.6 Exhibitors, Renters, Sellers and Lenders participate in providing information to the public regarding Age Ratings and the related laws and regulations.

## Article 15 RECOMMENDATION FROM THE CODERS' COMMITTEE

- 15.1 The Coders' Committee advises Members who have requested it to do so regarding their Rating or a previous Rating issued by a third party.
- 15.2 The Coders' Committee provides a recommendation, where it is up to the Member to decide whether or not to follow the recommendation.
- 15.3 The Coders' Committee consists of a pool of six Rating Officers.
- 15.4 These members of the Coders' Committee are appointed by the Bureau for an indefinite period, based on the following model:
- Two Rating Officers employed by a film, DVD or video distribution company;
  - Two Rating Officers employed by a nationwide commercial media organisation;
  - Two Rating Officers employed by a nationwide public media organisation.
- 15.5 The Members of the Coders' Committee are joined by a Secretary, who is employed by the Bureau. The Secretary selects the members of the Coders' Committee for each request for advice.

---

<sup>2</sup> Section 240a of the Code of Criminal Procedure: Anyone who provides, offers or shows to persons under the age of sixteen or of which the person in question knows, or should reasonably suspect, that the individual is under sixteen years of age, images, objects or data media containing images the disclosure of which can be deemed harmful to persons under the age of sixteen, will be sentenced to a maximum of one year's imprisonment or ordered to pay a fine in the fourth category.

- 15.6 This request must be reviewed by a minimum of three Rating Officers. All essential information will be provided to the Coders' Committee. In addition, the Member submitting the request will ensure that the Coders' Committee can view the relevant Audiovisual Production.
- 15.7 The Coders' Committee will provide a recommendation to the Member(s) in question within five business days. If a Complaint is lodged about the Rating, the Complaints Committee will consider the recommendation of the Coders' Committee when taking disciplinary action.
- 15.8 If the Coders' Committee cannot reasonably provide a recommendation within this period, the Bureau can advise the Member. No rights can be derived from such advice.
- 15.9 Members remain responsible for their Content Rating at all times, irrespective of whether they are using a recommendation provided by another entity.

## **Article 16 PROVISION OF AUDIOVISUAL PRODUCTIONS**

- 16.1 The NICAM may request Members to make copies of Audiovisual Productions available to them if it deems this necessary as part of its regular business operations.
- 16.2 At the request of the NICAM, the Member will, as soon as possible and in any case within two weeks of receiving the request, make the relevant Audiovisual Production available to the NICAM Bureau in a high quality, irrespective of the type of data medium used (i.e. digital or analogue). If this is not possible, the Member will organise a screening during which the Audiovisual Production can be viewed.
- 16.3 In all cases, the Member will, at the Bureau's request, make the Audiovisual Production available (as soon as this is possible) such that the NICAM can save this in its archives so that it can be used internally (i.e. for educational purposes).
- 16.4 Members can submit a request to the Bureau to extend the deadline specified in paragraph 1, stating valid reasons for the extension. The Bureau can subsequently grant this extension, provided it believes this is reasonable.

## **Article 17 INTELLECTUAL PROPERTY RIGHTS**

- 17.1 The Kijkwijzer Content Rating System and the corresponding age and content pictograms were developed by the NICAM, which holds all the intellectual property rights to these products.
- 17.2 The pictograms have been filed as Logos and Wordmarks with the Benelux Intellectual Property Agency (BOIP).
- 17.3 The NICAM grants Members access to the system and permission to use the Pictograms as part of its regular business operations.
- 17.4 The NICAM will be authorised to revoke this access and permission, either temporarily or otherwise, if the Member is suspended or if the Member misuses the access or permission granted in any manner whatsoever.
- 17.5 Members who lose their position as Member will legally forfeit their access and permission with regard to their future Audiovisual Productions.

## **Article 18 EXEMPTION**

- 18.1 Notwithstanding the provisions of Article 5.6, Members can request an exemption from the Bureau from application of the provisions of these Regulations, including the rating process, the exhibition of Pictograms or the use of protective measures. The Bureau may provide an exemption in special cases at its discretion and may decide to revoke the exemption if it believes this is necessary in order to protect children.

