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RATING ENTERTAINMENT RATINGS: HOW WELL ARE THEY WORKING FOR PARENTS AND WHAT CAN BE DONE TO IMPROVE THEM?

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

JULY 25, 2001

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RATING ENTERTAINMENT RATINGS: HOW WELL ARE THEY WORKING FOR PARENTS AND WHAT CAN BE DONE TO IMPROVE THEM?

WEDNESDAY, JULY 25, 2001

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Thompson, Carper, Durbin, and Bunning.

OPENING STATEMENT OF SENATOR LIEBERMAN

Chairman LIEBERMAN. Good morning. Welcome to this hearing. Let me say that we are here to revisit an issue that parents repeatedly raise with just about everyone who will listen, and that is the challenge that is facing them in raising healthy children in today's 500-channel, multiplexed, videogamed, disc-manned universe.

Before I proceed, I want to apologize for the quality of my voice today. I am fighting a summer cold, and I am reminded of the old story of the clergyman who, when he rises to give the sermon, says to his congregates, "As you can hear, I have a terrible cold, and I had thought of not giving a sermon today, but then I decided why should you derive pleasure from my misery?" Jack Valenti, it is in that spirit that I go forward with the proceedings.

A second preliminary announcement, in the last few days we have had several requests from people who wanted to testify at the hearing, including some members of the House, and it has just been very hard at this date to accommodate those requests. Others came from folks within the entertainment industry. But I have said to them that we will accept their written testimony, that I would be glad to meet with them, and, if it seems to be constructive and worthy, we will convene another hearing on the subject, to give others an opportunity to testify.

What I described at the outset, which is the concern of parents around the country today about the effect of the entertainment culture on their children, is a reflection of the quantity of time that children spend consuming and using media. You get a lot of numbers on this. One of them is an average of 6½ hours a day, which is the number reported by the Annenberg Public Policy Center. But I think we all know it is more than quantity. It is a reflection on

the quality of the messages about sex and violence that kids are being exposed to by the entertainment media—messages which too often reject, rather than reflect, the values that parents are trying to instill in their children—and the growing sense that the totality of these messages is having a harmful influence on the attitudes and behaviors of our children, and therefore on the safety and even the moral condition of our country.

There are limits to what we in government can do to respond to those concerns, first because of our devotion to the First Amendment, and second because governments do not raise children, parents do. At the same time, though, there are things that we can do—hopefully, with the movie, music, video game and television industries—to empower parents and make the hard job of raising healthy children a little easier.

Now, one way to empower is to inform. Over the years, the major entertainment media have developed rating and labeling systems to offer parents and consumers information about the content of their products and help parents exercise more informed control over their children's media diets. Over that time, these ratings, particularly those of the movie industry, have become cultural icons, literately. But as the content and marketing practices of the entertainment media have become worse, we have been hearing more and more concerns about how these rating systems work. There have been specific criticisms about their reliability, visibility and understandability, and there have been general complaints that the ratings do not provide parents with enough information about content—about the levels of sex, violence and vulgarity in the product—to make the right choice for their children. Last year, for example, a Gallup survey found that 74 percent of parents said the movie, music, and television ratings were inadequate on that count.

Those concerns culminated in a letter sent to policymakers last month by a distinguished coalition of researchers, medical groups, including the American Medical Association and the American Psychological Association, and a large number of child development experts and advocates, which recommended a complete overhaul of the media ratings. That letter, which was instituted by the National Institute on Media and the Family, argued that the different ratings are often applied inconsistently, and many parents find the multiplicity of rating icons confusing, and as a result that the ratings are not adequately serving their purpose, which is to help parents and protect kids. To fix this problem, the signers of the letter called for replacing the existing formats with a new, uniform rating system monitored by an independent oversight committee and grounded in sound research.

I thought this was an important statement with a provocative proposal that deserved more public discussion. I also believe that one constructive way in which we in government can help parents is to provide a platform, to facilitate a dialogue and ideally find some common ground. And that is the aim of our hearing today, to flesh out the concerns raised in the NIMF's letter and explore the merits of their recommendations, to hear the response of the industry keepers of these rating systems and to see if there is any agreement on ways to improve the ratings to better inform parents.

I have expressed interest in the idea of uniform ratings before, as have others in Congress, including Senators McCain and Clinton, and in the entertainment industry, notably Disney President Robert Iger, and I remain interested in this idea. Many parents appear to be interested, as well—a survey by the Kaiser Family Foundation, which is being released today, found that 40 percent of parents believe that a uniform rating system would be more useful than the current approach, and only 17 percent think it would be less useful. So today we are going to hear arguments in favor of switching to a single system, as well as the industry's responses to those arguments.

I hope the entertainment industry witnesses come with an equally open mind, particularly on the question of providing more and better information. For some time now, for instance, many of us have voiced dissatisfaction with the recording industry's one-size-fits-all parental advisory program, which provides a solitary stickered warning to parents of "explicit content." We have urged the major record companies to expand and clarify their system and tell parents what kind of explicit content is in the lyrics. Those same criticisms and calls for change were repeated vociferously at a hearing before the House Telecommunications Subcommittee last week, as I understand it, and Ms. Hilary Rosen, on behalf of the recording industry, ruled out adding any content descriptions to the recording industry's labeling system. I hope in our discussion today that Ms. Rosen will reconsider that position.

I also hope that Mr. Valenti will alter the surprising and, to me, outrageous suggestion he made in his response to the letter from Dr. Walsh and the AMA and the APA, that there is serious doubt remaining about whether violence in the media poses any risk of harm to our children.

On the brighter side, if we are looking for an industry model, I would point to the video game rating system, which is administered by the independent Electronics Software Ratings Board. This system, which was a response in the first instance to congressional hearings and parent concern, pairs age-based icons with detailed content descriptors in a clear, concise and informative format. I know that no rating system is perfect, certainly not in its application, but I think this is the best one around.

If I may touch briefly on a subject that is not the subject of our hearing today, which is our concern about media marketing practices, I commend the video game industry for adopting, in response to the FTC report, a comprehensive code of its own on marketing and a self enforcement mechanism, which, if the legislation Senators Clinton, Kohl, and I have proposed were adopted, would protect the video game industry from any FTC enforcement because they have done what we have most wanted the entertainment industry to do, which is to self-regulate and leave no room, or no need, for government to be anywhere near what they are doing.

Ultimately, any potential reforms in the ratings will be meaningless if parents do not use them, and we need to remind parents constantly of their responsibilities as we renew our call for more and better information in the ratings.

One final word about the First Amendment, which is one thing that I think all of us, on whatever side we are, fortunately seem

to support. I certainly do. That is why we are not talking about any legislation or government regulation today. By I again want to warn the industry that the best way to invite censorship is to disengage from this discussion and tune out the larger concerns of millions of American parents about media influence on our kids and on our country. Indeed, to me, the most striking finding of the Kaiser survey that I have referred to was that 48 percent of parents in this country would support government regulations to limit the amount of violent and sexual content in early-evening TV shows. That is an alarming number, and it is an outcry that begins to express just how frustrated and angry America's parents are about the state of our culture and its impact on our children.

I am now happy to yield to my Ranking Member, Senator Thompson, a fully-reformed member of the entertainment industry and who, in all of his work here, gives not only stellar performances, but certainly G-rated performances.

OPENING STATEMENT OF SENATOR THOMPSON

Senator THOMPSON. Mr. Chairman, I do come to these hearings somewhat prejudiced, as one who thinks they really have not made a really good movie since "Baby's Day Out," but I will try to put that aside as we proceed. Mr. Chairman, thank you for your comments. You have certainly given us a lot to chew on this morning, and I think that it is going to make for some very interesting hearings and discussions, but there have been a lot of hearings lately, or certainly proposed, I think—one in the House. We are having one—they are talking about our Judiciary Subcommittee on the Senate side having a hearing, the Antitrust Subcommittee—having a hearing on this. Since I am the Ranking Member and feel an obligation to be here and make my own views known, perhaps I can come about it from a slightly different perspective and maybe add some things to the discussion.

We are here talking about ratings, but really we are also talking about something bigger. I selected the Governmental Affairs Committee to be on when I first got here, one of the first committees that I selected and, because a lot of people did not find it very interesting work, I got some seniority in a hurry and ultimately became Chairman of this Committee, but I was interested in it because it had to do with government and it had to do what the role of government, thinking that if government was not doing some things it ought to be doing, that was not serving the country, and if government was doing some things that it should not be doing, that that was harming the country because of the power of the Federal Government. It had to do with the role of the government. It had to do with the relationship between Federal, State and local government. That is what appealed to me about this Committee and the work that it did. As I look at some of these subjects, the questions, of course, people are interested in the rating system, but the real question to me, and the more fundamental question, is what should, as a Congress, our relationship to those ratings be?

What if the ratings we decide are good? On the other hand, what if we decide that the ratings are bad? Then what? I must say I was somewhat surprised when President Clinton asked for the FTC report. Of course, now the Commerce Committee asked for another

FTC report. Now we are going to get a third FTC report, and I kept asking myself, as I think—as I was in the capacity I was in with regard to the Governmental Affairs Committee—what if these reports come back bad? Then what? What is our proper role as a government, as a Congress, as a governmental entity, if we are displeased with the findings?

So we find ourselves basically in a supervisory capacity, as it were, with regard to a private industry who is engaged in a constitutionally-protected activity. That is a serious matter and it bears some consideration and some discussion. I have a couple or three observations or points, I guess, as I think this thing through and as I thought about it last night, as to how to put this thing in perspective and what my obligations as a U.S. Senator were with regard to this. One observation, it seems to me—first of all, Mr. Chairman, I share much of your concern with regard to some of the product that we are seeing.

As a grandfather, I shudder to think about what my small grandchildren are going to be faced with as they go out into the world. We all know that there is a lot of degrading stuff out there. Stuff comes into our televisions in the home that is unfortunate, to say the least. I think, in some ways, it is hardly arguable that some of it is even harmful for children. To what extent, we do not know. We, I think, also know that it is a part of a broader pattern of society, things that are going into society. We live in a world now where we see in the checkout line at the grocery store things that we had to work pretty hard, when I was growing up, as kids, to get our hands on, not that I ever did, of course. But that is what we are dealing with, and we also see in the entertainment industry the advent of the conglomerate, where there are very few individuals who come up and control segments of the entertainment industry much anymore. It is big corporate business. One company buys out another and is, in turn, bought out by another, some of them foreign, some of them domestic, movie industry, record industry. I live in a town where you cannot throw a rock without hitting a record producer or a record company.

I think there is one independent local record company left in Nashville, Tennessee, and the significance of that, to me, anyway, is that clearly it becomes and it has become much more bottom-line oriented, with the decisions being made by people who are very absentee, in many respects, who have corporate ownership and corporate responsibilities and bottom-line responsibilities that produce pressures that we have not seen in times past. I think all that is true. I think all that is unfortunate. But another point that is equally true is that most, if not all, of this activity is protected by the First Amendment. Now, we may not like that. We may think that is unfortunate. We can argue around the edges and around the details.

It pains me to tell these parents here the stark truth of the matter, and that is—and this is just my opinion—when it comes to legislation or congressional imposition of mandates or regulation and the imposition of fines, that we do not constitutionally have the power to do that. If you read the opinions of justices like Justice Thomas and Justice O'Connor and other justices on the Supreme Court, you see very readily that speech of this kind, including com-

mercial speech, and any laws dealing with it, is viewed with strict scrutiny, and if the conduct is otherwise lawful and not misleading, it is probably going to be protected.

We have accepted for a long time in this country that there is constitutional protection for some conduct that is abhorrent and bad. It is a limitation on government. It has to do with a broader consideration that the Founding Fathers thought were paramount. That is why John Adams defended those British soldiers for shooting those patriots. I do not know how many people have ever watched a criminal walk out of a courtroom because the murder weapon was seized pursuant to an illegal search. Those are tradeoffs that we make in this society and have made for some time.

So, that being the case, matters that rightfully concern all of us, but matters that have this protection, what is the role of Congress? What should we be doing about conduct that is, in some cases, bad, but conduct that is legal? If we cannot legislate, and I know that some might disagree with me on that, but that is my firm opinion. I am willing to discuss it. If we cannot legislate, what can we do? Should we use, as a Congress, our bully pulpit, as a Congress? That is a very inviting prospect, I think, for many, and I am not sure about that. But the only question to me is who is going to be the next group that is engaged in legal, constitutionally-protected activity who is brought up before us because we disapprove of their conduct? That is a serious question that I think we are going to have to ask ourselves, even the Federal Trade Commission.

But we have to acknowledge the fact that it appears that some good things have come from the Federal Trade Commission. They say that the industry ought to police itself, and while I question whether or not the President or the Commerce Committee or any of the rest of us ought to be sicking a regulatory agency on one as a general principle, if they are engaged in legal conduct, I must acknowledge that the industry has responded to some of these things and the FTC found out things about some in the industry that were very beneficial, because they found that they were engaged in inexcusable activity, in some cases, and steps are being taken to remedy that.

So it is not an easy thing to answer, for me. I do think that Congress needs to be concerned that we not, through our actions, encourage or discourage the beneficial activity that has been taking place in the industry. There is no law requiring these rating systems, and while I think that it certainly merits discussion in some appropriate forum, as to what these systems ought to be and how they could be improved, what we need to keep in mind is nobody is requiring anybody to do that, and if we penalize people for not doing it the way we think is right, they can quit doing it altogether, and I do not think that that would be a good thing. I think we need to keep that in mind.

So what do we do as a society, as a people, as individuals? I think there is a lot that we can do about something that concerns all of us. I think we as individuals can use our bully pulpit. That is what the Chairman and Bill Bennett have done so effectively—Sam Brownback and others have done so effectively as individuals going out, Bennett being a totally private citizen. Just because you are a politician does not mean you lose your First Amendment

rights, and you can give your opinion about what is going on, and we as citizens and fathers and grandfathers and grandmothers ought to be free to do that. There is certainly a lot the entertainment industry can do and should do. I think they are moving, in some cases—not all—but in some cases, I think they are moving in the right direction. I think they are struggling with this. I think they need to do more.

