Prizes, Endorsements and Recommendations: Positive Regulation of Computer Games

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Media regulation is a nebulous concept with vastly different meanings, depending on the involved institutions and parties, the practices and procedures that are employed and the issues that are to be addressed through them. In this chapter I am interested in computer game regulation insofar as it can be considered a governmental strategy following Foucault, which implies that there is a specific form of productivity at play in the way computer game regulation is debated and enacted. According to Foucault, the various attempts to target computer games as objects of concern can be regarded as acts of power, although explicitly not as repressive or prohibitive measures, since "power produces" (Foucault, 1991, p. 194). This means that power, manifesting itself through all social relations (as opposed to being limited to hierarchical structures like the state), always produces and brings forth its subjects, its domains and its knowledge. I will argue that this productivity of power can be observed in the way computer games emerge as objects of concern through the attempts to regulate them. While it would be interesting to offer a comprehensive reading of international regulatory practices in this context, the scope of this chapter demands a narrower focus. To emphasize the specific productivity of computer game regulation, I will look at a strategy of regulation that is usually marginalized in these debates, although it is becoming more and more influential, especially in Austria and Germany: while computer game regulation is usually associated with repressive actions that somehow limit or diminish the medium (e.g. content that is changed or cut and limitations regarding distribution and marketing or even prohibitions), a different perspective on regulation works through endorsements, prizes and awards that are all utilized to lend visibility and credibility to certain computer games.

In the following paragraphs I will look at some of the strategies and institutions that are involved in the process of positive regulation and discuss how they produce a specific way of thinking about computer games. Although the more repressive regulatory measures are not addressed in this argument, this does not mean that they are not equally productive in a Foucauldian sense – they bring forth games as problematic and suspicious media, often associated with violent tendencies among adolescents (cf. Otto, 2008). The difference between the limiting (limitations of accessibility and visibility) and the enabling (enhancing visibility and recommending games) strategies of regulation can itself be regarded as a form of disciplinary societies at play, since it emphasizes the shift to *positive* productivity that is usually associated with disciplinary arrangements according to Foucault (1980, p. 59).

REGULATION THROUGH RECOMMENDATION

Whenever a counterpoint to disciplinary regulatory practices of computer games is evoked in German-speaking countries, it usually involves Austria's practice of positive evaluation (*Positivprädikatisierung*). Since 2005 the federal agency for positive evaluation of computer- and console games (*Bundesstelle für Positivprädikatisierung von Computer- und Konsolenspielen* [BuPP]) has selected computer games they deem especially recommendable (BuPP, n.d.-a). The BuPP is the only official agency in Austria concerned with computer games and their recognition, however, their recommendations are not legally binding and they are not institutionalized like the official age-rating labels of the German rating agency for computer games USK or the European rating agency PEGI. This means that computer games do not wear their BuPP-rating on their sleeves in the form of stickers on retail boxes or logos and badges on the webpages of online shops or digital distributors (BuPP, n.d.-b, para. 6). In fact, since many computer games are distributed freely between Germany, Austria or Switzerland, they are labelled with USK and PEGI stickers in Austria, although none of them are binding in Austria[1]. While the USK assigns ratings that recommend (or prescribe, in the case of Germany) the minimum age necessary to play the game in question (cf. Dreyer, 2018, this volume), PEGI singles out what amounts to various anxieties regarding the content of the games (such as sex, violence, horror or drugs) and correlates those

1 Each Austrian federal state is responsible for its own legislation regarding the protection of minors. As of 2011, three of the nine federal states require the application of either the PEGI or the USK ratings.

with the different age groups. BuPP, on the other hand, employs a player-centric rating method that considers the skills that are necessary to successfully play a game.