## Article 19 SCOPE AND EFFECT

- 19.1 The NICAM documents to which these Regulations refer – including the Membership Contract, Complaint Regulations and Content Rating Manual – constitute an integral part of these Regulations. Members will be subject to these Regulations from the time of signing the Membership Contract.
- 19.2 These NICAM documents can be consulted at [www.codeurs.kijkwijzer.nl](http://www.codeurs.kijkwijzer.nl), and copies can also be provided to Members on request.
- 19.3 The NICAM is authorised to amend the Regulations at any time.

## B. COMPLAINT REGULATIONS

### Article 1 COMPLAINTS

- 1.1 Complaints can be lodged against Members by anyone who believes that the provisions of the Kijkwijzer Regulations as specified in these Regulations have been violated.
- 1.2 Complaints directed at non-Members will not be considered by the NICAM. Complainants will be informed in writing and referred if possible.
- 1.3 If the Complaint is directed against a non-affiliated media organisation, the NICAM will proceed to inform the regulator, the Commissariaat voor de Media (Dutch Media Authority).
- 1.4 Complaints must be submitted to the Bureau in writing (using the complaint form on the website, e-mail, letter or fax), stating valid reasons.
- 1.5 Complaints which are submitted with insufficient evidence and which do not relate to potential harmfulness are generally not considered, unless the Complainant provides sufficient evidence for the complaint within three business days after the Bureau has notified the Complainant.
- 1.6 Complainants can withdraw their Complaint up to and including the review at the hearing.
- 1.7 Complaints can only be considered by the Bureau and the Complaints Committee if the Complainant discloses their identity when submitting the Complaint to the Bureau. Anonymous Complaints will not be considered by the Complaints Committee. In accordance with the General Data Protection Regulation (GDPR), personal data will not be shared with any Third Parties without the Complainant's consent.

### Article 2 PERIOD FOR SUBMISSION

- 2.1 The Complaint must have been received within two weeks from the time at which the Complainant has taken note of the – alleged – violation or of the act or omission that prompted the Complaint.

### Article 3 COMPLAINTS MEDIATED AND HANDLED BY THE BUREAU

- 3.1 The Bureau is authorised to handle eligible Complaints. If the Bureau believes that a Complaint relating to age categories and/or content categories may be legitimate, it will mediate between the Complainant and the Member. By conducting a trial rating on the Audiovisual Production in question, the Bureau will assess the rating and request that the Member amend the rating accordingly within three business days.
- 3.2 The Complaints Procedure will end if the Member honours the request specified in paragraph 1, unless the Complainant states that it disagrees with the Bureau's opinion and intends to submit the Complaint to the Complaints Committee. If a Member fails to honour the request or fails to do so in time, the Complaint will be submitted to the Complaints Committee.
- 3.3 Mediation as specified in paragraph 1 will not take place if:
  - a. the Audiovisual Production has not been rated and has not been saved in the Database of NICAM and the Bureau considers the age rating higher than All Ages, with the exception of Promo's;
  - b. there is a disparity of two or more age categories between the rating issued by the Member and that issued by the Bureau;
  - c. the Bureau – e.g. as part of internal quality control or a consumer request – has advised the Member to amend the rating (or the airtime), the Member has neglected to do so, and a Complaint is submitted;

- d. the same Member commits an violation within a calendar year in the same category (respectively category A or category B) as referred to in the Sanctions Directive in respect of which a Complaint has been assigned by the Complaints Committee earlier in the calendar year.

In these situations, Complaints are referred directly to the Complaints Committee.

- 3.4 Complaints relating to an Audiovisual Production which, at the time of receiving the Complaint, had been rated more than three years ago, will generally not be presented to the Complaints Committee. If the Bureau believes the rating is incorrect, or no longer correct, the Bureau will contact the Member with the request to amend the rating within three business days. If the Member fails to amend the rating within three business days, the Complaint will be presented to the Complaints Committee after all.
- 3.5 If a Complaint relates to an Audiovisual Production which is rated using a previous version of the rating form, while the completion of the rating form which is valid at the time of receiving the Complaint results in a higher rating, the NICAM Bureau will contact the Member with the request to amend the rating within three business days. If the Member fails to amend the rating within three business days, the Complaint will be presented to the Complaints Committee.