As I said, even the FTC says that this really ought to be something that the industry takes care of itself. To me, it is not just about ratings. I hope we do view ratings and proper ratings as a panacea to the problems that we are facing. In the first place, we are never going to agree. My personal opinion is that I think things that come into television on a regular basis in the homes that small kids see are worse than "Saving Private Ryan." R-rated, I believe "Private Ryan" was. I would hope that every 15, 16-year-old boy would see that movie if he did not otherwise have problems; a very violent movie, but it shows everything that young people ought to be exposed to. It shows the terrible carnage of war. It shows sacrifice. It shows honor. It shows these young people what their granddaddies did for their freedom.

So we have a disagreement right there. That is my personal opinion. Other people will view things differently. With regard to ratings, too, there are too many ways around them. You can have perfect ratings. There are too many resources young people have to get in to see an R-rated movie, if they want to, and certainly music. We cannot protect our most vital nuclear secrets in this country. You think we are going to keep Eminem records and tapes out of the hands of young kids who want them. Plus the fact that I think the ratings system is very good for parents and for parents who are concerned and parents who use them. That is a large segment of people, but we need to recognize that there are a large segment of these kids where parents are not involved, where there is certainly no better than a one-parent situation, where their main concern is not ratings, movies, and records. It is getting by. These things are totally irrelevant to those people.

So while these things are good and they need to be perfected and they serve their purpose, I hope we do not look upon that as a panacea. I would hope that getting to the root of the problem, that the industry would simply start doing better with regard to the kinds of things they choose to show. It is not Congress that the industry should be concerned about. It is their own conscience in the board rooms. I do not think this is a pipe dream. I think we have a lot of responsible people out there who want to do the right thing. I talk to people. They have kids—and actors, and whatnot—and I do not know of one that somewhere along the line has not chosen to turn something down because it had no redeeming social value and was exploitive or the language was something that they did not want.

I cannot believe that an industry feels that it can undergo the criticism that it undergoes, and cannot respond to that. I think responses are being made. I think more needs to be done, because equally I cannot believe that being lucky enough to be a part of an industry that has the ability to uplift and inspire, that is the common denominator of American society, whether it be movies or

music. You go into a bank, the one thing the bank president and the janitor have in common, they grew up on the same movies and they grew up on the same music, tremendous opportunity to do good. That does not mean that it has to be pablum. That does not mean that it has to be things that we all agree with or even tasteful or anything like that. But I think—and certainly in the music industry—I think just some responsibility as corporate citizens—corporations give millions and millions of dollars away for charitable purposes to benefit their community. This is something that could be done that would be beneficial in just making things a little bit better. That is the industry part.

I think what these private groups are doing are the most important part of this entire equation. I think by getting out and organizing and bringing some of these things that are most offensive to people's attention, and shaming where appropriate, I think that is golden. I think that is right on. I think if you want to get together and someone is especially egregious and not buy their products or not patronize people, that is your constitutional right and I say go for it, make your decisions about that.

We asked Wal-Mart to come here. Wal-Mart ought to be held up as an example of what can be done in American society to deal with this. They simply choose not to carry some of this stuff. They make the decision, the subjective decision, that others might disagree with, but they make it and they leave some dollars on the table by making it. Until these hearings I suppose, nobody knew about it. I did not know about it until we got into this discussion. So it is a good thing that has come out of it. Of course, last, but not least, parents: I think we have a roomful of concerned parents here today, and I think that this record sticker that we have on records now, parental notice, what they are telling you with that sticker is that this is bad stuff, and does it really matter how bad? If parents just said we are not going to buy anything with this sticker on it and you are not going to have it, I think it would have an effect.

So, Mr. Chairman, I have gone on too long, but this is important, and I obviously feel that this is not whether a line should be drawn. The question is who should draw it, and I trust that—as I say, I have the greatest respect for what you have tried to do, and I hope you take my comments in the spirit in which they are given, and in searching for a way, as a society and as a people, to do something constructive, to do something proper, in keeping our role in all of that in proper perspective. Thank you very much.

Chairman LIEBERMAN. Thank you, Senator Thompson, for a very thoughtful statement, and I truly do look forward to working with you to find the right role for government, for the private sector, for us as individuals and parents as we try to create an environment in which we can raise our children that is conducive to the best for them and our country.

I am delighted that Senator Brownback is with us today. He has been a leader in this cause, outspoken and very constructive, and we welcome your testimony now. Thank you.

TESTIMONY OF HON. SAM BROWNBACK, A U.S. SENATOR FROM THE STATE OF KANSAS

Senator BROWNBACK. Thank you very much, Mr. Chairman. I appreciate your holding this hearing on this important topic. I think we held the first one together in this room 4 or 5 years ago on a similar topic, and hopefully have made some progress along the way, but I appreciate your holding it, and the Ranking Member, Senator Thompson, as well. If I could just start out with the thought that the parents in America need as much information on what their minds consume and what our children's minds are consuming for entertainment as what our bodies consume for food. That is really what we are talking about here—getting adequate disclosure to the parents of what their children are receiving, mental images that are being put in there, as we are concerned about their food.

We are concerned about what our children eat. We are concerned about whether our children are smoking or not, as we should be. We should be equally concerned about what their minds are consuming and what it does to our children and what it does to our country. If we are to rate the ratings, there needs to be some agreement on what the criteria are. I believe the purpose of the ratings system is to provide parents and consumers with accurate information in a manner that is accessible, simple, reliable and responsive.

But if this is the criteria, then the ratings system taken as a whole is failing. It is failing parents, it is failing consumers, and ultimately I believe failing our children. I would like to address three key problems with rating systems: (1) is "ratings creep"; (2) is the lack of independence, and (3) is the lack of standards. First, many of the various ratings or label systems suffer from what has been called "ratings creep"; that is, many movies, shows and albums that parents find objectionable are rated as being appropriate for children and even target-marketed to children. Various studies have found that the industry ratings tend to be far more lenient than what parents would choose themselves.

When the entertainment industry has rated something as inappropriate for children, whether it is an R-rated movie or an M-rated video game, parents almost always agree. But the disagreement between the parents and the industry is deep and wide over products that are rated as fine for children. What is even stranger is, as the Federal Trade Commission reported, even when the industry acknowledged that their products were so violent or vulgar, or contained so much sexual content as to be inappropriate for kids, the industry in many respects continued to intentionally target-marketed these products to kids. This is a sham and it is a shame, and it is not without consequences.

Tomorrow, I will be hosting a forum, along with the Chairman of this Committee and Senator Dorgan, which will examine the impact of explicit sexual material, so common in popular entertainment, on youth attitudes, health and well-being, and I invite everyone to attend. Common sense and common experience indicates that it does have an impact, and a harmful one at that. One year ago, we convened the first public health seminar on entertainment violence, and the leaders of six of the most prominent and prestigious public health organizations in the country, including the

American Medical Association, the American Academy of Pediatrics, the Psychological Association, the American Academy of Family Physicians, and so on, all signed a consensus document which asserted that exposing children to violent entertainment can contribute to or even cause increases in aggressive behavior and attitudes, just as consuming too many fatty foods can have a direct impact on our health.

In short, Mr. Chairman, the failure of the ratings to accurately inform and the failure of the entertainment industry to adequately self-regulate results in very real harm to children. Now, I am not arguing for government to get involved in the business of rating entertainment, and I take to heart the statements of Senator Thompson. But I am stating that any effective entertainment rating system must do a much better job of reflecting the very real concerns of parents.

The second great failing of the rating system is the lack of independent judgment. This is a much bigger problem with some entertainment media than with others. The video game industry, to its credit, convenes an independent entertainment software ratings board, which recommends ratings to the industry, which are then followed. However, other entertainment media have not followed their example. The movie raters are required to be parents, but are paid by the industry and known only to a few industry insiders. The music industry is by far the worst of all.

The decision as to which album receives a parental advisory label is made by some employee of the company producing the album. No one on the outside knows who it is, or if they disagree with the decision, whom to contact to complain. It is hard to imagine how to come up with a system with less accountability. A third failing of some of the entertainment rating system is the lack of recognizable standards. No one knows why a particular album, show or film got the rating it did. So when parents ask very reasonable questions such as: Why did this album by Prodigy with the lead single song "Smack My B ---- Up," not receive a parental advisory label? There is no answer besides the fact that someone somewhere in the company that produced and promoted that album thought no parental guidance was necessary.

Or why would the movie "American Psycho," which originally received an NC–17 rating, which is quite an extraordinary achievement when you consider that movie ratings folks have only considered four films nationally released films in the last decade to deserve an NC–17 rating, was allowed to get an R rating after cutting only three seconds-worth of footage. Of course, some decisions have to be judgment calls. We can all agree on this. But we should also be able to agree that those judgments should be guided by standards that entertainment companies are willing to articulate and parents are able to understand.

There are several things I believe we can and should do. First, each rating system should develop clear and comprehensible standards for rating entertainment products and make those standards accessible to parents and consumers. That seems to be simple and almost an undeniable request. Second, ratings and labeling decisions should be made by an independent body that is not connected in any way to the company that stands to profit. Third, entertain-

ment companies should make the labeling- and ratings-decision process open to public scrutiny. If they are truly interested in ensuring that the ratings serve the needs of parents, they will be interested in hearing what parents have to say about them. Fourth, more information on content should be available rather than relying on age ratings alone, more information available.

Some parents may be more concerned about exposing their children to violence than to profanity or vice versa. Content information helps parents make informed decisions about entertainment consumption by their children. In addition, providing information on content reduces the amount of confusion parents experience in trying to decipher a variety of different rating systems. As it is, there is one system for movies, and a different, and I believe, a particularly confusing one for television, another for video games and a generic label for music.

It is difficult for parents to make sense of the alphabet soup of ratings. In contrast, content description is universally understood. We need more information. It needs to be clearly rated out there. It needs to be readily understood by the parents so they can know what their child is consuming. Just as food labels provide clear information to parents on what their kids are consuming, entertainment labels should let parents know what is being fed to their child's mind.

Mr. Chairman, I have long admired your work in this area and have worked side-by-side with you and I look forward to continuing to do this. I believe there is a great deal of limitation of government's role in this, as we have talked many times and I have spoken in front of this Committee about. These are simple things that the industry itself can do, and should do. They do not impact the First Amendment and in almost every regard they ask for more information, not a limitation on any information. I think they would readily help parents. I know they would certainly help this parent.

Thank you very much and I look forward to any questions.

PREPARED STATEMENT OF SENATOR BROWNBACK

Good morning. I want to thank Governmental Affairs Committee Chairman Joe Lieberman for holding this hearing to discuss an issue that I know is a great and abiding concern for both of us.

If we are to rate the ratings, there needs to be some agreement on what the criteria are. I believe the purpose of the ratings system is to provide parents and consumers with accurate information in a manner that is accessible, simple, reliable and responsive. But if this is the criteria, then the ratings system, taken as a whole, is failing—failing parents, failing consumers, and ultimately, failing children.

I would like to address three major problems with various ratings systems: Ratings creep, the lack of independence, and the lack of standards.

First, many of the various ratings or labeling systems suffer from what has been called "ratings creep"—that is, many movies, shows and albums that parents find objectionable are rated as being appropriate for children, and even target-marketed to them.

Various studies have found that industry ratings tend to be *far* more lenient than what parents would choose. When the entertainment industry has rated something as inappropriate for children—whether it is an R-rated movie or a M-rated video game, parents almost always agree. But the disagreement between parents and the industry is deep and wide over products that are rated as fine for kids. What is even stranger, is that, as the Federal Trade Commission reported, even when the industry acknowledged that their products were so violent or vulgar as to be inappropriate for kids, they target-marketed to kids anyway. This is a sham, and a shame.

And it is not without consequences. Tomorrow I will be hosting a forum—co-hosted by both the chairman of this committee and Senator Dorgan—which will examine the impact of the explicit sexual material so common in popular entertainment on youth health, attitudes, and well-being. (I invite everyone to attend.) Common sense and common experience indicate that it does have an impact—and a harmful one at that. One year ago, I convened the first public health summit on entertainment violence. The leaders of the six most prominent and prestigious public health organizations in the country—the American Medical Association, the Academy of Pediatrics, the Psychological Association, the Family Physicians, and so on—all signed a consensus document which asserted that exposing children to violent entertainment can contribute to or even cause, increases in aggressive behavior and attitudes. In short, Mr. Chairman, *the failure of the ratings to accurately inform, and the failure of the entertainment industry to adequately self-regulate, result in very real harms to children.*

I am not arguing for government to get in the business of rating entertainment. But I am stating that any effective entertainment rating system will do a much better job of reflecting they real concerns of parents.

The second great failing of the rating system is the lack of independent judgment. This is a much bigger problem with some entertainment media than with others. The video game industry, to its credit, convenes an independent Entertainment Software Ratings Board (ESRB) which recommends ratings to the industry which are then followed.

However, other entertainment media have not followed their example. The movie raters are required to be parents, but are paid by the industry, and known only to a few industry insiders. The music industry is, by far, the worst of all. The decision as to which albums receive a parental advisory label is made by some employee of the company producing the album. No one on the outside knows who it is, or, if they disagree with the decision, whom to contact to complain. It is hard to imagine how to come up with a system with less accountability.

A third failing of some of the entertainment ratings systems is the lack of recognizable standards. No one knows why a particular album, show or film got the rating it did. And so when parents ask very reasonable questions, such as "Why did this album by Prodigy with the lead single song 'Smack My Bitch Up' not receive a parental advisory label?" There is no answer—besides the fact that someone, somewhere, in the company that produced and promoted that album, thought no parental guidance was needed. Or why the movie "American Psycho," which originally received a NC–17 rating—quite an extraordinary achievement, when you consider that the movie ratings folks have only considered four national releases in the last decade to deserve a NC–17 rating—was allowed to get an "R" rating after cutting—and their producers bragged about this—only 3 seconds worth of footage.

Of course, some decisions have to be judgment calls. We can all agree on this. But we should also be able to agree that those judgments should be guided by standards that entertainment companies are willing to articulate and parents are able to understand.

There are several things that I believe can and should be done.

First, each rating system should develop clear and comprehensible standards for rating entertainment products, and make those standards accessible to parents and consumers.

Second, ratings and labeling decisions should be made by an independent body that is not connected in any way to the company that stands to profit.

Third, entertainment companies should make the rating and labeling decision process open to public scrutiny. If they are truly interested in ensuring that the ratings serve the needs of parents, they will be interested in what parents have to say about them.