There are several assumptions about games and their players at play here, which I will attempt to unpack. First of all, BuPP, like any institution administering positive regulation, rejects disciplinary methods like bans when dealing with computer games. The reasons for this are at least twofold, according to BuPP's mission statement: any form of prohibitive regulation is easily circumvented – e.g. by having another (older) person buy the game (BuPP, n.d.-a)[2]. Also, a ban of or restricted access to software always entails unintentional advertising: the alluring, bright red USK 18 sticker suggests a 'grown-up' game and serious action[3]. Here the productivity of regulatory power becomes apparent, since the same measures that establish digital games as objects of worry also serve to highlight them as objects of desire: the games are produced as potentially problematic and illicitly entertaining at the same time. Positive regulation appears to be an attempt to integrate this unintended productivity into the goals of media pedagogy, since it embraces the concept of regulation as recommendation. While BuPP at first only singled out those games it could recommend without reservation, today it seeks to offer a database with entries on most major game releases, evaluating each according to the requirements the player has to meet (BuPP, n.d.-c). At the core of this rating system lies the main finding of developmental psychology following Piaget: human beings are not born fully developed, but acquire their physical and psychological capabilities in the course of successive developmental stages in their (early) lives (Piaget, 2001; 2007). BuPP employs the theories of Piaget and other developmental psychologists according to a model devised by Austrian media pedagogues (cf. Mitgutsch & Rosenstingl, 2008, pp. 186-191) that attempts to correlate typical psychological operations (e.g. perception, thinking, memory, feeling and others) with common characteristics of computer games (e.g. graphics, controls, interactivity, solutions and others). Instead of assigning ratings according to what children and adolescents should or should not play, BuPP suggests what they can and cannot play from a developmental psychological viewpoint. In practice, BuPP's online database differentiates between three types of entries, one of which

2 Regulation on a technological basis can be significantly harder to circumvent, especially when region-locks, digital rights management and/or digital distributors are concerned (cf. Thorhauge, 2018, this volume).

3 Austrian law still allows for the possibility to ban games (or other media) if their content is found to be harmful to minors.

employs the system described above: short entries that offer the most basic information about a game (such as the platforms it is released on, price, PEGI rating and a short synopsis); entries discussing mostly popular games on a pro & contra basis[4] and there are recommendations, which contain a longer text justifying the rating as well as a graphical representation of the skills needed to play the game.

The positive regulation of computer games through BuPP's rating system combines an evaluation of the game's content with an analysis of its demands regarding the player's reactions, her cognitive capacities and her endurance. Although the originally far more complex matrix (Mitgutsch & Rosenstingl, 2008, pp. 190-191) is thus reduced to three fairly broad categories, it still represents an unusual way of thinking about computer games in the context of regulatory practices. The game is positioned as a medium that demands certain capabilities from those who wish to engage with it. It is no longer solely a container for problematic content, but instead exhibits characteristics and requirements on the level of the technological artefact itself (something that McLuhan already recognized in the case of television in 1964 [McLuhan, 2001, pp. 19-21]). In a way, BuPP attempts to formulate 'system requirements' not for hardware, but for the players. The agency answers the classical pedagogical question concerning the right game for children based at least partly on the abilities children would need to successfully play the game. This dimension of regulation seems more concerned with helping parents find games that are enjoyable for their children than with protecting children from harmful content. That said, the game's content is still considered in the ratings, since the descriptions of plot and gameplay in textual form comment on the amount of violence the game depicts or on the alternatives to violent conflict afforded by the game. Computer games with violent content cannot be found in the list of BuPP-recommendations and content they consider problematic is always listed on the contra-side of the pro & contra entries.

The exhaustive database operated by BuPP belies the fact that it, like any ratings system, makes media (in this case, computer games) visible in a specific way while at the same time ensuring their invisibility in other ways. It is a function in the discourse on games that enables us to consider them as artefacts that are defined by the demands they make regarding the abilities of their users. Games are thus produced as media of challenge and testing instead of danger and concern.