## COMPLAINTS COMMITTEE

### Article 4 IDENTICAL COMPLAINTS

- 4.1 If multiple identical Complaints are lodged concerning the same Audiovisual Production, the Chair may decide that the Complaints Committee will review only one of these Complaints. The person(s) lodging the identical Complaint(s) will be notified accordingly. The ruling in the case reviewed by the Committee will be sent to the person(s) who submitted the identical Complaint(s), including anonymised sections if applicable.
- 4.2 Persons lodging identical Complaints may appeal the decision by the Committee not to consider their Complaint, in writing and directed to the Chair of the Complaints Committee, within two weeks of the date of the decision specified in paragraph 1 of this article.

### Article 5 COMPLAINT HANDLING

- 5.1 If the Chair of the Complaints Committee has ruled that the Complaints Committee can review the Complaint in question, he/she will request that the Bureau notify the Complainant and the Plaintiff of this in writing; in the case of the latter, including a copy of the Complaint lodged by the Complainant.
- 5.2 From the date of the letter as specified in paragraph 1, the Plaintiff will have three weeks to submit a written, free-format defence to the Chair of the Complaints Committee. The Chair of the Complaints Committee may, following receipt of a request from the Plaintiff including valid reasons, decide to extend the three-week period by a maximum of three weeks. If the Chair decides to extend the period, the Complainant will be notified in writing, including valid reasons for the decision. The Secretary of the Complaints Committee will send the Complainant a copy of the defence as soon as possible.
- 5.3 The Plaintiff will, if so requested by the Secretary of the Complaints Committee, provide a high-quality copy of the Audiovisual Production in question to the Secretary as soon as possible and in any event within two weeks. If this is not possible, the Plaintiff will, at the Bureau's request, schedule a screening for the Bureau during which the Audiovisual Production can be viewed. In all cases, the Plaintiff will (as soon as possible) make the Audiovisual Production available such that it can be stored and retained by the Secretary.

- 5.4 The Complaints Committee will assess all aspects of the Complaint: it will rule on the question as to whether the Member, in disclosing the Audiovisual Production to which the Complaint relates, has acted in accordance with all the relevant NICAM regulations.

## **Article 6 DECISION OF THE COMMITTEE CHAIR**

- 6.1 The Chair of the Complaints Committee may decide to dismiss a Complaint as patently inadmissible or patently unfounded.
- 6.2 A Complainant will be deemed to be inadmissible if the Chair of the Complaints Committee believes there is no doubt that terms of eligibility for Complaints have not been satisfied.
- 6.3 A Complainant will be deemed to be unfounded if the Chair of the Complaints Committee believes there is no doubt that the provisions of one or more articles of the Articles of Association and/or the Regulations have not been violated.
- 6.4 The Complainant and the Plaintiff(s) will be informed of this decision in writing by the Bureau on behalf of the Chair of the Complaints Committee.
- 6.5 If one of the Parties disagrees with the decision of the Chair of the Complaints Committee as specified in the foregoing paragraphs, they have the option to submit an objection in writing, including valid reasons, within two weeks of the date of the decision. On receipt of the objection, the Complaint will be reviewed by the Appeals Committee, unless this Committee declares the Complaint as inadmissible.

## **Article 7 COMPLAINTS COMMITTEE EMERGENCY PROCEDURE**

- 7.1 Following receipt of a request from either Party, supported by valid reasons, or at the initiative of the Bureau, the Chair of the Complaints Committee may decide, in urgent cases, to reduce the term specified in Article 5, paragraph 2 of these Regulations to a minimum of three business days. The other party or parties concerned will be informed of this decision by the Bureau in writing, supported by valid reasons. In such cases, the Chair will set the date and time and determine the location of the review session together with its approval for the reduced term.
- 7.2 The period and the format in which the Audiovisual Production is to be provided, as specified in Article 5.3, will be amended to facilitate the emergency procedure.

