

**Prepared Statement of
the Federal Trade Commission**

on

"Marketing Violent Entertainment to Children: Self-Regulation and Industry Practices in the Motion Picture, Music Recording, and Electronic Game Industries"

**Before the
Subcommittee on Telecommunications and the Internet
Committee on Energy and Commerce
United States House of Representatives**

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I. Introduction

Mr. Chairman, I am Lee Peeler, Associate Director of the Division of Advertising Practices of the Federal Trade Commission's Bureau of Consumer Protection. I appreciate this opportunity to discuss the Commission's reports on the marketing of violent entertainment products to children by the motion picture, music recording, and electronic games industries.⁽¹⁾ The Commission issued its first report last September and a follow-up report this past April. The September report answered two questions: Do the motion picture, music recording, and electronic game industries promote products that they themselves acknowledge warrant parental caution in venues where children make up a substantial percentage of the audience? And, are these advertisements intended to attract children and teenagers? After a comprehensive 15-month study, the Commission found that the answers to both questions were plainly "yes."

The April Report was narrower. It looked at whether the entertainment media companies were continuing to advertise violent entertainment products in popular teen media, and whether the advertisements contained rating information. The Commission found that the movie and electronic games industries had made some progress on both fronts, but that the music recording industry had made no visible response to the September Report. The Commission urged the industries to make a greater effort to meet the suggestions for improvement outlined in its September Report as well as the industries' own promises for reform.

All three industries studied have self-regulatory systems that purport to rate or label their products to help parents make choices about their children's entertainment. Notwithstanding, the Commission concluded in its September Report that members of each industry routinely targeted advertising and marketing for violent entertainment products directly to children. The Commission believes that such advertising and marketing efforts undermine each industry's parental advisories and frustrate parents' attempts to protect their children from inappropriate material.

II. Background

The Federal Trade Commission is the federal government's principal consumer protection agency. Congress has directed the Commission, under the FTC Act, to take action against "unfair or deceptive acts or practices" in almost all sectors of the economy and to promote vigorous competition in the marketplace.⁽²⁾ With the exception of certain industries and activities, the FTC Act provides the Commission with broad investigative and law enforcement authority over entities engaged in, or whose business affects, commerce.⁽³⁾ The FTC Act also authorizes the Commission to conduct studies and collect information, and, in the public interest, to publish reports on the information it obtains.⁽⁴⁾

On June 1, 1999, following the horrifying shooting incident at Columbine High School in Littleton, Colorado, then-President Clinton requested that the Federal Trade Commission and the Department of Justice conduct a study of whether violent entertainment material was being advertised and promoted to children and teenagers.⁽⁵⁾ The request paralleled congressional proposals for such a study.⁽⁶⁾ Revelations that the teen-aged shooters at Columbine High School had been infatuated with extremely violent movies, music, and video games reinvigorated public debate about the effects of violent entertainment media on youth.

III. The Commission's Study

A. Scope of the Study

In response to the request, the Commission, with financial assistance from the Justice Department, collected information from the motion picture, music recording, and electronic game industries regarding their self-regulatory systems and marketing practices.⁽⁷⁾ The Commission requested information from the principal industry trade associations, as well as the major motion picture studios, the music recording companies, and electronic game companies.⁽⁸⁾ In addition, the Commission contacted interested government agencies, medical associations, academics, and parent and consumer advocacy groups.⁽⁹⁾ We reviewed information collected from consumers through various surveys and polls, and also designed and conducted our own surveys for this study.⁽¹⁰⁾ Specifically, we surveyed parents and children regarding their understanding and use of the rating and labeling systems, and how they made purchase decisions for these entertainment products.⁽¹¹⁾ We also conducted an undercover survey of retail stores and movie theaters to see if unaccompanied children under 17 could purchase or gain access to products labeled as inappropriate or warranting parental guidance.⁽¹²⁾ Finally, we reviewed Internet sites to study how they are used to market and provide direct access to these products.

B. The Entertainment Media Industry Self-Regulatory Systems

The entertainment industries have recognized the public's concern about children's exposure to violent entertainment and have taken steps to alert parents to violent or explicit content through self-regulatory product rating or labeling programs. Each of these programs addresses violence, as well as sexual content, language, drug use and other content that may be of concern to parents.

The motion picture industry uses a rating board to rate virtually all movies released in the United States, requires the age-related rating to appear in advertising, and makes some effort to review ads for rated movies to ensure that their content is suitable for general audiences. The music recording industry recommends the use of a general parental advisory label on music with "explicit content." The artist and the music publishing company decide whether to place a parental advisory label on a recording and there is no independent third-party review; nor does the industry provide for any review of marketing and advertising. The electronic game industry uses a rating board to assign an age- and content-based rating, and requires that game packages bear the rating and that the rating information appear in advertising. It also is the only industry that has adopted a rule prohibiting its marketers from targeting advertising for games to children below the age designations indicated by the rating.