Fourth, more information on content should be available, rather than relying on age ratings alone. Some parents may be more concerned about exposing their children to violence than to profanity, or vice versa. Content information helps parents make informed decisions. In addition, providing information on content reduces the amount of confusion parents experience in trying to decipher a variety of different ratings systems. As it is, there is one system for movies, a different—and, I believe, particularly confusing one—for television, another for video games, and a generic label for music. It is difficult for parents to make sense of the alphabet soup of ratings. In contrast, content description is universally understood.

I also want to note that I have not been a proponent of a federally-mandated universal rating system. I believe that the best route to take is for the entertainment industry to responsibly self-regulate, rather than the Congress to regulate. It is, I believe, the best way to keep our children—and speech—protected.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Brownback. Thanks for taking the time to be here. Thanks for excellent testimony and some very constructive suggestions. I look forward to being with you at your forum tomorrow.

We will call the second panel now: Dale Kunkel, Roger Pilon, Dr. Michael Rich, and Laura Smit. Thank you all very much for being here. I very much look forward to your testimony.

We will begin with Dale Kunkel, who is a Professor of Communication at the University of California, Santa Barbara, and a leading expert in the field of media violence. Good morning.

TESTIMONY OF DALE KUNKEL, Ph.D.,[1] PROFESSOR OF COMMUNICATIONS, UNIVERSITY OF CALIFORNIA, SANTA BARBARA

Mr. KUNKEL. Good morning, sir. In my comments today I wish to cover two primary points. First, how well are media ratings working to assist parents? And, second, how can media ratings be improved? On the first point, how well are media ratings working, there are two key issues to consider. One is the concern that parents may not understand and, therefore, may not use the media rating systems to help guide their children's media use or exposure; and the other is that media content may not be accurately labeled. If that happens, inappropriate material may then slip through the cracks in the filtering system of the V-chip or other rating formats even when parents actively employ them.

Studies that examined parents' use of the V-chip system have produced somewhat mixed results to date. Research indicates that while a substantial proportion of parents know about the ratings, there is a lot of confusion about the meaning of the various categories and labels. This may explain why only a modest proportion of parents report using the ratings currently. Starting in 1999 the Kaiser Family Foundation reported that three out of four parents said they would use the V-chip if they had one. But the same study also found that just slightly less than half of parents often or sometimes use the TV ratings to help guide their children's viewing. More recent research by the Annenberg Public Policy Center found that only about 50 percent of parents were even aware of the V-chip ratings in the year 2000, compared to 70 percent in 1997 when the press coverage of the rollout of the new system was at its peak.

This reduction in the awareness of ratings almost certainly stems from the lack of any significant effort by the TV industry to publicize the ratings framework. Even among those parents who know about the rating system, confusion abounds about the meaning of many categories. For example, most parents mistakenly believe that the FV designation is meant to identify programs appropriate for family viewing, when, in fact, it signifies fantasy violence, the strongest warning that can be applied to children's programming under the current V-chip system. Given this confusion within the V-chip rating system itself, it is hardly surprising that the lack of consistency across rating systems that are used for different media leads to consternation on the part of parents trying to figure it all out.

[1] The prepared statement of Mr. Kunkel appears in the Appendix on page 72.

The second key issue to consider in assessing the efficacy of media ratings is whether or not the content that poses the greatest risk of harm to children is labeled accurately. Research I have conducted in the first and second years following the adoption of the V-chip system indicates that the age-based rating judgments were being applied accurately, but that the content-based descriptions, those are the V for violence and an S for sex designations, were not. Indeed, the majority of programs that contain violence did not receive a V rating and, thus, any parent using the V-chip to screen out programs rated with a V, would accomplish little in terms of reducing their child's exposure to TV violence. If this pattern persists today, parents cannot effectively screen out violent portrayals by relying upon the content-based aspect of the V-chip system.

Similarly, the accuracy of programs is also questioned by a recent study from the National Institute on Media and the Family. This research found that parents tend to rate programs in a much more restrictive fashion than the judgments that are applied by the TV industry. Given the obvious economic incentive for TV networks to rate programs leniently—this too is a worrisome finding.

So, how can media ratings be improved? The assignment of media ratings are determined solely by the industry and practically speaking there is probably no alternative to that course. Nonetheless, there is a rich body of scientific research that identifies the types media content that pose the greatest risk to children. More training, education and sensitivity on the part of raters to the relevant research about media effects on children is needed. In addition, more active monitoring and oversight of the ratings process is also called for. While several of the media rating systems maintain advisory boards, none of these have played a vigorous role to date.

There is a precedent for the television industry to fund truly independent research from neutral parties to evaluate its performance in presenting violence responsibly. This was done with the National Television Violence Study in the 1990s. Such an effort should be considered to evaluate the accuracy and consistency of rating judgments for the V-chip system, as well as for other media rating systems.

And finally, it is time to seriously consider the prospects of a universal rating system that could be applied across all media. The lack of consistency across media and their rating formats makes it incredibly difficult for parents to make sense of it all. For example, a media product that includes extreme violence would be rated R if it were a movie, TV–MA if it were a TV show, M if it were a home video game, or have a parental advisory sticker if it were a music CD. As Senator Brownback noted, an apt comparison here involves the uniform system of food labeling that is employed in this country, a consistent framework that indicates calories, grams of fat and so on is included on all food packaging and the uniformity of the system is what facilitates the easy comparison for consumers.

The potential value to parents of a uniform rating system is too great to pass up without serious consideration by all of the media industries. That consideration will not come without strong prompting from the public and hearings such as this are an important catalyst to help focus the attention of busy and overwhelmed

parents. I commend this Committee for its pursuit of this issue and its contribution to the ongoing public dialogue about the topic of media ratings.

Thank you.

Chairman LIEBERMAN. Thanks very much, Professor Kunkel. I look forward to questioning you on a few of the statements you made. Our next witness is Roger Pilon, who is the Vice President for Legal Affairs at the Cato Institute and is a scholar in Cato's Constitutional Scholars Program.

Good morning.

TESTIMONY OF ROGER PILON, Ph.D., J.D.,[1] VICE PRESIDENT FOR LEGAL AFFAIRS, B. KENNETH SIMON CHAIR IN CONSTITUTIONAL STUDIES, DIRECTOR OF THE CENTER FOR CONSTITUTIONAL STUDIES, CATO INSTITUTE

Mr. PILON. Good morning. Thank you very much, Senator Lieberman and Senator Thompson, for your kind invitations to address this Committee. I was invited, as you know, to address the question of whether the ratings are working for parents and what can be done to improve them, as well as the issues that are raised in the National Institute letter that you referenced, Senator Lieberman, together with the bill that you referenced at that same time, the Media Marketing Accountability Act of 2001.

Let me say at the outset that I share many of the concerns raised in the institute's letter, concerns that you have raised over the years, Mr. Chairman, about the quality of some of the entertainment that has been produced and distributed in America for some time, especially as it bears on the development of children. Obviously, this is a land of many tastes. Given our relative freedom and the market system we enjoy, producers will rise to satisfy those tastes. That can coarsen our culture, giving rise to entertainment that some would prefer not to have in our midst. Yet, the very freedom that enables that fare to arise also enables great and often controversial works to flourish as well.

The issues here are ancient, of course. Sex and violence have been a part of entertainment and literature from the outset of civilization. The only question is what we are going to do about it, and on that, I want to part company with the thrust of the institute's letter and especially with the bill that you have introduced, Mr. Chairman, about which I will say a little bit toward the end of my remarks. In doing so, however, I want to make it clear that I am not here to represent the entertainment industry. I speak only for myself and, of course, I share the views of the Cato Institute in favor of individual liberty and limited constitutional government, views that will animate my remarks this morning.

To go to the heart of the matter without elaboration for the moment, given the limits imposed on Congress by the Constitution and the First Amendment, I would ask why these hearings are even being held. Why, in fact, are they being held before the Governmental Affairs Committee? This is not dealing with government management, rule over the District, campaign finance and the like, the ordinary stuff of this Committee. So one wonders why it is this

[1] The prepared statement of Mr. Pilon appears in the Appendix on page 78.

Committee is holding these hearings, especially given the constitutional restraints. It is an odd fit, at least.

Having noted my interest in these hearings and my basic concern about the proper role of government, which is the concern that Senator Thompson raised in his opening remarks, let me turn now, Mr. Chairman, to the question immediately before us. I am afraid I do not know precisely how well entertainment ratings are working for parents, nor does anyone else. I am struck, in fact, by the National Institute's letter when it presumes to speak for parents, as if parents spoke with one voice on the matter. Their letter claims, for example, that parent and child development experts disagree on the current media ratings. No doubt, some do. At the same time annual national surveys conducted by the Opinion Research Corporation of Princeton, New Jersey, show growing parental satisfaction with the voluntary movie rating system. The latest poll in September revealed that 81 percent of parents with children under 13 found the ratings very useful or fairly useful, whereas only 17 percent found the ratings not very useful. I daresay the Members of this Committee would salivate over ratings like those.

More precisely, however, the National Institute claims the voluntary rating system now in place for television, video games, motion pictures, and music fail to identify sensitive material accurately, consistently, or in a way that helps parents. They call for an independent ratings oversight committee, a committee that would create a universal rating system. Although they do not call for government action here, one wonders if there is not a hidden agenda somewhere—perhaps government grants in support of the research they call for, or perhaps more extensive public-private partnerships are in the offing, including a commission with coercive legal powers.

Quite apart from such possibilities, however, one also wonders why, if the concerns are as well-founded as they report to be, there is not more private support to see them implemented. Why, that is, does the National Institute feel it necessary to come to Congress? If the findings are all that well-founded, there should be plenty of private support in the private sector. And, I submit, that is where they ought to focus their attention. Nevertheless, they have come here, so I want to address the issues they have raised, especially with respect to the lack of accuracy and the inconsistency in the systems of ratings now in place.

That implication is problematic at best. Given the subjectivity that is inherent and inescapable in applying any rating system, consistency could be hoped for only if the ratings were somehow centralized. But look at the numbers and see what you are up against here: 650 films each year; 2,000 hours a day of TV programming—the equivalent of 1,000 movies a day; 1,300 computer and video games, forget about web sites; 40,000 music releases. If you are going to have a Committee review this, I daresay, there are not enough hours in the day, in the month, in the year to do so. It will have to be done by Subcommittees and, therefore, all the inconsistency has a chance of creeping right back in again.

When you turn to the accuracy issue, you run into similar problems. This is an extraordinarily subjective undertaking. How many sexual events or violent acts and of what kind, given the larger

context of the work, enter into that judgment? This is not mathematics. It is not even science. And yet science purports to underpin the National Institute's letter. They speak of the validity of the research known to the scientific community, but that research is anything but settled. You said in your bill's discussion of congressional findings, Mr. Chairman, that most scholarly studies on the impact of media violence find a high correlation between exposure to violent content and aggressive behavior. With all due respect, Mr. Chairman, that is false. Dr. Jonathan Freedman of the University of Toronto did an exhaustive study of the research, some 200 studies in the English language, and he found the research does not provide consistent or strong support for the hypothesis that exposure to media violence causes aggression or crime. In fact, he continues: Fewer than half of the studies provide evidence that supports the causal effect, while many find evidence against such an effect.

There are deeper problems with this approach, as well, namely, that the behaviorism and the reductionism that is implicit in this approach is denigrating in many ways to human beings. It deprives us of the choice, suggesting that we do not have choice in these matters. It invokes a kind of stimulus-response model, which may be appropriate for analyzing the behavior of lower forms of life, but certainly is not for human beings. The irony, in fact, of the causal model is that it denigrates us in the name often of uplifting us.

Let me conclude, Mr. Chairman, with just a couple of legal comments, which I have developed more fully in my prepared testimony.

Chairman LIEBERMAN. Let me say that your full statement and those of all the witnesses will be printed in the record.

Mr. PILON. Thank you very much. There are serious constitutional problems. First, with the fundamental constitutional question: Where is the authority of Congress to do anything in this area? And second, with the question: Even if there were authority, how can you do so without running afoul of the guarantees provided by the Constitution? I develop those points more fully in my testimony. I will not go through them here. I will just conclude by saying that this appears to be a classic example of a problem searching for a solution in the wrong place, namely, government.

The Founders established a limited constitutional government on the understanding that not every problem required a government solution. The problem here is occasional irresponsible behavior. How occasional is open to debate. The solution, as with most examples of irresponsibility, is moral suasion. Will that solve the entire problem? Of course not, but it is far better, as the history of overregulation has demonstrated in spades, than introducing the heavy hand of government where it does not belong, morally or constitutionally.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thanks, Mr. Pilon. You have raised very provocative questions. Let me just respond to one, which is what this Committee is doing holding this hearing. This is the Committee that has specific jurisdiction, primarily an oversight committee, and the fact is that there are a whole series of governmental agencies that are currently involved in questions related to

the impact of entertainment culture on children and on society, including the Federal Trade Commission, which you mentioned. The Federal Communications Commission, obviously, is constantly enforcing law. There is an existing statute that was passed on the rating system and V-chip, which bears regular review. Tomorrow morning's forum that Senator Brownback is convening concerns research being done now under the auspices of the National Institute of Child and Human Development to gauge the impact of sexual material in the entertainment culture on behavior of children. So there is an oversight role there.

I have also reached a judgment in my own concern about this, which as I said began as a parent, that so much else that we are trying to do here in Congress to better educate our children, to reduce the rate of crime, to deal with sexually transmitted diseases, to deal with the problem of children being born to unwed mothers, particularly teenagers, is affected—I never say caused—but it is affected by the values and messages conveyed by the entertainment culture. So I see some role there.

And the third is to provide, as I said in my opening statement, a forum for people on both sides of the issue. We have a very balanced slate of witnesses today to speak out and see if we can find common ground. And each of us, as Senator Thompson said in his excellent opening statement—I think we are all concerned, as you are indicating in your statement, about the entertainment culture, and the question here is to find the appropriate role for government and other institutions of our society in responding to that concern.

The next witness is Dr. Michael Rich, who is an Assistant Professor of Pediatrics at Children's Hospital, Boston, Harvard Medical School, an expert on media violence and its effects on children and a signer, along with Professor Kunkel, of the letter that has generated this hearing.

Good morning, Dr. Rich.

TESTIMONY OF MICHAEL RICH, M.D., M.P.H.,[1] CHILDREN'S HOSPITAL BOSTON/HARVARD MEDICAL SCHOOL

Dr. RICH. Good morning, and thank you for the opportunity to testify before you today as a pediatrician, a child health researcher, a film maker and a parent. Our entertainment media—motion pictures, television, music and video games—represent not only a successful industry, but an important cultural documentation of the United States as an idea and as a people. Our First Amendment-guaranteed free expression has allowed the creation of the most influential entertainment industry in the world, which generates a wide variety of products that excite, inspire, and move us.