## **Article 8 INITIAL RATING**

- 8.1 If an 'initial rating' has been issued for an Audiovisual Production within the meaning of Article 4 of these Regulations, the Member who issued the disputed Rating will be informed of the Complaint in writing and will be asked to explain in writing how the original Rating was established within three weeks of the date of this letter. This 'initial Member' will also be deemed to be a Plaintiff in the procedure.

## **Article 9 PREPARING THE SESSION**

- 9.1 The Chair of the Complaints Committee will set the date and time when the session to review the handling of the Complaint is to take place, while the Bureau will invite the Parties in writing to attend the session.
- 9.2 The Chair of the Complaints Committee will be authorised to request information from the Parties in writing up to one week prior to the session. This information will be provided both to the Complainant and the Plaintiff.

- 9.3 If either Party/any of the Parties wishes for the Complaints Committee to hear witnesses or experts during the session, it/they will announce this to the Secretary in writing up to three days prior to the Session, listing the name(s), position(s) and area(s) of expertise of the witness/witnesses or expert/experts.
- 9.4 No further terms apply to emergency procedures as described in Article 7.
- 9.5 Sessions of the Complaints Committee are generally held in Hilversum at the offices of the NICAM or, if this option is not available, in Amsterdam at the offices of one of the industry associations affiliated with the NICAM. In the event of an emergency procedures as specified in Article 7 or, if in view of other circumstances, this is necessary in the opinion of the Bureau, the Bureau may decide to have the hearing take place digitally.

## Article 10 SESSIONS

- 10.1 The Chair of the Complaints Committee will provide the Parties with the opportunity to explain their position in further detail at the session.
- 10.2 The Parties will be entitled to seek advice from, or be represented by, a legal counsel during the session.
- 10.3 The session will be public, unless the Chair of the Complaints Committee decides, at the request of one of the Parties, that the case be treated in private. The Chair of the Complaints Committee can only reach such a decision if there are compelling reasons not to hold a public session; such decisions are final and not open to appeal.
- 10.4 The Complaints Committee may hear one or more witnesses and/or experts at the Parties' request
- 10.5 Emergency procedures as described in Article 7 are not subject to further terms, and the request as specified in the foregoing paragraph may be made by telephone.
- 10.6 If none of the Parties concerned feel the need for an oral hearing of the Complaint, the Chair of the Complaints Committee may decide that the Complaint will be handled by the Complaints Committee without a session.

## Article 11 RULING AND TERM

- 11.1 The Complaints Committee will deliver a ruling based on the written and verbal evidence presented by the Parties during the session.
- 11.2 Once the Complaint has been reviewed, in a formal session or otherwise, the Complaints Committee will deliver a ruling within four weeks. The Complaints Committee will announce this term during the session. If the deadline is not met due to circumstances, the Parties will be notified accordingly.
- 11.3 In the event of an emergency procedure as described in Article 7, this term will not exceed a period of two weeks.

## Article 12 RULING

- 12.1 The Complaints Committee may deliver any of the following rulings:
- ruling that the Complaint is inadmissible;
  - ruling that the Complaint is wholly unfounded;
  - ruling that the Complaint is partially warranted and forming an opinion for this valid portion;
  - ruling that the Complaint is wholly warranted and forming an opinion in this regard;
  - ruling that the Audiovisual Production is unrated;

- 12.2 In the event of rulings c, d and/or e, as specified in paragraph 1, the Complaints Committee may then proceed to impose one or more disciplinary measures, as described in Article 13 of these Regulations.
- 12.3 The ruling must state, supported by evidence, which provision(s) of the Articles of Association and/or Regulations has/have not been fulfilled.
- 12.4 The ruling will be declared enforceable with immediate effect, unless there are compelling reasons why such a decision would be unreasonable.
- 12.5 The Secretary will send the ruling to the Parties, making it clear that the unsuccessful Party (i.e. which the Complaints Committee deemed to be wrong in whole or in part) has the option to lodge an appeal in writing to the Appeals Committee within four weeks, and within two weeks for emergency procedures.