IV. The Findings of the September 2000 Report

The Commission carefully examined the structure of these rating and labeling systems, and studied how these self-regulatory programs work in practice. We focused on the marketing of products designated as violent under these systems. We did not examine the content itself, but accepted each industry's determination of whether a particular product contained violent content.

The Commission found that despite the variations in the three industries' systems, the outcome was consistent: individual companies in each industry routinely marketed to children the very products that have industries' self-imposed parental warnings or ratings with age restrictions due to violent content. Indeed, for many of these products, the Commission found evidence of marketing and media plans that expressly targeted children under 17. In addition, the companies' marketing and media plans showed strategies to promote and advertise their products in the media outlets most likely to reach children under 17. These documents showed plans to advertise these products on television programs ranked as the "most popular" with the under-17 age group, such as *Xena: Warrior Princess*, *The Simpsons*, *WWF Smackdown*, and MTV's *Total Request Live*; in magazines and on Internet sites with a majority or substantial (*i.e.*, over 35 percent) under-17 audience, such as *Game Pro*, *Seventeen* and *Right On!*, as well as *mtv.com*, *ubl.com* and *happypuppy.com*; and in teen hangouts, such as game rooms, pizza parlors, and sporting apparel stores.

Movies. Of the 44 movies rated R for violence the Commission selected for its study, the Commission found that 80 percent were targeted to children under 17. Marketing plans for 64 percent contained express statements that the film's target audience included children under 17. Though the marketing plans for the remaining seven R-rated films did not expressly identify an under-17 target audience, they led the Commission to conclude that the companies nonetheless targeted children under 17. That is, the plans either were extremely similar to the plans of the films that did identify an under-17 target audience, or detailed actions synonymous with targeting that age group, such as promoting the film in high schools or in publications with majority under-17 audiences.

Music. The Commission found that all 55 of the explicit content-labeled music recordings studied were targeted to children under 17. The marketing plans for 27 percent expressly identified teenagers as part of their target audience. The marketing documents for the remaining

recordings did not expressly state the age of the target audience, but they detailed the same methods of marketing as the plans that specifically identified teens as part of their target audience, including placing advertising in media that would reach a majority or substantial percentage of children under 17.

Games. Seventy percent of the 118 electronic games with a Mature rating for violence the Commission examined targeted children under 17. The marketing plans for 51 percent of these expressly included children under 17 in their target audience. Documents for the remaining games showed plans to advertise in magazines or on television shows with a majority or substantial under-17 audience.

Further, although the National Association of Theatre Owners and some retailers had policies limiting the sale of rated or labeled products even before the Commission's study, most retailers made little effort to restrict children's access to products containing violence. Surveys conducted for the Commission in May through July 2000 found that just over half the movie theaters admitted children ages 13 to 16 to R-rated films even when not accompanied by an adult. The Commission's surveys of young people indicated that, even when theaters refuse to sell tickets to unaccompanied children, they have various strategies to see R-rated movies. The Commission's surveys also showed that unaccompanied children ages 13 to 16 were able to buy both explicit content recordings and Mature-rated electronic games 85 percent of the time.

Although consumer surveys show that parents value the existing rating and labeling systems, they also show that parents' use and understanding of the systems vary. The surveys also consistently reveal high levels of parental concern about violence in the movies, music, and video games their children see, listen to, and play. These concerns can only be heightened by the extraordinary degree to which young people today are immersed in entertainment media, as well as by recent technological advances such as realistic and interactive video games. The survey responses indicate that many parents believe the rating systems could do a better job of informing them of the violent content in entertainment products.

V. Conclusions of the September 2000 Report

The findings summarized above led the Commission to recommend that all three industries enhance their self-regulatory efforts.⁽¹³⁾ The Commission suggested that the industries:

1. *Establish or expand codes that prohibit target marketing to children and impose sanctions for noncompliance.* All three industries should improve the usefulness of their ratings and labels by establishing codes that prohibit marketing R-rated/M-rated/explicit-labeled products in media or venues with a substantial under-17 audience. In addition, the Commission suggested that each industry's trade associations monitor and encourage their members' compliance with these policies and impose meaningful sanctions for non-compliance.

2. *Increase compliance at the retail level.* Restricting children's retail access to entertainment containing violent content is an essential complement to restricting the placement of advertising. This can be done by checking identification or requiring parental permission before selling

tickets to R movies, and by not selling or renting products labeled "Explicit" or rated R or M, to children.

3. *Increase parental understanding of the ratings and labels.* For parents to make informed choices about their children's entertainment, they must understand the ratings and the labels, as well as the reasons for them. That means all the industries should include the reasons for the rating or the label in advertising and product packaging and continue their efforts to educate parents - and children - about the meanings of the ratings and descriptors. Industry should also take steps to better educate parents about the ratings and labels.