By allowing us to experience issues and events that otherwise may not touch our lives, media serve as potent teachers. Until recently, we have drawn an artificial distinction between education, which occurs in schools, and entertainment, which is fun, diverting, downtime for our minds. There is no downtime for a child's mind. Children are always curious, always learning. They adopt the ways of the world by observing and imitating. They cannot help but be

[1] The prepared statement of Dr. Rich appears in the Appendix on page 84.

influenced by media. The question is what are they learning? Unfortunately, Dr. Freedman is a sole dissenter among hundreds, thousands, in fact, of respected scientists around the world.

The results of thousands of research studies on the relationship of media use to the physical and mental health of children are nearly unanimous. After exposure to media, attitudes and behaviors of children and adolescents in relation to violence, substance abuse, unsafe sexual activity, poor school function, eating disorders and other health risk behaviors are changed. The findings of hundreds of studies analyzed as a whole show that the strength of the relationship between television exposure and violent behavior is greater than that of calcium intake and bone mass, of lead ingestion and lower IQs, of condom non-use and sexually-acquired HIV, or of environmental tobacco smoke and lung cancer. These are all associations that we as clinicians accept and on which preventive medicine is based without question.

It is not so long ago that, while the tobacco industry argued over scientific minutiae of the research, the medical community and society at large recognized the serious health risks associated with smoking and began to intervene. Look at how our personal attitudes and behaviors, our social environments and our public health awareness have changed for the better. We are at a similar crossroads in relation to media effects on health. It is time to be honest with ourselves, to acknowledge the risks, and to address them in a serious and responsible manner.

Media rating systems are not new or controversial. Child health professionals, parents and the entertainment industry have all voiced their support for a system whereby parents can determine how best to guide children's media consumption so that it is consistent with their values. The question is how best to design and implement such a system. To function effectively as a tool that parents can use, a rating system must be trusted, consistent and usable. From both the scientific perspective of a child health professional and from the practical perspective of a parent, I find several problems with the current systems.

In assessing any health-related situation, I seek out information that is both valid and reliable. None of the current media rating systems have been tested for either validity or reliability, a basic first step in the assessment of any instrument used in public health or social science research. A recent study, published in Pediatrics, compared movie, television and game rating systems to a well-validated media evaluation instrument designed for parents. When the current rating systems for each of these three media indicated that a product was unsuitable for children, parents universally agreed. However, there were significant discrepancies between what parents and the rating systems found suitable for various age groups. Like bank errors, all of the mismatches were in one direction.

The current rating systems were more lenient than parents, with as much as a 50-percent disagreement. If up to half of parents disagree with the media rating systems, there is significant concern that these systems may not be valid with the population for whom they were specifically designed. A second concern about the current rating systems is objectivity. The entities which assign current

media ratings, as Senator Brownback indicated, range from artists and producers in the television and music industries to industry-appointed rating boards in the motion picture and gaming industries. The memberships of these boards are industry secrets, which is cause for concern about accountability.

A recent *Washington Post* story interviewed a terminated member of The Motion Picture Ratings Board who violated his secrecy agreement to report an idiosyncratic, inconsistent and ultimately autocratic rating assignment process. Only the television rating system has an oversight board for their system, but by report, this board does not review all their ratings and, indeed, has not met often. When the entertainment industry rates their own product, there are powerful incentives to down-rate their creations in order to make it accessible to a larger market share. There is a strong tendency to create for the top end of a rating, competing in an ever-tougher market, to push the envelope with violence, sex, and other rating-critical content.

The ratings creep, indicated by large discrepancies between industry and parent assessment, may be the result of these pressures. Finally, there is public concern that that industry-applied ratings are used as a tool for marketing to children, rather than protecting them. The discovery by the FTC of plans and procedures to market R-rated movies to children as young as eight did little to allay this concern. Current rating systems are complex, confusing and difficult for parents to use. They vary in structure, detail, and even approach, from the strictly age-based rating of motion pictures to the dichotomous parental warning of the music industry. After more than 30 years, parents feel they understand the motion picture rating system, but few understand and fewer still use the television and game ratings. In my own practice, 6 of 10 parents thought that FV stood for family viewing.

A final concern to me as both a parent and a child development professional is that people will just throw up their hands and not use any ratings. The concept of age-based ratings is of concern to me. Essentially what that does is ask parents to accept the opinion of a group of strangers regarding what is appropriate material for their children, base solely on their dates of birth. It does not account for variations in the rates of child development, socialization or in the values of individuals or families.

What are the possible solutions? What can the entertainment industry, consumers, and society as a whole do to make media ratings more effective in protecting the health of young people? First, we can attempt to generate ratings that are more valid and reliable. When parents and child development experts disagree by 50 percent, these ratings do not function as they were designed, because parents do not trust that the ratings are an adequate proxy for their own judgment. Second, ratings must be objective. If they could pass the same rigorous tests of validity and reliability as other social science instruments, they would function more effectively as a child protection tool.

An independent oversight committee consisting of members of the entertainment industry, child development and public health professionals, social scientists and parents could ensure more democratic, representative and consistent applications of media rat-

ings across media types and ensure regular evaluation of the ratings validity and reliability. Finally, the ratings need to be simplified and streamlined so they are understandable and user-friendly. A single universal rating system may be the solution. However, given the inherent differences between motion pictures and music, between television programs and video games, such a system would be difficult to design so that it would be simple, appropriately descriptive and protective, yet responsive to the differences in media.

Any solution will be imperfect. However, from my perspective as both a pediatrician and a parent, a content-based rating system similar to the content descriptors of the television ratings, would be the most useful, valid and parent-friendly solution to rating our wide variety of entertainment media. Just as we want to look at a can's label and read what we are feeding our children's bodies, we should be able to determine with equal ease what we are serving are children's minds. Content-explicit ratings would not supersede parents' assessment of what their children of certain ages are capable of handling, and would be responsive to variations in values that families may hold in relationship to content.

If parents know the media menu, they can choose thoughtfully and knowledgeably what they are feeding their children's heads. Media ratings are important to us as individuals and as a society. Designed and used properly, they allow us to create and consume a variety of media while protecting both child's health and creative freedom. Censorship is anathema to our free society. It suppresses the free expression of ideas and it stifles both science and culture, the mind and soul of our society. I know and love the possibilities of media, and I respect them. Entertainment media are not inherently dangerous. They are a powerful tool that must be used thoughtfully and wisely. Just as the same shovel can be used to hit someone over the head or to prepare a field for planting, so, too, media can harm or help.

What we teach our children today will determine the world that they create for all of us tomorrow. It is our task as parents, as citizens, and as compassionate people to do what we can to teach our children the lessons that will help them make their world safe, healthy, and free.

Thank you.

Chairman LIEBERMAN. Thank you, Dr. Rich.

Finally on this panel, we are delighted to have Laura Smit, who in some ways represents the voices that we all hear at home and that bring us together around this topic. Laura Smit is a parent, a PTA president from Columbia, Maryland, and mother of two children—an 11-year-old girl and an 8-year-old boy. We are delighted to have you this morning. Thank you.

TESTIMONY OF LAURA SMIT,[1] MOTHER

Ms. SMIT. Thank you. I am honored to be here today, to talk about the rating systems from the point of view of a parent. I am, I think, an average mom, although my daughter, when she read my testimony, said, "Mom, you're not average, you're special." I live

[1] The prepared statement of Ms. Smit appears in the Appendix on page 89.

in a suburban Maryland neighborhood. I drive the standard minivan. I am active with two PTAs. I help out with the neighborhood swim team and I do my share of carpooling and child chaffeuring.

In addition to these jobs, I have the constant burden of making daily decisions about my children's media consumption. Every day, I have to make judgment calls about what television programs to allow them to watch, what movies I am going to allow them to see, what electronic games they can play and what music they can listen to.

Every day, I have to choose between being a good mom and a cool mom. When I am a good mom, I stick to my guns—no pun intended—and say no even if I have the slightest doubt about an entertainment product. When I want to be a cool mom, on the other hand, I sometimes take the risk of letting my children see or play something inappropriate, because I want my kids to fit in with their friends, because I want them to be happy, or sometimes just because I am tired of arguing.

The good mom in me looks to the current rating systems for guidance and tries to determine why a particular media product has been given the rating it has. I try to figure out whether the rating is for violence (how much, what type?), for sexual content (are the people in bed, are they having sex, how much is shown, what kind of innuendos?) or language (is it lewd language, what types of words are used, what tone of voice?). Equally important, I try to figure out whether there are adult themes in this entertainment which make it inappropriate for children.

Doing this requires a considerable amount of my time. I have to read movie reviews, look at web sites, and talk to other parents to see what they think, and I do not always have the time for all of this energy—or the energy for all of this sifting.

On many days, I have to make a split-second decision, such as when a TV program comes on that I find questionable, but my son wants to see, as he has seen it advertised 20 times before. Or when we arrive at a movie theater and the movie we planned to see is sold out. Sometimes when the cool mom gives in, I end up feeling like a bad mom, a mom who is not protecting her children enough, and then I think "why should I be put in this position?" As parents, we spend billions of dollars on entertainment products for our children. Shouldn't the companies who make so much money from parents and children make our lives easier, not harder?

Some of you may think I am making a mountain out a molehill here, but each of you can remember, I am sure, a particular forbidden movie that you begged your parents to see when you were young. But there is a huge difference between my task as a mother today and your mother's task. The difference today is that the level of extreme violence, foul language and blatant sexual content that my children are exposed to is on a totally different level than the fare that you and I were exposed to as kids. Is it surprising then that parents worry about what entertainment is doing to their children? It seems like on a daily basis I wonder, what will watching this movie do to my daughter? Will the sexual content in that movie give her a warped sense of what love and good relationships are all about? Is she old enough and mature enough to see this?

For my son, my worries are will he act out when he sees a violent movie? Will he end up shooting someone because he plays violent video games, or will he end up committing suicide, having been rejected and bullied by his peers because I did not let him go over to his friends' houses to play first person shooter video games?

My concern with these issues led me to the Lion and Lamb Project, a parent advocacy group which is working to inform and mobilize parents around the issue of the marketing of violent entertainment products to children. I attended a Lion and Lamb workshop for parents in 1999, and both the workshop and their web site, www.lionlamb.org, opened my eyes to many issues around violent entertainment, as well as the various rating systems. This hearing is about rating entertainment ratings and how well they are working for parents. I have here a handy little flyer that tells me all about the rating systems, except for the TV industry. All of you are familiar with this alphabet soup, and I will not go into detail about that, but are these letters really helpful to parents? Yes, they are helpful, and no, they are not helpful enough.

For example, take movie ratings; many parents are confused about what is PG–13 and what is R. Some parents on my PTA told me they thought "Planet of the Apes" was an R-rated movie, based on the scary previews they saw with their children, often at PG movies. I know others who thought last year's James Bond movie, rated PG–13, "The World is Not Enough," was definitely R-material, and on the other hand, "Billy Elliott" is a movie many of my friends thought would be a good movie to see with their kids, but it was rated R because it had too many F-words. Where is the line between PG–13 and R?

The Motion Picture Association of America web site states, "PG–13, parents strongly cautioned some material may be inappropriate for children under 13," and I have to wonder what material. The MPAA site explains that a PG–13 film is one which, in the view of the rating board, leaps beyond the boundaries of the PG rating in theme, violence, nudity, sensuality, language and other content, but does not quite fit within the restricted R-category, and where are the boundaries of a PG rating? It is really hard for me to figure out what my 11-year-old should see (and believe me she thinks she should be allowed to see everything) because PG–13 movies have such a range of theme and content. "Tomb Raider," "Pearl Harbor," "Legally Blond," "What Women Want," and "The Animal," are all PG–13. With video games, I am not sure what the difference is between a teen and a mature violent video games. "Golden Eye 007," a T-game, does not seem that different to me, from a mom's perspective, from "Quake III," which is a mature game. As far as I can see, many T-shooter games are similar to M-games, except there is no blood and the people are animated, not real. But the whole point of the game is to shoot and kill. Why are we teaching our kids how to kill?

With the Chairman's permission, I would like to have a teen demonstrate one of the teen-rated video games—it is called "Time Crisis"—at the end of my presentation.

Chairman LIEBERMAN. Fine.

Ms. SMIT. I have similar concerns with TV ratings and the one-size-fits-all parental advisory warning label. Again, the parental

advisory warning label is a guide, but it does not give me the why I need. Music is a big concern for me. Radio music, which is cleaned up, sometimes entices kids into buying CDs that are inappropriate. My husband and I had an experience with this, with Eminem's music, long before all this publicity about him came out. We were at the mall and we let my daughter buy the "Marshall Mathers" CD, although I saw the parental advisory label. When we heard the CD on the way home in the car, we were horrified. So we told my daughter that she just could not have the CD, and we gave her back her money. She was embarrassed, but it was a big lesson for us.

So parents need more help in trying to figure these things out. So what do I want in a rating system? As a mother, I would appreciate a clear descriptive labeling system, in addition to the age and parental guidance descriptors. The labels would be, as many have spoken about before, similar to the government-mandated labels on food. When my son asks me if he can have a HaagenDaz ice cream cone, I know that he will be ingesting 11 grams of saturated fat, 120 milligrams of cholesterol and 21 grams of sugar, and it is my choice whether to let him have one or not. Likewise, my children consume a steady diet of entertainment products. Clear labels would provide me with concrete reasons for making a decision. With uniform labels on all entertainment products, it would still be my choice as a parent whether my children should consume the product or not, but labels would also make it much easier for me to give my children good reasons why something was not appropriate for them.

Having descriptive labeling of entertainment products would really put the "guidance" into "parental guidance." Parents are not one monolithic group. Every parent has different values and beliefs. The messages each individual parent received about sex, about violence, and about language when he or she was growing up, from their parents, from their church, from their school, all of those play into the type of guidance they will give their children today. Some parents are concerned primarily with sexual content, others worry more about the effects of viewing violence, and others focus more on language and obscenities their kids might be exposed to. What is OK for one parent might be totally unacceptable for another.