## Article 13 DISCIPLINARY MEASURES

- 13.1 In the event of rulings c, d and/or e, as specified in paragraph 12.1, one or more of the following disciplinary measures may be cumulatively imposed on the Plaintiff:
  - a. the order to rate or re-rate the Audiovisual Production within a period to be specified by the Complaints Committee and to implement all the measures associated with the outcome;
  - b. a formal admonition;
  - c. a fine of a maximum of EUR 75,000, in accordance with the Guideline for Disciplinary Measures;
  - d. In the event of repeated deliberate violation of the provisions of the Articles of Association and/or the Regulations, the Complaints Committee may recommend to the industry association concerned that it suspend or cancel the membership of the party committing the violation;
  - e. Publication of the ruling if, in the opinion of the Complaints Committee, the circumstances of the case warrant such publication, by notification to all third parties whom the Complaints Committee believes to have an interest in such publication.
- 13.2 In considering the question of whether disciplinary measures must be imposed, and, if so, what type of measures these should be, the Complaints Committee will take into account all relevant circumstances, including the gravity of the violation or of the act/omission, the extent to which the violation or act/omission can be blamed on the plaintiff, and the circumstances under which the violation or the act/omission has been established. The Complaints Committee will treat identical cases under the same terms.
- 13.3 The Complaints Committee may rule that some or all of the disciplinary measures will be imposed on a conditional basis.
- 13.4 The Complaints Committee may rule that some or all of the disciplinary measures will be imposed subject to a fine.

## Article 14 ADMINISTRATIVE HANDLING OF RULINGS

- 14.1 The fine specified in Article 13c must be paid within 30 days of the date of invoice, which will be sent under separate cover from the ruling of the Complaints Committee by the Bureau to the Plaintiff. For each day elapsing following the 30-day term, statutory interest will be payable on this fine.
- 14.2 The amounts collected will be credited to the NICAM.
- 14.3 The ruling will be delivered in public and, as such, constitutes a public ruling. In eligible cases, the NICAM may decide to anonymise the ruling.



- 14.4 A copy of each ruling will be provided to the regulator, the Commissariaat voor de Media (Dutch Media Authority).
- 14.5 A copy of each ruling will be provided to the General Management and the relevant committees of the NICAM.
- 14.6 An anonymous version of the ruling will be published on the NICAM website.
- 14.7 The Bureau is tasked with monitoring compliance with the disciplinary measures. The Bureau will report any cases of non-compliance to the General Management of the NICAM in writing.

## APPEALS COMMITTEE

### Article 15 APPEALS PROCESS

- 15.1 Parties which the Complaints Committee deemed to be wrong in whole or in part have the option to file an appeal with the Appeals Committee, in accordance with the provisions set out below.
- 15.2 Filing an appeal with the Appeals Committee by the Party or Parties listed in paragraph 1 will not result in a suspension, unless the ruling of the Complaints Committee has been found to be not immediately enforceable.

### Article 16 TERM AND CONTENTS OF THE APPEAL

- 16.1 The appeal must be filed with the Secretary of the Appeals Committee in writing within four weeks of the date of the ruling of the Complaints Committee.
- 16.2 The appeal must contain the grounds/objections against the ruling of the Complaints Committee.
- 16.3 Following receipt of a request from either Party, supported by valid reasons, or at the initiative of the Bureau, the Chair of the Complaints Committee may, in urgent cases, decide to reduce the term specified in paragraph 1 of this article to a minimum of two weeks. The other party or parties concerned will be informed of this decision by the Bureau in writing, supported by valid reasons. In such cases, the Chair will set the date and time and determine the location of the review session together with its approval for the reduced term.

### Article 17 TERM FOR FILING THE DEFENCE

- 17.1 After receiving a copy of the Appeal, the Defendant will have four weeks to submit a defence to the Secretary of the Appeals Committee, in writing and in any format.
- 17.2 The Chair of the Appeals Committee may, following receipt of a request (including supporting evidence) from the Defendant, decide to extend his term or, following a request from the Opponent supported by valid reasons or at the Bureau's initiative, reduce the term in urgent cases. The Appeals Committee will explain its decision to extend or reduce the term, stating valid reasons. The Secretary of the Appeals Committee will send the Opponent a copy of the defence as soon as possible.

### Article 18 ASSESSMENT

- 18.1 The Appeals Committee may set aside or uphold the challenged decision by the Complaints Committee, in full or in part, or refer the case back to the Complaints Committee, for a new decision, taking into account the findings of the Appeals Committee as laid down in its ruling. This decision by the Complaints Committee will likewise be open to appeal.