VI. Findings of the April 2001 Follow-Up Report

In January 2001, the Senate Commerce Committee requested that the Commission prepare two reports following up on its September 2000 Report, to be issued in the Spring and Fall of 2001. The Committee asked the Commission to focus its review on two of the issues examined in the September 2000 Report: 1) whether the entertainment media industries continue to advertise violent R-rated movies, explicit-content labeled music, and M-rated electronic games in popular teen media, and 2) whether the entertainment media are including rating information in their advertising. In April 2001, the Commission issued its first follow-up report.

The Commission's review indicated that the entertainment media industry had made some progress both in limiting advertising in certain popular teen media and in providing rating information in advertising but that more remained to be done.

Movies. The Commission found that the motion picture industry had made some positive changes to its advertising practices. Specifically, the Commission found virtually no advertisements for R-rated movies in the popular teen magazines reviewed. A spot-check of movie trailer placement revealed general compliance with the industry's commitment not to run trailers for R movies in connection with G- and PG-rated feature films. The motion picture studios now routinely include reasons for ratings in their print and television advertisements. Further, at least three-quarters of the official movie Web sites reviewed included the film's rating, the reasons for the rating, and links to sites where information on the rating system may be obtained. However, ads for R-rated movies still appeared on the television programs most popular with teens, and the rating reasons in ads were usually small, fleeting, or inconspicuously placed.

Games. The Commission's Spring 2001 review showed some improvement in the electronic game industry's advertising practices. The Commission found no ads for M-rated games on the popular teen television programs reviewed. The game company print ads, with only one exception, always included the game's rating icon and, in nearly all instances, content descriptors. Television ads gave both audio and video disclosures of the game's rating, and more than 80 percent of the official game publisher Web sites displayed the game's rating. However, the electronic game industry had not stopped placing ads for M-rated games in magazines with a substantial under-17 audience. The Commission also found that rating icons and descriptors in the print ads, while readable, were often smaller than required by the industry code; television ads never included the content descriptors; only a little more than half the Web sites reviewed

displayed the rating clearly and conspicuously; and just 25 percent displayed the content descriptors anywhere on the site.

Music. The Commission found that the music recording industry, unlike the motion picture and electronic game industries, had not visibly responded to the Commission's September 2000 Report; nor had it implemented the reforms its trade association announced just before the Commission issued that Report. The Commission's review showed that advertising for explicit-content labeled music recordings routinely appeared on popular teen television programming. All five major recording companies placed advertising for explicit content music on television programs and in magazines with substantial under-17 audiences. Furthermore, ads for explicit-content labeled music usually did not indicate that the recording was stickered with a parental advisory label. Even when the parental advisory label was present, it frequently was so small that the words were illegible, and the ads never indicated why the album received the label. None of the recording company/artist Web sites the Commission reviewed linked to an educational Web site for information on the labeling system. The single positive note was that almost 40 percent of the Web sites included the music's lyrics, a step that can help parents screen recordings.⁽¹⁵⁾

VII. The Commission's Current Study

The Senate Commerce Committee requested a second, more comprehensive, report to be issued in the Fall of 2001, which the Commission staff is currently preparing. In addition to reviewing advertising placement in popular teen media and checking ads in all media to see if they include clear and prominent rating information, the Commission is also seeking detailed information from individual industry members, including marketing plans for R-rated movies, explicit-content labeled music, and M-rated games released since the Commission issued its report last September. It will include the results of an undercover shopping survey to see if these products are sold to children without their parents present. The Fall 2001 report will also discuss industry compliance with commitments made following the September 2000 Report.

VIII. Conclusions

Because of First Amendment issues, the Commission continues to believe that vigilant self-regulation is the best approach to ensuring that parents are provided with adequate information to guide their children's exposure to entertainment media with violent content. The Commission is encouraged by the motion picture and electronic game industries' initial responses to its September 2000 Report, but it is disappointed by the almost complete failure of the music recording industry to institute any positive reforms.

More remains to be done by each industry. To avoid undermining the cautionary message in their ratings and labels, the industries should avoid advertising their products in the media most watched and read by children under 17. The challenge remains to make rating explanations as ubiquitous in advertisements as the rating itself and to present this important information clearly and conspicuously. The Commission urges individual industry members both to keep the industry's own commitments and to go beyond those commitments to meet the recommendations the Commission made in its September 2000 Report.

Endnotes:

1. The views expressed in this statement represent the views of the Commission. My oral statement and responses to questions you may have are my own and are not necessarily those of the Commission or any individual Commissioner.

2. 15 U.S.C. § 45(a).