The entertainment industry keeps saying that it is up to parents to make decisions. Well, I think labels would give us the tools to make these decisions. I would also need information on what the effects of the particular labels could be. If I knew something could be harmful to my child, I would be much more careful about letting him or her see it. Going back to the food examples, I know now why it is bad for me to eat foods high in saturated fat, cholesterol, sugar and sodium. I would like to have the same type of information for the effects of entertainment products. This labeling system would be a uniform labeling system across the whole entertainment industry, movies, TV, electronic games and music.

Right now, each rating system is created and controlled by the industry group that stands to make or lose money, depending on how the product is rated. The lower the rating, the higher the profit. The result is a phenomenon that I know is talked about as rat-

ings creep, ever more violent fare allowed into ever-lower categories. In short, we now have a system where the fox guards the chicken house. It is hard for me as a mother to trust such a system.

I would want this uniform rating system to be created by child development experts, people who really care about the needs of both children and parents, professionals such as psychologists, teachers, pediatricians, guidance counselors, early childhood experts and others. Since all these industries claim their ratings are intended to help parents, I would think they would be happy to allow experts in child development to give parents the tools they need. I want to make it clear that I am not opposed to any artist producing any movie, video game or lyric that they want for adult consumption. What I am strongly opposed to is the marketing of blatantly adult-oriented products to my children.

As a country, we no longer market cigarettes, alcohol or pornography to children, but entertainment with inappropriate content is marketed to children every single day. Each movie, video game, TV program, and music album seems to push the envelope just a bit further in the depiction of graphic violence, language, and unhealthy sensuality. Just to give one example, inappropriate music is everywhere. My daughter loves to listen to her three favorite radio stations, which she found out from her fifth-grade friends about. We listen to songs about being caught "butt-naked," making love on the bathroom floor. But it still shocked me when my third-grade son started singing the words to City High's song, "What Would You Do," about a woman who sleeps with men "for a little bit of money" to feed her son, and his daddy's gone? What is this teaching my son?

A psychologist friend of mine told me that a mother consulted him because she was convinced her 8-year-old daughter must have been sexually abused because she was repeating a sexually-explicit phrase over and over again. It turned out that she was just singing the lyrics of a song she had heard on one of her favorite radio stations.

There is more blood, gore, machine guns, dead bodies, and sheer mayhem in today's movies than our parents could ever have imagined, let alone let us experience, and we know enough now about the effect of violent entertainment on children's behavior to know that viewing violence leads to increased violent behavior, especially among children.

I know that there are no simple answers and no magic pills, and I am just a mom. But our country more than 30 years ago managed to put a man on the moon. I would like to request that in the year 2001, elected officials and corporate leaders do their best to find a way to label our children's entertainment products, so that parents can indeed make responsible decisions.

Thank you for taking your time to listen to one parent's point of view. I hope that this congressional hearing will be the beginning of much-needed changes in the entertainment industry's rating system. The improvements I have suggested would be welcomed with open arms by parents who struggle every day to bring up their children to be peace-loving, responsible and healthy citizens, working toward a more civil society.

Thank you.

Chairman LIEBERMAN. Thank you very much, Ms. Smit. I honestly believe that you speak not just as one parent, but for millions of parents and grandparents—three of whom are up here on the dais—about your concerns, and you did it very, very effectively. Incidentally, Senator Thompson and I both agreed that when we were kids, which admittedly was long ago, when dinosaurs roamed the Earth, we do not remember there being a forbidden movie, and I do think that some of that had to do with the fact that the folks in Hollywood had a code that guided what they did, their own code, not a government code.

Senator DURBIN. Mr. Chairman, are you familiar with the National Legion of Decency?

Chairman LIEBERMAN. Oh, yes. So they may have had an effect, too. Where are they when we need them? Anyway, thank you. Thank you very much. We will proceed now to questions by the——

Ms. SMIT. Excuse me. May we show 1 minute of this teen-rated video game, named "Time Crisis?"

Chairman LIEBERMAN. Who is this, Ms. Smit?

Ms. SMIT. This is Adam Neely. He is a friend of mine and a teen who knows how to play these games.

Mr. NEELY. I will be playing "Time Crisis," a Play Station video game.

Ms. SMIT. And this is a teen-rated game.

[Video game begins to play in the hearing room, but does not work.]

Ms. SMIT. I would like to show that the gun that he is going to be using is called a Scorpion, and when this gun was advertised, the magazine ad read—an endorsement from a policeman, who said, "If I saw a person with this gun, I would shoot them." That is how realistic this gun is, that he is holding in his hand.

Chairman LIEBERMAN. Do you think it is working now? Otherwise, we will go ahead with the questions and then we will come back to you when it is. OK? Let me begin.

Dr. Kunkel, I wanted to ask you—or is it Professor Kunkel? I wanted to ask you if you would respond to the statement that Dr. Rich made, that at this point the data, the studies that have been done, leave no doubt as to whether violence portrayed in the entertainment culture poses a risk to children.

Mr. KUNKEL. Well, there has been over a quarter-century of research that has been done on this topic and at the present time the following agencies, when they have reviewed the entire body of research, have all reached the conclusion that media violence contributes to real world violence and aggression in children. These include the U.S. Surgeon General, the National Institute of Mental Health, the American Psychological Association, the American Medical Association, the American Academy of Pediatrics. I can go on and on. All of these represent the best minds, the top leaders in their fields in public health and social science research and so on.

What I think is outrageous is that at a hearing that is focused on media ratings—the reason we have media ratings, of course, is concern about the adverse public health impact of some of these media portrayals on children, and this panel—twice we have heard

mentioned a review of the literature done by a gentleman named Jonathan Freedman at the University of Toronto who happens to be about the only social scientist on the North American continent who disagrees with all of these findings. So, from my perspective, what I see is that this study which was funded by The Motion Picture Association of America—if the industry groups like MPAA wanted to know what is the effect of media violence on children, they do not need to do a new literature review. All they need to do is look to documents produced by the Surgeon General and NIMH and so forth. I think it is obvious what they are trying to do in commissioning a new study by the only naysayer to all of this research is to try and propagate a canard. You simply cannot do that given the state of scientific evidence today.

Chairman LIEBERMAN. Dr. Rich, I noted in the letter that we have referred to, from the National Institute on Media and the Family, which again you and Professor Kunkel signed, that there was the statement that the current ratings are not sufficiently health-based. I wonder what you meant by that and what role—how you would change that from a public health perspective to see that the ratings were more health-based?

Dr. RICH. I think this refers both to the confusing quality of the multiple rating systems and the difficulty that parents have using them, but more importantly to the fact that they tend to be aged-based for the most part rather than content-based. We have decided that we just want to determine an age when we can produce an I.D. that says we are of enough age, just as we buy alcohol or vote, that we will be OK with certain media content. And I think that what the science says is that the effect of media on health is much more content-driven than an age-related phenomenon. We do know that children develop at different rates. Children are capable handling different things at different times. So a 14-year-old is not a 14-year-old is not a 14-year-old. As a result the role of the parent becomes that much more important. The person who knows this child best needs to be given the information on the variety of health risk behaviors that research has shown are concerning to make a decision for their individual child.

Chairman LIEBERMAN. Ms. Smit, I was interested in your portrayal at the end of your testimony about what you would like to see in a rating system, and part of it is clearly labels that are more informative. I was particularly interested in your desire to know more about the effects of media content on kids, and I wonder, having heard what the two previous witnesses have said, in comparing it to what you know about the impact of content of food, for instance, on children's health, what you think is the best way to convey that information about the effect of media content on your children's health.

Ms. SMIT. That is a very difficult question. Obviously, I am not a research scientist. I think about this a lot. I am a sexuality educator, so in that area, I know a lot about sexuality education, and people say to me why do you have a problem with your daughter watching things? Sometimes it goes back to what the Supreme Court Justice said about when you know pornography. I think that both in the area of violence and in sex, I just have an instinctive reaction, knowing my kids, I see something, like my daughter

would love to watch Ally McBeal, and I do not want her to watch it because there are so many things that I cannot explain to her, because she has to have experienced a certain number of things and explain things and get things in kind of an order.

Chairman LIEBERMAN. She is 11, you said.

Ms. SMIT. Eleven. So I obviously wish I had an answer, but if I had an answer, I probably would not be sitting here. I probably would be sitting somewhere back there.

Chairman LIEBERMAN. Just let me take a moment. As a sexuality educator, what is your conclusion about the impact that the sexual messages in the entertainment culture have on kids' sexual activity, if any impact?

Ms. SMIT. Well, I think it has a lot of effect. I teach a class for eighth-graders, and I find them so cavalier about having sex—going to McDonald's and the movies and then having to have sex with a boy just because they went out together. I find them really cavalier about it, and it is really hard to teach them values about what a loving relationship is about. To me, sexuality education is teaching children to have positive feelings about sexuality, to know its place in their lives and to be responsible about it and not hurt other people. And I think that especially when I see sexual content that is misogynous or hurts other people, that upsets me.

Chairman LIEBERMAN. Let me come back, Professor Kunkel, and perhaps, Dr. Rich, to you. In the letter that we have referred to, there was a recommendation of an independent rating oversight committee, and I wonder what thoughts the signers of the letter had about that. I presume that was not thought to be a government group. So under whose auspices would it be formed ideally, and what would it do?

Mr. KUNKEL. Well, I think that depends in part on the future of ratings, whether they maintain independent ratings for each of the various media or whether there might ultimately be some uniform rating system. At this point in time, that is obviously an open discussion. Imagine for a moment that there was a uniform rating system. Then it would be easy to consider that you would have an oversight board or an advisory board that would be contributing to the creation of the categories, as well as supervising the application of the categories.

It seems obvious that what parents are calling for, that what researchers are calling for, is more descriptive information, rather than more interpretive or evaluative or subjective information. As people have noted, there is a lot of disagreement about what is appropriate for children of different ages, and the public does not necessarily want the entertainment industry's perspective, what they want is information. If you had a descriptive rating system that, let's say it had four levels of violence, and in the first level, it was comedic violence, and in the second level, it was serious violence where people are threatened and harmed, in the third level, people are killed, and in the fourth level, people are killed and it is graphical or explicit portrayals.

Now, that is something that is simple, descriptive and could easily be applied across media, whether it is film or television, and then that could easily be evaluated by an independent board to see that the judgments were being made fairly and accurately.

Chairman LIEBERMAN. Yes, I think you make an important point, which maybe we assume, but should make explicit—and you have—which is that you are not looking for statements that this is bad and this is good. You are looking for descriptive information about what is in the products so every parent can determine what he or she thinks is appropriate for their children. Was there any discussion among the signers of the letter about how this independent oversight committee would be formed, Dr. Rich, or was it thought that it might be formed in cooperation, presumably, with the entertainment industry?

Dr. RICH. I think the general concept behind it was to try to bring the kind of tools public health researchers and social sciences bring to bear on other questions of the interface between society and the public health, issues of epidemiology, issues of sexual risk or how disease spreads, and to try to bring those kind of minds and those kind of constructs to a group of people that would represent all of the above, the entertainment industry, social scientists, child health experts, child development experts, and try to achieve the validity and reliability that we insist on in other public health and social science tools. We should try to create objectivity and spreading from a single entity (that is often currently a secret entity or an unknown entity,) to the consumer, to create a broader and more accountable group who have to stand behind those descriptors, those ratings that are given to the media that the parents are letting their children consume.

I would hope to see that it was a cooperative arrangement between all of the various parties, because I think the ultimate goal of this is to be able to have as free and open a forum for expression in our society as possible, doing so by making it safe and helping people know what the rules of the road are.

Chairman LIEBERMAN. Thanks, Dr. Rich, thanks to all of you. My time is up.

Senator Thompson.

Senator THOMPSON. Thank you very much, Mr. Chairman. On the issue of causation, others know a lot more about this than I do and have followed it more closely, but it is a very confusing thing to me. Everyone speaks with such authority. First, we had the quest for the blame with regard to some of these terrible shootings we had. Some wanted to blame it on guns and advocacy of gun control, others on the media, and we seem to be getting these very conflicting reports as to the state of the science with regard to causation.

I hear you refer to Dr. Satcher, for example, but I was looking at the *Atlanta Journal Constitution,* and it is an article, January 18 of this year, it says, "Study Disputes Myths About Youth Violence," and it says, "While some media reports, including a Wednesday *Los Angeles Times* article about the Surgeon General study, played up the role of the media in causing youth violence," this, of course, is the U.S. Surgeon General, dismissed those accounts, and they are quoting Dr. Satcher, "As a risk factor for youth violence, the impact of media violence to date is very small, very small indeed. Some people may not be happy, but that is where the science is today, and our responsibility is to stick with the science." Which side of this is Dr. Satcher really on? That is

not consistent with the quotation I thought I heard that you gave of his awhile ago.

Mr. KUNKEL. My quotation was to the U.S. Surgeon General, and there actually are several previous U.S. Surgeon Generals who have taken a much stronger stance on this than Dr. Satcher. However, I think really what the debate boils down to is that many people try to oversimplify this discussion. They try to think of the impact of media violence as having a direct and powerful, almost bullet-like impact on people, so that they see a particular effect. They say, well, if you see this program, will that make you go out and commit a crime or will that make you go out and kill someone? And that would almost never happen. There are, of course, rare instances of this and they are reported in the press. But that is not the primary concern about the influence of media violence.

That would be like asking what is the effect of smoking one cigarette? There is, of course, very little or no effect from one cigarette. However, as you have cumulative exposure to cigarette smoke across years of time and thousands of cigarettes, you develop an increased risk of cancer. Similarly, with greater exposure to media violence, you develop an increased risk of aggressive behavior and, according to certain studies, certain criminal acts later in life. Now, that is a risk factor. Just as I am sure that you know, Senator Thompson, people who have smoked all their life and not contracted cancer, there are people who have seen violence in large measure over the course of their life and do not behave aggressively. That is because there are many factors that shape human behavior.

Senator THOMPSON. I am not arguing the science with you, because I do not know.

Mr. KUNKEL. It is a risk factor.

Senator THOMPSON. But I guess, when the Surgeon General says the impact of media violence, he is not talking about one exposure here, "The impact of media violence to date is very small, very small indeed," I do not think anybody would argue with the commonsense proposition that a lot of things are going on out in society here have some affect. I think the question is maybe as you put it, what are we talking about? Are we talking about something that is primary, something that is substantial, or something that is very, very small?

I looked over here in the FTC report that was issued last fall; there was some discussion of it in the executive summary, but just like in some of these global warming reports that come out, the executive summary is not exactly the same as the body of the report, and if you look over in Appendix A of the FTC report, it says, "There does appear to be general agreement among researchers that whatever the impact of media violence, it likely explains a relatively small amount of the total variation in youthful violent behavior."