18.2 In appropriate cases, the Appeals Committee may decide to give final judgment in the matter, which may involve amending the grounds. In this case, its decision will no longer be open to appeal.

## **Article 19 FINAL STIPULATIONS**

19.1 Articles 6, 9, 10, 11, 12, 13 and 14 apply *mutatis mutandis* to the Appeals Committee.

## C. DEFINITIONS OF KEY TERMS CONTAINED IN THESE REGULATIONS

In these Regulations, the following terms have the following meanings:

### **Advertising**

Advertising appearing in any medium of any kind designed to promote an Audiovisual Production.

### **Age Rating**

The outcome of the rating of the Audiovisual Production used to indicate the potential harmfulness of the Audiovisual Production for youngsters through the use of age pictograms, consisting of: 'not harmful/general audiences (pictogram used: AL); 'parental guidance suggested for children up to age six' (pictogram used: 6); 'parental guidance suggested for children up to age 9' (pictogram used: 9); 'parental guidance suggested for children up to age 12' (pictogram used: 12); 'parental guidance suggested for children up to age 14' (pictogram used: 14); 'parental guidance suggested for children up to age 16' (pictogram used: 16); 'parental guidance suggested for children up to age 18' (pictogram used: 18), along with any trademarks to be filed by the NICAM in the future.

### **Appeals Committee**

Committee, as specified in Article 21 of the Articles of Association.

### **Articles of Association**

Articles of Association of the NICAM.

### **Assessment**

Evaluating Audiovisual Productions for the potential harm they might cause to young people, in compliance with the Kijkwijzer rating system and based on the List of Key Points, without rating the Audiovisual Product independently.

### **Audiovisual Product / Production**

Feature Film, Programme, Music Video or other works consisting of still or moving images with or without audio offered through a linear Mediaservice or an On-demand Mediaservice, along with products based on these such as Trailers, TV Adverts and Promos.

### **Bureau**

Officials who, under the supervision of the Managing Director of the NICAM, are charged with policymaking and policy implementation, submitting proposals for policy development, and managing secretariats of the various committees of the NICAM.

### **Child Protection Feature**

Technology provided to users of Audiovisual Productions, allowing the user to adjust the reception of Audiovisual Productions such that Audiovisual Productions with specific Kijkwijzer Ratings can be viewed only after being unlocked.

### **Cinema Operator**

Individual or legal entity operating one or more cinemas.

### **Chair of the Complaints Committee**

Person, as specified in Article 19 of the Articles of Association.

**Chair of the Appeals Committee**

Person, as specified in Article 21 of the Articles of Association.

**Clip**

Relatively short part of an Audiovisual Production.

**Coders' Committee**

The Committee advising Members of the NICAM, for example if there are doubts regarding a rating.

**Complaint**

Objection to an actual or alleged violation of, or an act or omission with regard to, one or more provisions contained in Articles of Association and/or Regulations.

**Complaints Committee**

Committee, as specified in Article 19 of the Articles of Association.

**Complainant**

Individual or legal entity filing a complaint with the NICAM.

**Commercial Break**

Sequence of advertising communications aired during the broadcast of an Audiovisual Production and which, in doing so, interrupts the Audiovisual Production.

**Content Rating**

The result of the rating of the Audiovisual Production used to indicate the potential harmfulness of the Audiovisual Production for youngsters through the use of content pictograms, consisting of – in a fixed order – ‘violence’ (pictogram used: fist); ‘fear’/‘anxiety’ (pictogram used: spider); ‘sex’ (pictogram used: pair of feet); ‘profanity’ (pictogram used: screaming figure); ‘discrimination and racism’ (pictogram used: group of people with a single figure in a contrasting colour) and ‘drugs and/or alcohol use’ (pictogram used: syringe), along with any trademarks to be filed by the NICAM in the future.

**Content Rating Form**

Series of questions regarding the content of the Audiovisual Production.

**Content Rating Key**

Algorithm incorporated into the content rating system, resulting in a content rating.