3. The Commission also has responsibility under 46 additional statutes governing specific industries and practices. These include, for example, the Truth in Lending Act, 15 U.S.C. §§ 1601 *et seq.*, which mandates disclosures of credit terms, and the Fair Credit Billing Act, 15 U.S.C. §§ 1666 *et seq.*, which provides for the correction of billing errors on credit accounts. The Commission also enforces over 30 rules governing specific industries and practices, *e.g.*, the Used Car Rule, 16 C.F.R. Part 455, which requires used car dealers to disclose warranty terms via a window sticker; the Franchise Rule, 16 C.F.R. Part 436, which requires the provision of information to prospective franchisees; the Telemarketing Sales Rule, 16 C.F.R. Part 310, which defines and prohibits deceptive telemarketing practices and other abusive telemarketing practices; and the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312.

The Commission does not, however, have criminal law enforcement authority. Further, under the FTCA, certain entities, such as banks, savings and loan associations, and common carriers, as well as the business of insurance, are wholly or partially exempt from Commission jurisdiction. *See* Section 5(a)(2) and (6)a of the FTC Act, 15 U.S.C. § 45(a)(2) and 46(a). *See also* The McCarran-Ferguson Act, 15 U.S.C. § 1012(b).

4. 15 U.S.C. §§ 46(b) and (f). Section 46(f) of the FTC Act provides that "the Commission shall also have the power . . . to make public from time to time such portions of the information obtained by it hereunder as are in the public interest; and to make annual and special reports to Congress. . . ."

5. *See* Letter from William J. Clinton, President of the United States, to Janet Reno, Attorney General of the United States, and Robert Pitofsky, Chairman, Federal Trade Commission (June 1, 1999) (on file with the Commission).

6. Legislation calling for the FTC and the Justice Department to conduct such a study was introduced in both houses of Congress following the Columbine incident. *See* Amendment No. 329 by Senator Brownback *et al.* to the *Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999*, S. 254, 106th Cong. § 511 (1999); H.R. 2157, 106th Cong. (1999); 145 Cong. Rec. S5171 (1999). In May 1999, the U.S. Senate Committee on Commerce, Science, and Transportation conducted hearings on the marketing of violent entertainment media to children. *See Marketing Violence to Children: Hearing Before the Senate Comm. on Commerce, Science, and Transp.*, 106th Cong. (1999), www.senate.gov/~commerce/hearings/hearin99.htm (visited July 30, 2000). Based on those hearings, in September 1999, the Majority Staff of the Senate Committee on the Judiciary issued a committee report on this issue. *See* Majority Staff of the Senate Comm. on the Judiciary, 106th Cong., *Report on Children, Violence, and the Media: A Report for Parents and Policy Makers* (Comm. Print. 1999), www.senate.gov/~judiciary/mediavio.htm (visited July 31, 2000).

7. The Justice Department provided the FTC with substantial funding and technical assistance to enable the FTC to collect and analyze public and non-public information about the industries' advertising and marketing policies and procedures, and to prepare this written report and appendices. The analysis and conclusions contained in the Report are those of the FTC.

8. The Commission received information from about 50 individual companies, as well as the Motion Picture Association of America (MPAA), the National Association of Theatre Owners (NATO), the Recording Industry Association of America (RIAA), the National Association of Recording Merchandisers (NARM), the Entertainment Software Rating Board (ESRB), the Video Software Dealers Association (VSDA), the Interactive Digital Software Association (IDSA), the Internet Content Rating Association (ICRA), the Software and Information Industry Association (SIIA), the Interactive Entertainment Merchants Association (IEMA), and the American Amusement Machine Association (AAMA).

9. In addition to industry sources, the Commission received information from a wide range of consumer, medical, and advocacy organizations. The American Academy of Pediatrics, American Psychological Association, Center on Media Education, Center on Media and Public Affairs, Children Now, Commercial Alert, Lion and Lamb Project, Mediascope, National Institute on Media and the Family, National PTA, and Parents' Music Resource Center were among the organizations that provided information to the Commission.

10. See Appendix E (*Entertainment Industry Information Requests*) of the Commission's September 2000 Report.

11. See Appendix F (*Mystery Shopper Survey and Parent-Child Survey*) of the Commission's September 2000 Report.

12. *Id.*

13. The Commission's support for enhanced industry self-regulation in the advertising context is motivated in part by our strong belief in the benefits of self-regulation, and in part by our concern that government regulation of advertising and marketing - especially if it involves content-based restrictions - may raise First Amendment issues.⁽¹⁴⁾

14. The legal issues under the First Amendment are discussed in Appendix ____.

15. The April Report provided a snapshot of advertising practices by some industry members a few months after publication of the Commission's September 2000 Report. Thus, it cannot be statistically projected to industry advertising as a whole. In addition, because it relied on advertising monitoring rather than internal industry documents, its results cannot be directly compared to the results of the review conducted for the September 2000 Report. Also, the review did not include information on children's access to these products at the retail level.