So, again, I am not arguing the science. I do not have the answer. I do not know what extent. I guess everybody would concede some extent, but the question is whether or not we are making a much stronger causation and we are representing the science as being somewhere that the science really is not, in light of both the FTC and the U.S. Surgeon General.

Mr. KUNKEL. There is no doubt that some people exaggerate the research in this realm.

Senator THOMPSON. My question was whether or not you were one of those people.

Mr. KUNKEL. I do not believe so, sir, and I believe that just as human behavior is influenced by so many factors, I believe that the comment that you were referring to from the Surgeon General, Satcher, reflects is that parents are of critical importance, peer groups are also of critical importance, and that relative to those factors in terms of predicting violent behavior, media falls below those, and the Surgeon General's report on youth violence reflects that. The Surgeon General Satcher's report also reflects that media is a risk vector and it is a contributing factor to aggressive behavior, and our concern about this topic area is not that it is the most potent influence on youth behavior, but it is one of the most pervasive factors.

Children are watching media every day. They spend more time exposed to media than they do attending school by the time they graduate from high school. Certainly you would agree that education has an impact on young lives.

Senator THOMPSON. Certainly.

Mr. KUNKEL. And so I do not think you can discount this.

Senator THOMPSON. The issue here is one of causation. It has to do with purported science, causation with regard to violence, not that it has an—nobody could argue that this stuff has an overall degrading, debilitating effect on society.

Mr. KUNKEL. Of course.

Senator THOMPSON. I do not think there is any question about a lot of it.

Mr. KUNKEL. Of course.

Senator THOMPSON. But I think as we get into this, we need to make sure that we are dealing with the most accurate science that we can from the people and the entities who have some responsibility in this area. Thank you very much.

Ms. Smit, thank you very much for your testimony. Tell me a little bit more about The Lion and the Lamb Project, your organization, how it came about and what you do and what your goals are in your organization. It sounds like you do some very good work.

Ms. SMIT. Well, actually, I am just a member of The Lion and Lamb Project. I just took a workshop and I like to go on their web site. Daphne White, who is the director of The Lion and Lamb Project, would probably be better to talk about it, but it is a parent advocacy group. If anybody goes on the web site, there are articles about the marketing of entertainment to children. Talk about issues, for example, like these Gameboy games which are rated E, but the same game is also a mature game. So if it is totally different for children, then why are they calling it by the same name? Obviously, if my 8-year-old played this E-rated game, he would want to go play the mature game soon enough.

Senator THOMPSON. Are there advisories that are put out to members of The Lion and Lamb Project?

Ms. SMIT. Yes.

Senator THOMPSON. Is there an organization in every State, for example, do you know?

Ms. SMIT. There are people that get trained to be trainers, to do parent workshops, and it is a slowly growing organization. Like all non-profits, it is sorely lacking in funds.

Senator THOMPSON. Do you know whether or not—have you been able to attract some private industry corporate support, contributions and so forth, to help you?

Ms. SMIT. I am afraid I cannot answer those questions, because I really am just a member, but Daphne White is the person to contact, and I would encourage people to go on the lionlamb.org site to see what is on there. They do send out E-mails to people who become members, alerting them to all kinds of issues in this area and encouraging parents to talk to other parents and just make them more aware.

I really was not as aware of all of this when my children were younger, but as they get older I became more aware. I mean, I see my kids every day and their friends just running around the house, saying, "I'm going to stab you, I'm going to shoot you," and it is coming from watching this stuff. I am no scientist, but I just really know that there is a connection when I see bad behavior in our school. I think the World Wrestling Federation has a big effect on young boys.

Senator THOMPSON. Well, it sounds like you are doing what you can, not only to be a good parent, but to exercise your rights to make it known what you think about all of this and to join together with other people to have some influence in this regard, and more power to you. Thank you for being here today.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you. Senator Carper.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. Thanks, Mr. Chairman. I apologize to our witnesses and to my colleagues for being late. This is the third hearing I have been to, and I know we are all busy. I appreciate you being here. Sometimes when we have a panel like this, I like to ask where you agree and where you disagree. I am not going to do that. I am tempted to, and if I have time, I am going to ask that question, where you agree and where you disagree, but what I would really like to ask you is what role—and you may have said this already, and I apologize if you have—what role is there in these issues for the Congress? What is the appropriate role for us to take in these regards? Let's just start with Mr. Kunkel.

Mr. KUNKEL. I would say that the appropriate role is to do exactly what you are doing today, and that is to provide a public forum for the discussion of these issues which, given the First Amendment, seem best considered or best addressed by self-regulatory action on the part of the media industries. I think that there is a need for parents' voices, for advocacy group voices, to be heard and to have an opportunity to meet with leaders of the entertainment industries, and a forum like this accomplishes just that purpose.

Senator CARPER. You may have said this already. Do you have children of your own? I have two boys, 11 and 12.

Mr. KUNKEL. I actually have five godchildren between the ages of 2 and 6, but no natural children.

Senator CARPER. Thank you. Mr. Pilon.

Mr. PILON. Well, as the odd man out on this panel, let me say that I think that the role of government in this is relatively limited. I think that the evidence that has been cited is characterized most strikingly by Professor Kunkel, when he said that violence in the media contributes to violence in the world. That is a scientific inference that is so weak as to be all but useless. I recall reviewing this literature as a graduate student and I went away singularly unconvinced that there was any serious correlation you could draw between watching this stuff and the human action. And, in fact, I went away saying that not only is there no serious inference to be drawn, but rather it denigrates us as human beings capable of choice. Indeed, it is only because we are capable of choice that we can be held responsible, and we cannot point to the video game and say, "I did it because the video game made me do it."

Speaking from my own personal experience, yes, I have children. I have a 16-year-old son who has been playing these shoot-'em-up video games since he was 7. He is on his way to becoming an Eagle Scout. I have no reservation about his ability to distinguish between what he sees on that screen and what goes on in the real world. I think much of this has been overstated and it is nowhere better characterized than by Professor Kunkel's remark that this "contributes to." Lots of things "contribute to." Eating too much sugar can "contribute to" violence.

I would add also that the idea that you can achieve precision in these ratings, of the kind that you get on a food label that says 11 grams of saturated fat, is a chimera. You will never get anything close to that in this. We are talking about subjective judgments. We are talking about disagreements, even on this panel, about how "Saving Private Ryan" or "Sophie's Choice" or many other wonderful films are characterized because we have got this artificial grid relating to sex and violence. This is the kind of thing that is inherently subjective. To look for food label kind of labeling just simply misses the point about it.

Now, with respect to the role of government, here again I would suggest that if this is the kind of thing that is indeed worthy, then the National Institute can find plenty of support in the private sector to underwrite this type of thing. I submit, though, that when you press their program you will find that it does not stand up because the idea of setting up a uniform standard for all of these media, and being able to put out consistent ratings for the 100,000 or more programs that are put out each year, is a pipe dream. It simply will not happen. You will have this Committee and you will still have disagreements.

Senator CARPER. Mr. Pilon, I am going to ask you to hold it right there. I want to hear from the other witnesses, as well. Thank you.

Mr. Kunkel, I am sorry. I missed your thin remark.

Go ahead, Dr. Rich.

Dr. RICH. I agree with Dr. Kunkel that this is the first step of what Congress' role is in this. Congress has functions beyond legislation. It is also leadership. It is a voice. You are our voice. You represent us, and you speak loudly, and the fact that you are paying attention to this issue, that you are not being distracted by other arguments, and saying we, the people, are concerned about

this is the most important function that Congress can serve. You can, by your voice and by your leadership, lead all of us, all of our diverse voices, hopefully, to a better system.

While this system is a good attempt and I think that the entertainment industry deserves credit for creating it, it is not yet perfect, and so you can lead us toward a better solution for that.

Senator CARPER. Thank you. Ms. Smit.

Ms. SMIT. As a mother, I agree with both Dr. Kunkel and Dr. Rich. I see this a little bit like the cigarette industry was many years ago. I mean, the issues are much more complex. But I think the same thing with the Joe Camel ads, where cigarettes were being marketed to kids. I would like to see some steps made to stop marketing these violent video games and sex to kids, and I guess I would like to see what we are doing now. The fact that Congress is interested in this issue, makes a parent really happy that this is being looked at seriously, and I hope that everybody will come together, both on the corporate side and governmental side, to do something for our kids, because I see that all of you are concerned up there, but the question is how do we go about doing it? But I am very happy as a mother that Congress is looking at this.

Senator CARPER. Mr. Chairman, do I have some more time?

Chairman LIEBERMAN. Yes, you do. I am sorry. There is a timer in front of you. You have exactly 3 minutes and 27 seconds, more or less.

Senator CARPER. How much time did I have to start with, 10 minutes?

Chairman LIEBERMAN. Yes, 10 minutes.

Senator CARPER. I was going to say this is the slowest 5 minutes I have seen for awhile. I would like to go back to Dr. Kunkel, if I could. We are familiar in our own family with the ratings that exist for movies and follow those pretty closely. My boys are into popular music—so is their dad—but I am just not familiar with the warning system that is in place for music, as a parent. The CDs that we buy just do not have those kinds of warnings, or if they do, I have just not seen them. Our boys like to play video games. I am not aware of the warning system that exists there. I do not know if they are alike, if they are dissimilar. I do not know if there is a need for more commonality, but we all understand, I think pretty well, the movie rating system, but not so much the other rating systems for video and music and maybe television. Do we need something that is more uniform?

Mr. KUNKEL. Well, first of all, I would say that you fit perfectly the profile of an average parent, because I think that is what most parents in this country would say, that they are aware that there are some labels being thrown on different types of media products, but they are having trouble making sense of them because of the inconsistency or sometimes incompatibility across media. You apparently are not aware, but there are no rating categories that are applied to music or CDs. There is merely a warning label that says parental advisory, that is put on material that someone in the company, using no criteria that are publicly available, decides is sensitive or might be inappropriate for use.

In contrast, there are somewhat vague standards for the motion picture ratings, such that you can see that there will be comments

such as serious violence would be in one category or graphic or explicit violence in another, but those seem to vary from application to application. So I think there is a lot of confusion on the part of parents who want to use the information, but simply cannot disentangle all of the different ones, and what we are suggesting here today is the need for some greater clarity, some greater consistency in applying the standards, making the public aware of the standards that are being used to rate material, and also for the media industries to seriously consider uniform ratings that would then allow parents to easily figure things out because the criteria could be the same across all media.

Senator CARPER. I would ask each of the other witnesses to just take 30 seconds and respond to what Dr. Kunkel said.

Mr. Pilon.

Mr. PILON. If there is indeed a market for this, I see no reason why The Motion Picture Association of America, the video game producers and so forth, would not respond to it. It seems to me that this is perhaps a mission in search of a market, and it may be that it is more difficult than people have given credit for it being.

Senator CARPER. Thank you. Dr. Rich.

Dr. RICH. As a pediatrician and as a parent, my response is that I am constantly in search of information that will allow my own children and the children that I care for to make informed and thoughtful decisions about a variety of risk factors in their lives. Research has established that media can be a risk factor to their health, to their physical and mental health. Therefore, I would search for some means, hopefully simple and direct and one that you and the other average parents out there can use in an easy and direct way, to make those risk-benefit judgments that a parent makes every day on behalf of their children.

Senator CARPER. Thank you. Ms. Smit.

Ms. SMIT. I think that a uniform rating system would be really helpful to parents. I am more educated than probably most parents, and I think that even though it would be difficult, it would be very helpful. I think that what has to go along with it, though, is educating the general public about it, just as maybe 20 years ago people were not aware of which things that you ingested—how they would harm you. I think that a lot of parents, if I look at some of the parents in my community, just really need to be educated about that, and there needs to be massive education, so that everybody knows, because most parents go on the opinion a friend that they feel has the same values, and you know who those people are, and you know which people are more sensitive about which issues, and you ask them, "Well, would you let your daughter see it?" or "What did you think about it?" That is why I think it has to be a massive education effort, because a lot of parents rate entertainment based on what their friends and the people they trust say.

I think everybody needs to know that saturated fat is bad for you, let's say, and everybody needs to know what levels of violence are bad, but this is why it is so difficult, because everybody has different values and this goes to people's values and beliefs, which are the strongest things in people's lives. And every parent is different. Parents aren't going to have the exact same opinion about entertainment products.

Senator CARPER. Again, our thanks to each of you for being here, and, Mr. Chairman, my thanks to you for holding these hearings in the first place.

Chairman LIEBERMAN. Thank you, Senator Carper. Thanks for being here.

Senator Durbin.

OPENING STATEMENT OF SENATOR DURBIN

Senator DURBIN. Thank you very much, Mr. Chairman, for this hearing. I appreciate the opportunity. I am sorry I had to step out for a moment, and my questioning will be brief, because I know you have other panels to consider. As I listened to the testimony and read some of the testimony that we will hear very shortly, I tried to determine whether there were some things that we could agree on.

There is a difference of opinion, Dr. Rich, for example, on your premise that you say is supported by major health organizations, that there is a causal connection between media violence and aggressive behavior, which I believe—I am not sure how much of a connection there is or how great of an impact it is, but I do believe there is a connection. I do not believe you can be desensitized to this kind of exposure, particularly as a young person. I think that it has an impact on you. There is some agreement. Mr. Baldwin will later say that he thinks there may be some connection to it. He has other things to say, which are equally important. There are others—Ms. Rosen—who may disagree in her testimony. But it seems that that premise is something that at least leads us to this hearing.

If there is a connection, what should we do to protect our children? The second thing, though, is there wide disagreement? That is the question that was posed, or at least a statement by the Chairman in his opening remarks. A Gallup survey found 74 percent of parents said movie, music, and television ratings were inadequate. Later on, Mr. Valenti is going to tell us that 81 percent thought that these same rating systems for movies were very useful. So there seems to be a real difference of opinion there.

I will have to tell you—maybe it reflects the fact that my children are grown and I now have a 5-year-old grandson, I am reintroducing myself to some of these things—I think they are unintelligible. I do not know how you follow it. I have no idea what they are flashing on the screen in television. Maybe I do not follow it as closely as I would have if I had kids sitting around me. But it should be simpler, shouldn't it? Shouldn't we be in a system where a parent really kind of knows going in, A, B, C, D, F, or something that is fundamental? Right now, the gradations and the definitions are so hard to follow, and a lot of it is in the eye of the beholder. Most of these ratings are being done by the industries themselves and by people in the industry. Well, self-policing is important, because who wants the big hand of government making this call? But when you get into self-policing, it is a matter of definition and taste, and it is very individualized.