**Content Rating System**

Combination of Content Rating Form and Content Rating Key.

**Database**

The digital data collection stored by the NICAM, in which all age and content ratings are stored for each Audiovisual Production.

**Defendant**

Individual or legal entity against whom the Opponent has filed an appeal with the Appeals Committee.

**DVD**

Physical medium on which digital Audiovisual Productions are stored, including digital versatile discs (DVDs) and Blu-ray discs.

**DVD Distributor**

Individual or legal entity tasked with the distribution of DVDs with the objective of screening them.

**Exhibitor, Renter, Seller or Lender of Audiovisual Productions**

Individual or legal entity engaged professionally or in a business capacity in the screening, rental, sale or lending of Audiovisual Productions, e.g. Cinema Operator, Retailer and Library.

**Film Distributor**

Individual or legal entity tasked with the rental and distribution of Feature Films and related Audiovisual Productions with the objective of screening them.

**Feature Film**

Audiovisual Production consisting of a series of images with or without audio, irrespective of the recording method used, as specified in Section 10 in conjunction with Section 45a of the Dutch Copyright Act (*Auteurswet*).

**Games**

Interactive software designed to play games on TV sets, computers, consoles, smartphones or other devices, sometimes subject to a charge, including for educational and entertainment purposes.

**Game Advert**

Audiovisual Preview featuring advertising for a game (see 'Preview').

**General Management**

The Management of the NICAM Foundation, the entity specified in Section 291 of Book 2 of the Dutch Civil Code and in Articles 5 and 10 of the Articles of Association.

**Guideline for Disciplinary Measures**

Guideline established by the NICAM describing when disciplinary measures are imposed on Members and how these are structured.

**Identical Complaints**

Complaints which concern the same Audiovisual Production, are of virtually the same type, and are submitted at virtually the same time.

**Kijkwijzer**

Name of the NICAM Content Rating System including the corresponding pictograms, which is used to provide Audiovisual Productions with information on their potential harmfulness to children and adolescents.

**Library**

Institution offering media and physical library and information services in its possession to the public for loan or review/consultation.

## List of Key Points

Content Rating System described in an abridged form, used to determine the Rating of Audiovisual Productions.

## Live or Semi-Live Programme

Audiovisual Production recorded and subsequently aired in an unrestricted and unchanged format to general audiences, or with some delay (i.e. semi-live), however always within 24 hours.

## Logos

Trademarks filed by the NICAM with the Benelux Office for Intellectual Property (BOIP), namely: Kijkwijzer logo, NICAM, NICAM Netherlands Institute for the Classification of Audiovisual Media, AL (*Alle leeftijden*) (meaning: not harmful/appropriate for all ages/general audiences); 6 (meaning: parental guidance suggested for children up to age six); 9 (meaning: parental guidance suggested for children up to age nine); 12 (meaning: parental guidance suggested for children up to age twelve); 16 (meaning: parental guidance suggested for children up to age sixteen); 18 (meaning: parental guidance suggested for children up to age eighteen); fist pictogram (denoting violence); spider pictogram (denoting fear/anxiety); feet pictogram (denoting sex); screaming figure pictogram (denoting profanity); group of people with one figure shown in a contrasting colour pictogram (denoting discrimination and racism); syringe pictogram (denoting use of hard drugs and excessive use of soft drugs and alcohol), along with any trademarks to be filed by the NICAM in the future.

## Main Product

Audiovisual Production on which a Preview is based.

## Media Service

Audiovisual Media Service consisting of the provision of Audiovisual Productions using public electronic communications networks as mentioned in article 1.1 of the Telecommunication Act, for which the provider bears editorial responsibility, as provided for in the Dutch Media Act (*Mediawet*).

## Mediation

Handling of complaints by the NICAM Bureau, which considers whether or not the complaint is justified and where the complaint can subsequently be dismissed without being referred to the Complaints Committee. There are exceptions to this mediation policy, as described in the Complaints Policy.

## Media organisation

Public or commercial organisation producing and offering media content.

## Member

Individual or legal entity contractually affiliated with the NICAM or their industry association, who or which is engaged professionally or in a business capacity in the entertainment industry and involved in creating, distributing and releasing Audiovisual Productions. This includes, among other parties, right holders and providers of Audiovisual Productions, public and commercial media organisations, cinemas, distributors, retailers or the representative industry organisations.