4 The reason for this differentiation lies in the aspirations to offer an exhaustive database through BuPP. As many games as possible should be found by searching the database, which necessitates shorter entries for most games, while those that are especially popular with minors but do not meet the requirements of a positive rating are addressed through longer texts and tables listing their positive and negative features.

Even so, the database of BuPP still subjects the games it catalogues to a whole array of (implicit) pedagogical values (BuPP, n.d.-a). It would be an interesting task, albeit well beyond the scope of this chapter, to comparatively study BuPP's recommendations and to show which features are more likely to make games recommendable (e.g. no or low/abstract depiction of violence, emphasis on puzzles and strategic thinking or the potential to learn something). In the case of BuPP, positive regulation means treating computer games as consumer goods (cf. Rosentingl, 2010, p. 19) that require specific skills to be enjoyable, which is a similar approach to that of a long-standing tradition of games journalism (Gillen, 2004). Both focus on *fun* as games' central purpose and judge or recommend them based on the fun they afford and the competence they require (regarding the question of fun, see Koster [2013] and Bogost [2016]). In regarding games more as consumer goods and less as cultural artefacts, BuPP's system of positive regulation enables a narrow understanding of computer games, which excludes many of the more unusual approaches to games, such as those that are intentionally not fun (e.g. *This War of Mine* [11 Bit Studios, 2014]; *That Dragon, Cancer* [Numinous Games, 2016]) or those that experimentally operate with difficulty and control schemes (cf. Wilson & Sicart, 2010). I consider this understandable in the context of an age-based rating system that aspires to recommend games even for very young children, but it becomes problematic wherever positive regulation manifests in less transparent environments, like the case of the German game award shows, which will be discussed below.

REGULATION THROUGH RECOGNITION

Negative, prohibitive or disciplinarian regulation of media and especially computer games is a central aspect of German youth protection. Computer games are sold according to their legally binding USK ratings and can be subjected to stricter measures like bans on advertising or on open sales (cf. Dreyer, 2018, this volume). The regular debates in Germany on whether or not these measures are tight enough usually follow such events as school shootings (Krempl, 2006; Otto, 2008)[5]. To once again return to the beginning of the chapter, it is safe to say that the German public and most traditional media remain worried about computer games – although this worry is slowly being replaced by curiosity regarding the potentials of

5 Similar debates are reported to have taken place in Austria (cf. Rosenstingl, 2010), although all recent school shootings occurred in Germany.

the medium[6]. There have been several attempts at positive regulation in Germany, two of which will be discussed in the following paragraphs.

While there is no equivalent to BuPP in Germany, the Federal Agency for Civic Education (*Bundeszentrale für politische Bildung*) has launched an initiative that comes close. Under the title *spielbar.de.de*[7], an editorial staff of journalists and pedagogues publish game-descriptions and reviews, which are presented in the form of a database not unlike the system employed by BuPP[8]. The main difference to the way BuPP reviews games is that *spielbar.de.de* offers no recommendations. Games are described, reviewed and judged from a pedagogical point of view, but there is no list of especially recommendable games. Because of this, *spielbar.de.de*'s database is more varied than BuPP's, since it includes games that cannot be thought of as pedagogically valuable or as suitable for minors. Additionally, *spielbar.de.de* allows for audience participation in the form of comments below their reviews and even presents their own pedagogical evaluations in the form of comments. These measures de-emphasize the regulatory dimension of *spielbar.de.de*'s service, while at the same time broadening the appeal of their database as a legitimate source of critical information on various games. Aside from this, *spielbar.de.de* can still be considered an institution with a pedagogical and a regulatory mandate, since the website offers various guides and brochures for download that offer an introduction to the fascination of computer games for outsiders (parents or teachers) or information about hands-on experiences for parents in the form of specially organized LAN-parties[9]. Especially with these supplementary materials and services, what *spielbar.de.de* attempts is not so much the (positive) regulation of computer games, but the regulation of fears about the games. The detailed introductions to gaming practices and language resemble ethnologists' explorations of unfamiliar cultures; here, the unfamiliar computer game

6 In recent years, there have been a number of longer features in German magazines and newspapers exploring the potentials of computer games, mostly centred around educational applications (serious games) or motivational aspects (gamification) (cf. Buse, Schröter & Stock, 2014; Schaefer & Halaban, 2014).