Just the other night, I was stuck in O'Hare, which is part of my life, and I went to a CD store. I went in there—I was just browsing through there—and I looked in the New Age section in the CD

store, and they had two CDs entitled "The Very Best of Perry Como," and I thought to myself some clerk along the way here—and they were all pretty young—probably does not have a clue who Perry Como was and thinks he is a New Age musician.

Senator CARPER. Perry Como would be pleased to know that he is thought of as a New Age musician.

Senator DURBIN. Let me ask you about this, Dr. Rich. The premise here, the connection, you believe that it is clear, although I guess there is some question about impact on individual kids.

Dr. RICH. I see it both in a wide variety of research and I see it every day in my clinical examination room. I do think there is an effect. I do not think it is an on-off switch. I think that in the search for causality, we get seduced into saying that if you do this, then this will occur. The reality in all of life is that there are gradations of risk, and, in fact, if one were to say you cannot prove causality, you could not prove causality that having sex causes pregnancy, because it does not happen every time. What we look at is variance. We look at the risk inherent in it, and the risk inherent in exposure to media violence is approximately 14 percent for serious violence as an outcome.

By contrast, the risk of smoking cigarettes has been associated with a variance that explained between 13 percent and 22 percent of lung cancer. Everybody that smokes does not get lung cancer. So what I am searching for, both as a pediatrician and as a parent, is a tool, a tool that I can use, that I can share with people without spending hours and hours or a weekend seminar to teach them how to use it, that they can use to decide how to care for their children best. I tell them put on the child's seat belt. Bicycle helmets are necessary. We do this all the time. This is a much more complex and difficult situation on a variety of levels, but I think it needs to be simplified, and I think the easiest and most direct way to approach it is this content-based approach, because that allows the individual parents to respond to what is there, rather than what someone tells them is the appropriateness of what is there.

Senator DURBIN. So, Mr. Pilon, if it is kind of a consensus opinion among medical experts that there is a connection between media violence and aggressive behavior, why should not the government be part of giving parents that information so they can make the right choice for their kids?

Mr. PILON. Because we have a Constitution.

Senator DURBIN. You think the Constitution prohibits even self-policing of these entities?

Mr. PILON. Oh, of course not, but you said why shouldn't the government be involved. That is not self-policing.

Senator DURBIN. If the government is going to suggest that we have, for example, categories that parents can understand as part of this hearing, do you think that oversteps the constitutional boundaries?

Mr. PILON. So now we are moving in the direction of this public-private partnership; is that the idea? The government is going to suggest the categories?

Senator DURBIN. Do you find that frightening?

Mr. PILON. I find that a slippery slope, absolutely, Mr. Durbin. I have been around this town for a little while.

Senator DURBIN. I am new here, but thank you. [Laughter.]

Mr. PILON. Well, I know, and I was here before—when you were back out in Illinois. In any event, no, I think that there is not this consensus that you referred to, and indeed, as I said, what you do find is a very weak inference. Indeed, I would throw this data out before the Committee: We are told that there is an increase in violence in the media, and there is an increasing amount of media because cable is expanding the media outlets every day, the movies are getting more violent, and yet we know that over the last several years youth violence has been going down. Square those two, if you will. That seems to fly right in the face of the hypothesis of these hearings, and so I think that we ought to check the science a little more carefully and, in fact, check precisely what we mean by scientific inference.

Again, I repair to the language that was used by Mr. Kunkel, "It contributes to." As several of the panelists have said, lots of things contribute to violence, and the Surgeon General put video, media, etc., way down on the list of those contributory factors. Therefore, I come back to my final conclusion, that this may be a problem of whatever magnitude in search of a solution, and what concerns me most, in search of a government solution.

Senator DURBIN. There are moments in politics when the left and right come together, and I can see that.

Mr. PILON. Yes, we find that often at the Cato Institute.

Senator DURBIN. I am not going to touch that one. [Laughter.]

I will just say that no one would disagree with your premise. In fact, Mr. Baldwin, I think makes it very clear in his statement, that there are many factors that lead to youth violence and this may be a contributing factor. I think that is what Dr. Rich is saying. I hope I am not putting words in your mouth.

Ms. Smit, thank you for being here. As I listen to you, I thought you represent a lot of people that I represent in the State of Illinois, in just trying to find the right thing to do to raise those kids in the right way, and when they turn out right, it is the greatest reward in life.

Thank you.

Chairman LIEBERMAN. Thanks very much, Senator Durbin.

Thanks to the members of the panel. I think you have set down a challenge for us. You have spoken—certainly, Ms. Smit, you have—from the common concerns that are widely held around the country, and I think the letter that Professor Kunkel and Dr. Rich signed also challenges the industry and all of us to see what we can do to better prepare to help parents raise their kids, and in that spirit we thank you and we look forward to the next panel. Thank you very much.

Ms. SMIT. Could we have one minute to try our video again?

Chairman LIEBERMAN. OK. Let's try it again.

Ms. SMIT. It is the technology of this fancy TV, and if it does not work this time——

Chairman LIEBERMAN. Is his name Adam? I find it disconcerting that, playing this game, he is wearing a Cal Ripken shirt.

Senator THOMPSON. He has got to please the home crowd.

Chairman LIEBERMAN. Well, he is our hero.

[Pause.]

Chairman LIEBERMAN. No-go? OK.

Ms. SMIT. Sorry. Thank you.

Chairman LIEBERMAN. Point made, I think, though. Let us call the next panel: William Baldwin, President of The Creative Coalition; Douglas McMillon, Senior VP and General Merchandise Manager of Wal-Mart Stores; Hilary Rosen, President and CEO of the Recording Industry Association of America; Jack Valenti, President and CEO, The Motion Picture Association of America; and Doug Lowenstein, President, Interactive Digital Software Association. Thanks to all of you.

See if you can find your seats as quickly as you can. We have been notified that there is a vote that will occur sometime in the next 10 to 20 minutes on the Senate floor, so we will have to recess for a period of time, and we will try very hard to get as many of the witnesses in as we can before that time.

Let's begin with William Baldwin, obviously an actor, and this morning here as president of The Creative Coalition.

TESTIMONY OF WILLIAM BALDWIN,[1] PRESIDENT, THE CREATIVE COALITION

Mr. BALDWIN. Mr. Chairman and Members of the Committee, thank you for inviting me to appear at this important hearing. I am a parent, an actor and president of The Creative Coalition. I am not here speaking on behalf of the entertainment industry, nor do my comments reflect the opinions of all the members of my organization, The Creative Coalition. Senator Lieberman and I have had many discussions about the role of media in our culture, its effects on children, and ways in which we can help parents navigate the overwhelming barrage of words, images, sounds, and ideas that bombard our children daily.

Although we agree that there is a problem, we do not agree on the specific definition of the problem and we are even further apart on potential solutions. Despite this, I consider myself a partner in our collective effort to empower parents. In recent years, there have been many welcome changes in the approach of the arts and entertainment industries to the issue of violent and sexual content, and the rating systems that we are discussing today are among the most significant. But let's be clear; even if we devised the most perfect rating system imaginable, we would be no closer to solving the real social problems of this country.

We were all horrified by the destructive acts that have so disturbed the Nation in recent years, but in spite of all the rhetoric to the contrary, the real issue is not media violence, it is youth violence, which is in decline. The core issues for youth violence are drug and alcohol abuse, divorce and family breakdown, physical and sexual abuse, neglect, poverty, mental illness, and easy access to firearms; and, yes, media may play an indirect role by contributing in the form of aggression, desensitizing or overstimulation.

But the problem is far greater than violent movies or video games, and the ratings we use to control access to violent and sexual content are not going to solve the social ills afflicting children today. Printing warnings on a CD are not going to raise anyone's

[1] The prepared statement of Mr. Baldwin appears in the Appendix on page 97.

children or make them go to school, or keep them away from drugs. A sticker on a video game is not a bandage for a broken family. Ratings are merely one tool that parents can use to identify entertainment that matches their own values. They are not a substitute for those values, nor can they instill values if they do not exist.

Ratings are extraordinarily valuable, but they can be made stronger and more informative. No one could argue that the rating system serves no purpose and no one could argue that the current system cannot be improved. In my view, any system that indiscriminately lumps "Schindler's List," "Billy Elliott," and "Saving Private Ryan" in the same category as a slasher movie clearly is ripe for reform. As a parent, I want to know why a movie received a particular rating so I can intelligently apply my own judgment and values. Descriptive labels that let parents know what caused a rating, whether it is language, sex, or violent content, would make ratings more credible; and, as you will hear from Mr. Valenti, this is precisely the course of action that the industry is taking. But no matter what ratings system is adopted, it must be voluntary.

Congressional oversight, no matter how well-intentioned, should not impose legislation that would infringe upon constitutionally-protected expression. Government sanctions of any kind to enforce subjective standards of accuracy or appropriateness are a clear violation of the First Amendment. There has been much discussion about mandating a so-called universal rating system that uses the same terminology and standards of judgment, no matter which medium is being rated. Many apparently feel that parents are easily confused, even though, ironically, the FTC has determined that parents are overwhelmingly familiar and satisfied with current systems.

We believe that whatever confusion exists should be fixed within each medium's particular system and not by creating a one-size-fits-all concept. A universal system assumes that all media are the same and affect audiences in the same way, but artistic mediums have been proven to affect audiences differently. Visual media, like movies and television, are intrinsically different than media that rely on more subjective interpretations, like music. As an aside, I have read novels. For example, I have read the novel "Hunt for Red October." I saw the film "Hunt for Red October" twice, because Senator Lieberman—I am sorry—Senator Thompson and my brother, Alec, both starred in the film.

Chairman LIEBERMAN. That was in my fantasy world, that I starred in that film. [Laughter.]

Senator THOMPSON. You are being generous. We both starred; right? [Laughter.]

Mr. BALDWIN. I read the novel. I saw the film, not only twice because my brother starred in the film, but it was an excellent film. Six months later, somebody approached me on the street and said, "Hey, I loved your brother in that film. He was the greatest Jack Ryan. I loved that part about such-and-such," and I just agreed. I said, "Oh, thanks a lot. I will tell him." I walked away and I could not remember, not only that scene, but I could not remember a lot of what the novel was about. Two days later, I am driving in a car, and in a week's span, I hear "Paradise by the Dashboard Light,"

by Meatloaf, I hear "25-or-6-to-4:00" by Chicago, and I hear "In the Mood," by Glenn Miller; all three of them, I had not heard in 15 years. I knew every movement of the melody and I knew every word of the lyrics. Clearly, music affects the brain differently than reading a book or seeing a film, and that is one of the reasons—it is one of the justifications for why I do not think a universal rating system can apply to all forms of media, because they affect the brain differently.

So a single standard applied across all media would never serve parents effectively, and if we are talking about age-appropriate ratings for all media, should we include books, Broadway musicals, paintings and the evening news? Clearly, though, within the context of self-regulation, there is room for improvement. We should continue to make ratings system stronger and more informative. Parents are understandably concerned as standards by which films are rated appear to have eased over time. For example, some films that were rated R years ago today might be given a PG–13 rating. The credibility of self-regulation requires consistency, and the industry is working to find ways to improve in this area.

Another area in which the entertainment industry can further improve its self-regulatory mechanisms is compliance at the retail level. The FTC report found that movie theaters have the best rating enforcement of any retail industry surveyed. Despite this, compliance with the rating system is an area that can still be improved, and theater owners have pledged to do so. We must work to find incentives for retailers to comply with the rating system in ways that are not cost prohibitive. Our organization is proud of recent industry efforts to improve marketing practices, but pressure must continue to make sure all media is made for and marketed to appropriate audiences. But we also must be vigilant to guard the right to market to adults, and more important, the right of adults to receive this information.

I would like to suggest one more area that is rarely discussed. I believe that we must not only give parents the tools they need to help guide their children, but we also must give children the tools they need to interpret the media onslaught. We need to institute media literacy programs to help children understand and process with a more critical eye the vast amount of information they receive from all forms of media, from films to television commercials to Dan Rather to the evening news. Children need to develop inner filters that help them make sense of what they are digesting. The more they understand how and why media is created, the more they will benefit from the media that they are ingesting.

The Creative Coalition is eager to work with other interested parties to develop media literacy curricula that can be used in schools nationwide. I thank the Committee for its concern about our children's future. Solutions should not come in the form of government regulation or any direct or indirect form of censorship. In the end, voluntary self-regulation is the only constitutionally-acceptable way to address this issue. Self-regulation has been very successful. We now have a rating system for the television industry, the video industry, and a parental advisory for the recording industry. Mr. Valenti has implemented new guidelines that entertainment industry executives have not only voluntarily and enthu-

siastically embraced, but some have offered to take several of these recommendations even further.

Is the current system perfect? No. Is there room for improvement? Definitely. We can strengthen the rating system and the parental advisory by making them even more informative. We can enhance enforcement. We can incorporate media literacy into our schools. In dealing with the issue of youth violence there clearly is a seat at the table for the entertainment industry, with legislators, educators, law enforcement, advocacy groups and other relevant constituencies. But any effort will fail if parents are not doing their job. The entertainment industry can help parents, they cannot be parents.

Last, I wanted to say that when protecting freedom comes in direct conflict with protecting children, dramatic results should not be expected overnight. It needs to be done in an incremental and thoughtfully considered manner, and myself and The Creative Coalition all look forward to working with you to find common ground that protects both freedom of expression and the need to provide tools to empower parents.

Chairman LIEBERMAN. Thank you, Mr. Baldwin.

Mr. McMillon, thanks for being here. I must say to you, just to echo what Senator Thompson said, that in the 8 years I have been involved in this particular topic, there have been moments of great frustration and disappointment, and there have been moments when I felt really a sense of accomplishment and appreciation, and I think Wal-Mart Stores has been exemplary, really, continuing extraordinary acts of good citizenship in the role that you played as retailers in applying your own set of standards in the interest of the families that shop at Wal-Mart, as you market entertainment products and do so based on the rating systems, such as they are. So I am delighted that you are here. I thank you and I look forward to your testimony.

TESTIMONY OF DOUG McMILLON,[1] SENIOR VICE PRESIDENT AND GENERAL MERCHANDISE MANAGER, WAL-MART STORES, INC.