## Music Video

Video production with a runtime of only a few minutes, based on, and related to, one or more renditions of musical works by performing artists.

**(National) Commercial media organisation**

Organisation producing media content with the objective of generating revenues from these broadcasts.

**(National) Public media organisation**

Organisation tasked with the responsibility on public media of producing media at a nationwide level, as specified in Section 1, in conjunction with Sections 2.24, 2.24a and 2.35 of the Media Act.

**News and Current Affairs Programme**

Audiovisual Production consisting of information on (daily) news and current affairs relating to a wide range of issues regarding the latest news, including background reporting.

**NICAM**

Nederlands Instituut voor de Classificatie van Audiovisuele Media (Netherlands Institute for the Classification of Audiovisual Media)

**NVBF**

Nederlandse Vereniging van Bioscoopexploitanten en Filmtheaters (Dutch Exhibitors Association).

**NVER**

Nederlandse Vereniging van Entertainment Retailers (Netherlands Association of Entertainment Retailers)

**On-demand Media Service (*mediadienst op aanvraag*)**

Audiovisual Media Service that consists of providing Audiovisual Productions that can be purchased on individual request and at a time of choice, as referred to under the Media Act.

**Opponent**

Individual or legal entity whose complaint has been dismissed in whole or in part by the Complaints Committee and who or which files an appeal with the Appeals Committee.

**Parties**

Parties involved in the handling of a complaint. Before the Complaints Committee, they are referred to as the 'Complainant' and the 'Plaintiff'; before the Appeals Committee, they are referred to as the 'Opponent' and the 'Defendant'.

**PEGI (Pan European Game Information)**

International content rating system and the corresponding pictograms, used to add information to Games regarding their potential harmfulness for young people.

**Pictogram**

Kijkwijzer image, used to indicate the age rating and content rating. The Pictograms have been filed as Logos with the Benelux Office for Intellectual Property (BOIP).

**Plaintiff**

Member against whom a Complaint is referred to the NICAM Complaints Committee.





**Preview**

Brief Audiovisual Production announcing an Audiovisual Production and featuring images of this Audiovisual Production. This includes, among other things, Promos, Trailers and TV Adverts.

**Programme**

Audiovisual Production consisting of a series of moving or still images, with or without audio, which constitutes a separate element of a schedule or catalogue produced by a provider of Media Services, and the format and content of which are similar to that of television broadcasts.

**Promo**

Promotional item designed to promote a Programme (see 'Preview').

**Provider of Broadcasting Network**

Individual or legal entity providing transmission capacity by means of a broadcasting network, as defined in the Dutch Media Act (*Mediawet*).

**Rating**

Result of the rating, consisting of an Age Rating and, if applicable, one or more content ratings, used to categorise the potential harmfulness of the Audiovisual Production.

**Rating**

Using the Content Rating System for Audiovisual Productions.

**Rating Officer**

Person who, on behalf of a Member, is tasked with assessing and/or rating Audiovisual Productions released or broadcast by the Member.

**Release/Broadcast**

Broadcasting of Audiovisual Productions of every kind, as specified in Section 12 of the Dutch Copyright Act (*Auteurswet*). This includes, among other things, linear Mediaservice and On-demand Mediaservice. .

**Re-Rating**

Rating an Audiovisual Production again.

**Secretary**

Person, as specified in Articles 19 and 21 of the Articles of Association, tasked with managing and supervising a complaints procedure.

**Third Parties**

Individuals or legal entities other than Members.

**TV Advert**

Audiovisual Preview featuring advertising for an Audiovisual Production (see 'Preview').

**Trailer**

Entertainment Preview featuring advertising for a Feature Film (see 'Preview').

**TV Series**

Sequence of interrelated Programmes with the same title.

**Wordmarks**

Trademarks filed by the NICAM with the Benelux Office for Intellectual Property (BOIP), namely: NICAM, Netherlands Institute for the Classification of Audiovisual Media and KIJKWIJZER, along with any trademarks to be filed by the NICAM in the future.