7 A wordplay meaning both *playable* and *play/game-bar* (in the sense of a venue specially focused on games and play).

8 www.spielbar.de.de

9 A LAN-party is a social event focused on co-located PC gaming. The term derives from the acronym for *Local Area Network*, meaning the connection of two or more PCs through a local, non-web-based connection. LAN-parties were the place of early PC-based multiplayer gaming, before high-speed Internet connections became widely available.

culture. As such they aim to alleviate the scepticism of parents and teachers through fostering a deeper awareness of computer games. Through establishing computer games as cultural artefacts that entail specific user practices, *spielbar.de*'s database differs from its Austrian counterpart, which emphasizes the games as consumer goods that need to be paired with the appropriate consumers. However, both contribute to the productivity of regulation by contextualizing games in a certain way, by submitting them to a system that makes them visible and comparable and by entering them into databases, all of which is more (in the case of BuPP) or less (in the case of *spielbar.de*, which does not have such far-reaching influence) framed as an officially recognized, media-pedagogical offering.

REGULATION THROUGH PRIZES

Next to smaller services like *spielbar.de*, positive regulation in Germany also takes place in large, institutionalized award ceremonies like the German Computer Games Award (*Deutscher Computerspielpreis* [GCGA]). The GCGA has been awarded since 2009 through the cooperation of two game industry associations and the Federal Ministry of Transport and Digital Infrastructure (*Bundesministerium für Verkehr und digitale Infrastruktur*). It is awarded in a number of categories such as *best serious game*, *best youth game*, *best browser game*, *best international game* or *best mobile game*. However, each year one entry wins the main prize and is declared best German game[10]. The main award came with 150,000 € prize money in 2009 and the whole budget for prizes is supposed to rise to 450,000 € by 2017 (Bundesministerium für Verkehr und digitale Infrastruktur, 2017). Besides the financial incentives, the GCGA aspires to reward outstanding games with national recognition, since it is meant as a complementary institution to the German Film Awards, which is a well-known prize in Germany. There are a number of publicly available criteria that submitted games have to fulfil to be eligible for an award, which is revealing, since it demonstrates which characteristics of games are regarded as good, positive or worthy of recognition. Currently, the following criteria are listed on the GCGA's website, demanding that games be excellent in one of four fields: they have to display artistic or cultural value; be of pedagogical and didactical worth; demonstrate technological achievement and innovation; or

10 The GCGA itself does not keep an archive of past winners or nominees, perhaps due to the controversies discussed in this chapter. Thus, the best source on the award's history is its Wikipedia entry (cf. Deutscher Computerspielpreis, n.d.).

have outstanding entertainment value (Kriterien für die Juryarbeit, n.d.). The productivity of regulatory practices becomes apparent in the way digital games are recognized by the institutions that cooperate with the GCGA: there is a pattern of positive qualities that enables these institutions to address a certain group of games without presenting them as problematic. Computer games are produced as artefacts that can potentially earn an official seal of approval (an award) if they conform to specific criteria. While BuPP and, to a lesser extent, *spielbar.de*, offer databases as a service providing knowledge about games, thus mainly targeting parents, the GCGA offers financial incentives and visibility, which are of interest to developers and publishers. Both can be understood as strategies that seek to codify the relatively young and frequently changing medium of computer games, constituting them as artefacts of value that can thus be evaluated and recommended based on unambiguous standards.

A closer look at the GCGA and its criteria reveals the way in which the game awards differ from similar awards for other media: there is great emphasis on the pedagogical dimension of games. While judging an artefact's entertainment value might make sense in the context of a public's choice award, pedagogical value is not usually taken into account in general, industry- and nationwide awards of cultural artefacts. However, the short history of the GCGA shows that pedagogical considerations are a major influence in the process of selecting the winners, although the vague criterion of pedagogical value is never defined in detail. During the first year, there was no game among the winners with a USK rating of sixteen years or above. Most awards went to distinctly child-friendly games. That did not change in the following year; however, there were some complaints from independent observers when the same game won both the award for best German game and for best international game. The German version of *Dawn of Discovery* (Blue Byte/Related Designs, 2009), a well-known and long-running historical simulation game in Germany, was named best German game, while the international release of *Dawn of Discovery* became best international game, although it was nominated only after nominations had officially been closed (Steinlecher, 2010)[11]. Some observers assumed that this bending of the rules took place to avoid awarding the international prize to games with a higher USK rating than *Dawn of Discovery* (Lischka, 2011). In 2012 an even bigger reaction followed the awards, albeit this time politicians criticized the jury's decision specifically because it did not conform to implicit expectations regarding the USK ratings and the perceived

11 The matter becomes even more complicated because the game is far better known under the German name *Anno 1404*, while *Dawn of Discovery* is the official name for the North American release.

pedagogical value of recognized games. *Crysis 2* (Crytek, 2011), an ego-shooter with a USK 18 rating, was named best German game. Even the game's nomination caused Conservative politicians to demand a change of criteria for the GCGA and a replacement of the jury altogether (Reißmann, 2012). *Crysis 2* was deemed a 'killer game' (*Killerspiel*)[12] and a shooting game of doubtful pedagogical value, something the Conservative politicians did not want to see endorsed through awards, although representatives of the Conservative party were part of the deciding jury. Finally, 2015 saw a significant rearrangement of the GCGA, in which the range of categories was extended and the jury was reassembled. These changes prompted some journalists to withdraw from the jury, as a result of the unwillingness of the organizers to de-emphasize the criterion of pedagogical value in connection with USK ratings[13].

According to the GCGA and its criteria, good computer games are those that are suited for children or young adolescents and that also have unspecified pedagogical value (on the issue of *Crysis 2* and the pedagogical value of digital games [cf. Raczkowski & Schollas, 2012]). Positive computer game regulation in Germany exists against the backdrop of a strong system of prohibitive and protective media regulation that influences how games are considered and addressed both in negative and in positive regulatory practices. The recommendation of computer games happens not instead of, but in contrast to, their implicit condemnation. Games that are already subject to heavy negative regulation (high USK ratings) cannot be recommended, but must serve as the 'other' at award ceremonies. This practice of positive regulation through prizes presents games as double-edged swords: they can be culturally significant, but also dangerous and in need of restriction. Additionally, they are seen as child's play – as a medium that primarily targets children and adolescents or, more precisely, that *should* target them. These circumstances bring about the emphasis on pedagogical value and the outrage over

12 *Killer game* is a derogatory term used in Germany mostly to describe first person shooter games or, more broadly, any game that depicts graphic violence. It was frequently employed by politicians and worried parents in German media-harm discourse.

13 More precisely, a change in the GCGA's rules now makes it possible for a minority of jury members to veto a decision regarding the awards in main categories whenever they deem the game in question not to be pedagogically or culturally valuable. Games that are blocked from winning an award in this way are instead eligible to win the Jury Award. The whole process is only applied to games with a USK rating of 18+, which led the journalists in the jury to conclude that it was mainly put in place to keep games that are not minor-friendly from winning awards (Peschke, 2014).

nominations and awards for games with a high USK rating. *Crysis 2* is undeserving of an award in the eyes of Conservative politicians not only because of its violent content, but also because it misses the target audience of computer games in general and because there is not much to learn from playing the game. Where BuPP's regulatory practices present computer games as consumer goods, the GCGA regards them as toys: artefacts that are designed for children and that can be expected to convey specific values or facilitate learning.

CONCLUSIONS

Regulation of computer games (and media in general) can work in several different ways. The most well-known and widely used approach conceptualizes regulation as a form of protection from harmful content. It is assumed that certain elements of games, such as graphic violence or high tension, make those games unsuitable for minors. In reaction to this, several systems have been put in place in Austria and Germany to evaluate a game's content and to assign an age-based rating to indicate at which age children and adolescents can be confronted with the game's content. Several assumptions are implicit in these procedures. There has to be a position on the harmful effects of media content, a psychological account regarding the development of children and adolescents and a juridical as well as an economic assessment on the measures of regulation. Media regulation always brings with it specific ways of thinking about media, their content and effects, their producers and consumers (or players). Following Foucault, this means that media regulation always also produces the media it seeks to regulate. Discussing attempts at positive regulation can thus be revealing regarding the way computer games, their risks and their potentials are discursively produced through the desire to know more about games and to be able to judge their quality (thereby canonizing appropriate and valuable games).

The examples discussed in this chapter comprise only some of the instances through which positive regulation is enacted in Austria and Germany. I focussed on the most well-known cases that are supported and partly funded by public institutions, since those agencies, services and ceremonies can be regarded as prime examples for governmental strategies in positive regulation. As with prohibitive, taboo-oriented regulation, there are several assumptions regarding games and their players that are at the core of recent attempts to shift regulatory practice towards recommendations. There is the tendency to take computer games seriously as media, which means that they are not solely regarded as containers for problematic

content, but as artefacts that function in a specific way. Thus, BuPP and *spielbar.de* consider the game's contents (e.g. graphics or narrative) as well as the way the medium works (How does the player interact with the game? What is the goal? How do the rules work?)[14]. Despite all this, computer games are still presented as consumer goods produced mainly for children, because the productivity of regulatory power works through attempts to formalize and essentialise computer games. Consequently, a computer game can fulfil its purpose only when it offers aesthetics as well as challenges and mechanics that are suitable to minors. Because of their hybrid status between cultural artefacts, consumer electronics and pedagogical instruments, officially endorsing a computer game through an award becomes very difficult. As soon as the awards ceremony is associated with a publicly funded institution or is partly funded by the public, many different expectations have to be met by the organizers and the jury. As the example of the GCGA shows, the same game may or may not deserve recognition, depending on whether politicians, parents, teachers, designers, programmers, publishers or players are asked. In this case, the regulation provided by the award depends on the acceptance, recognition and support of many different groups and institutions. However, the debates and controversies surrounding the GCGA demonstrate that computer games as objects of regulatory strategies still oscillate between hypothetical danger and required (pedagogical) value. All the examples discussed in this paper exhibit tendencies to formalize (and bring about) knowledge of computer games, be it through databases or through criteria for jury decisions. While prohibitive regulation was largely based on the knowledge produced by media effects studies (cf. Otto, 2008), positive regulation appears to build upon more varied, but also more informal sources. Additionally, the object of knowledge proves elusive, with computer games continuously changing as a medium and as an industry. In the terms of discourse analysis, the measures I have described as positive regulation can then be understood as an attempt to negotiate or to capture computer games as artefacts that can be addressed by governmental measures. Through this, as has repeatedly been demonstrated above, computer games are produced as objects of knowledge. Consequently, regulatory measures spark public debate, whether they are perceived as too forgiving, as generally inadequate, as a welcome change or

14 The difference between content and form/function is highly artificial when discussing any media. It is evoked in the context of this argument to highlight the way in which media regulation usually (with the exception of Austria) focuses only on one dimension of computer games (the visual content/the graphics).

as the first attempt to regard computer games as cultural artefacts. It will be necessary to continue to follow this debate closely, because it forms the way games are perceived and incorporates certain implicit assumptions about games.

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