Mr. MCMILLON. Thank you, Mr. Chairman. I am proud of the company that I work for and appreciate the opportunity to be here today. At Wal-Mart, we are a customer-driven company. Our customers are the primary force behind the decisions that we make. We aspire to be an important part of our communities and provide products and services that raise the standard of living for our customers. Consistent with that aspiration, Wal-Mart attempts to sell entertainment products in a way that allows our customers to make informed decisions and to exclude from our shelves merchandise that they may find objectionable due to its sexually explicit or extremely violent nature.

The challenges we face are in our ability to first help the customers understand what it is that they are buying, and second to determine which products they may find objectionable, either before or in some cases after we have made it available for sale. At times, this is harder than it may sound, due to the subjective na-

[1] The prepared statement of Mr. McMillon appears in the Appendix on page 102.

ture of these decisions. In the case of movies, we use The Motion Picture Association ratings. We do carry R-rated movies, which our buyer selects on a title-by-title basis. Our cashiers are prompted at registers to verify that the purchaser is 17 or older, and we are involved in an ongoing training effort to ensure that our more than 120,000 cashiers all understand our policy of age verification.

In the case of video games and computer software, we use the ESRB ratings. We do not carry adults-only titles and we register prompt for age verification on M-rated titles. In addition to register prompting, we have also implemented in-store signing, print advertising, and associate training to explain the ESRB rating system. In the case of music, we do not have a rating system to follow. We do not currently carry parental advisory stickered music. We do carry edited versions of some parental advisory music. I want to stress here that edited does not mean clean. It means some portions of the music have been removed or changed. There may still be some objectionable material, and this is an area where we feel we may be contributing to our customers' misunderstanding.

We do not age-restrict the sale of any music products. We simply do not know where to draw that line. From our perspective, a standardized rating system for music by the industry would help our customers make a more informed purchasing decision. The Committee has asked that we address the proposal from the National Institute on Media and the Family. They propose that media ratings be more accurate, even to the point of establishing an independent ratings oversight committee and a universal media rating system. We share their concern that rating systems accurately and consistently identify sensitive material. We want our customers to be able to make informed decisions regarding the entertainment products that they purchase. While we obviously would be supportive of continued improvements in media rating systems, Wal-Mart and other members of the retail community have voluntarily made substantial investments of time and resources to ensure that both our associates and our customers are fully informed of existing rating standards; for example, the rating system for movies first initiated in 1968 and generally has been effective in establishing sufficient levels of consumer familiarity with movie content.

Accordingly, any proposals to make media ratings more accurate should build upon this current level of familiarity. With respect to the notion of an independent ratings oversight committee, there are serious concerns over whether such a body would interfere unduly with the consumer choice and discretion in the purchase of constitutionally-protected free speech. These concerns would be compounded by the fact that Wal-Mart and other retailers have already demonstrated that commitment to enforce and comply fully with voluntary industry standards. Accordingly, we feel that the formation of an independent regulatory body would at this point be premature and should be considered only after the related constitutional issues are fully examined.

Finally, it has been proposed that a universal rating system be established for purposes of simplification. Prior to making a recommendation regarding such a system, we would want input from our customers, and we simply have not asked them. In conclusion, while we strive to use our best judgment on what we carry and

work hard to restrict the sale of certain products to those under the age of 17, it is not possible to eliminate every image, word or topic that an individual might find objectionable. In addition, we are the first to admit that our systems and training, good as they are, are not infallible. We want our customers to make informed decisions and we want them to feel that we are handling entertainment products in an appropriate manner.

Thank you.

Chairman LIEBERMAN. Thank you, Mr. McMillon. Again, that is very impressive testimony. And obviously you are doing this; government is not coercing or even suggesting in any way that you do this. You have done this just as an act of your own judgment about what is best. And it is obvious, in your case, because of the significance of Wal-Mart Stores in marketing in the United States, you have had an effect, I think, on content in some of the entertainment products that you have described. In other words, if you are not going to be able to be sold at Wal-Mart because of a particular rating that you get, then that, I think, will begin to affect the behavior, and that is the way it ought to happen, out in the private sector. I thank you.

Next is Hilary Rosen, President and CEO of the Recording Industry Association of America.

TESTIMONY OF HILARY ROSEN,[1] PRESIDENT AND CEO, RECORDING INDUSTRY ASSOCIATION OF AMERICA

Ms. ROSEN. Good morning, Mr. Chairman, Members of the Committee. Thank you for having me here. I am here to discuss the recording industry's parental advisory program. I am also here as a parent, a citizen, as a member of the music community who has worked on this difficult subject for 15 years. But my history does not go back as far as the criticisms of music and popular culture do. That has been a subject of public opinion and government scrutiny for over 70 years, since Duke Ellington's song, "The Mooch," was subject to protest because of fears it would inspire rape.

It will not end with today's hearing, and perhaps that is as it should be, for music is so often identified with youth rebellion and generational misunderstanding that simply the dialogue about the subject has the potential to build bridges, if that is the goal. Too often, the goal, however, is to cast blame and intimidate the creative community, and please know this community has quite strong feelings about this subject.

Chairman LIEBERMAN. I have noticed.

Ms. ROSEN. At the risk of cutting short my own statement, I am going to read a few sentences from the statement of Russell Simmons, the chairman of the Hip Hop Summit Action Network, who requested to testify today, and ask that his full statement be a part of the record, Mr. Chairman.

Chairman LIEBERMAN. Let me say I will be happy to put it in as a part of the record, and I regretted that we could not have Mr. Simmons testify. I appreciate that you are going to read some from it. I will not take this away from your time. There just ended up being too many witnesses to add more, but if we come back to the

[1] The prepared statement of Ms. Rosen appears in the Appendix on page 106.

subject, I will be glad to give Mr. Simmons and others the chance to come in and testify. Please go ahead.

Ms. ROSEN. Thank you.

"I regret that we are not able to testify, because many of us in the Hip Hop community feel these hearings are really about us, and it would be better, in our view, to hear from us and speak directly to us before judgment is passed. Although we know the harsh underlying social realities that some of our music exposes have not changed much in our communities, we are committed to speaking the truth. We believe we must continue to tell the truth about the street, if that is what we know, and we must tell the truth about God, if that is who we have found. Part of telling the truth is making sure that you know and talk more about what you know than speak or do music to appease those who are in power. Hip Hop represents truth-telling. What is offensive is any attempt by the government to define the expression of words and lyrics that emerge out of a culture that has become the soul of America. My final point is that often this is largely about race, and it makes some of us very concerned that few will publicly admit this effort to censor Hip Hop has deep-seated racial overtones. The Federal Trade Commission's report on explicit content disproportional focused on black artists. This report is scientifically flawed, as well as morally and culturally flawed, and should not be used as the basis for constructing a system of ratings in regard to music."

There are compelling statements in this, Mr. Chairman, which I am sure the Committee will appreciate hearing about.

Chairman LIEBERMAN. We will enter the statement in full in the record.

[The prepared statement of Mr. Simmons follows:]

PREPARED STATEMENT OF RUSSELL SIMMONS

My name is Russell Simmons and I am submitting this statement on behalf of the Hip Hop Summit Action Network and its Executive Director, Minister Benjamin Muhammad. I am Chairman of the Hip Hop Summit Action Network and I have worked in the music and entertainment industry for more than 25 years. Minister Benjamin is the former Executive Director and CEO of the NAACP and has over 35 years of experience in civil and human rights.

The Hip Hop Summit Action Network is the broadest national coalition of Hop Hop artists, entertainment industry executives, civil rights and community leaders. Established this year, the mission of the Hip Hop Summit Action Network is to support Hip Hop and freedom, justice, equality and empowerment for all based on the principles of freedom of speech, music and art creativity, and the universality of humanity.

I regret that despite our request to the Committee there I neither have space nor time for me to testify today. Not simply because I, both individually and on behalf of the Hip Hop generation have some important things to say about these issues, but also because many of us feel that these hearings are really about us, and it would be better in our view to hear from us and speak to us directly before you pass judgment and deny our fundamental rights.

But let me start with something positive. The Hip Hop community has decided to take a leadership position toward the evolution of our artistic destiny and responsibility. We convened an historic summit last month in New York and we are planning others in Los Angeles and Miami in August to explore questions related to violence in our own communities, racial profiling, police brutality, representation of women, and the profanity of poverty, and how we can work from within our industry to expand and elevate the artistic presentation of our culture and experience.

Although we know that the harsh underlying social realities that some of our music exposes have not changed much in our communities, we are committed to speaking the truth.

We believe that we must continue to tell the truth about the street if that is what we know and we must continue to tell the truth about God if that is who we have found. Part of telling the truth is making sure that you know, and talk more about what you know than to speak or do music to appease those who are in power. Hip Hop represents truth telling, speaking the truth to ourselves and speaking the truth to power out of the context and condition of our community.

The Congress of the United States should not censor free speech nor artistic expression. It is unconstitutional for government intrusion or dictation concerning "labeling of music" or "rating of music" that has the effect of denying free speech.

What is offensive is any attempt by the government to deny the expression of words and lyrics that emerge out of a culture that has become the soul of America. In fact Hip Hop has now grown to become a global cultural and artistic phenomena. Congress should not attempt to legislate preferences in music, art and culture.

My final point is that this is often largely about race. And it makes some of us very concerned that few will publicly admit that this effort to censure Hip Hop has deep seated racial overtones. Hip Hop emerged out of the African American experience. Eminem is a successful white Hip Hop artist who, power to him, has excelled and profited from the genre of black music. He stands on the shoulders of other originators of Hip Hop. The Federal Trade Commission's report on explicit content disproportionately focused on black Hip Hop artists. This report flawed scientifically as well as morally and culturally and should not, therefore, be used as a basis for constructing a system of "ratings" in regard to music and other forms of entertainment.

Simply put, we conclude by appealing to the Senate Committee on Governmental Affairs to refrain from censoring, labeling, or rating our music and culture in the absence of understanding and appreciation of our artistic work which represents the genius of our culture and talent of our youth. In fact, all youth of today—black, white, Latino, Asian and all others.

Thank you.

Ms. ROSEN. I do believe that it is important for you today to know about the important initiatives that the recording industry is currently undertaking to give parents and consumers information they need to make choices for their music-buying family. As you know, our labels have appeared on our products for more than 15 years. By the measure that matters most, what parents say, the program is a success. According to the FTC's own report, 77 percent of parents are aware of the program and 75 percent of those approve of it. The Kaiser Family Foundation study yesterday gave us comfort when it said that 90 percent of those who use the music industry's system find it useful.

Over time, the system has evolved, most recently, last October. We amended our guidelines, but in a review in February, the FTC issued a report about the implementation of those guidelines and was highly critical. We deserve that criticism and we spent the last several months working hard to do better. We established an implementation task force, in conjunction with the retailers and our member companies. I have met personally with top executives of every major record company to review the implementation of the program, and we have been meeting with our retail partners, as well.

We are working to implement recommendations formulated by that task force, as well as by the coalition I just referred to in my testimony. Last week, we announced a broad-based campaign that our industry is launching to improve public awareness of the label among educational leaders and parents in a variety of ways. That message must get out to parents, and we are going to make sure that our industry lives up to these commitments. However, Mr. Chairman, I have to continue to take exception to the FTC's most persistent criticism, and that is the erroneous claim that the re-

cording industry deliberately markets material to children that we ourselves have already determined to be inappropriate. By the definition of our program, that charge is untrue. Our system is not an age-based program.

It is often compared to the rating systems in place for television, motion pictures, and video games. But books have no labels or ratings, even those that contain explicit content and are marketed to children. Why? Because words are particularly subject to interpretation and imagination. Most people feel labeling books is a bad idea. Music is closer to books than it is to movies or video games nature. We label content when it is explicit. We provide a well-known and commercially-accepted logo to identify those recordings. America's parents do understand our system, and my written testimony outlines more detail about how much we have to do to make sure that everybody understands it. We take our duties seriously. Indeed, the freedom I am here to defend does confer a responsibility. We value our responsibility to parents and to consumers, and we will continue to give them tools to make decisions for their family. Thank you.

Chairman LIEBERMAN. Thank you, Ms. Rosen.

Mr. Valenti, welcome. We look forward to your testimony.

TESTIMONY OF JACK VALENTI,[1] PRESIDENT AND CEO, THE MOTION PICTURE ASSOCIATION OF AMERICA

Mr. VALENTI. Thank you, Mr. Chairman, Senator Thompson, Senator Carper, and Senator Durbin, for having me here. I am going to say a brief word about movie ratings, a brief word about the Federal Trade Commission reports and maybe an even briefer word about the Media Marketing Accountability Act. So let me begin. Of the current members of the U.S. Senate today, only five were residents in that hallowed chamber when the movie ratings system was born November 1, 1968. In the ensuing almost 33 years, the movie ratings have become part of the daily American life.

I think it is fair to say that they have been faithfully a part of that life. We have a 98-percent recognition factor among American families today. What is the objective of the system? It is simple: To give some advance cautionary warnings to parents so that parents can make their own decisions about what movies they want their children to see or not to see. Now, how do parents feel about these ratings systems? You have heard Dr. Pilon and others make some statements. Since 1969, the Opinion Research Corporation of Princeton, New Jersey, has conducted annual surveys. The last survey, September, 2000, found that 81 percent of parents with children under 13 found this rating system very useful to fairly useful in helping them guide their children's moviegoing. That is an enormous level of parental endorsement.

But more importantly, last year in the summer, the Federal Trade Commission conducted its own independent survey, and what did they find? That 80 percent of parents found the rating system to be, "satisfactory." Now, what about the accuracy of rat-

[1] The prepared statement of Mr. Valenti with attachments appears in the Appendix on page 113.

ings? We have heard about this. Since the inception of the program November 1, 1968, the rating board has rated 16,892 movies, 15 to 20 of which starred Senator Thompson, I am pleased to say. Now, it is impossible for anyone to say that those 16,892 movies are confirmably correct or wrong. Frankly, I will confess to this panel that privately, I take issue every now and then with the rating of a film, and I think the rating board might have erred. But if there are errors in the accuracy of a movie rating, it is a matter of a judgment call and not an exile of integrity.

What movie raters have to face is they are not dealing with the purities of Euclid's geometric equations, the answers to which are always clean-shaped and precise. What movie raters, vexing though it is to them and to social scientists and to Wall Street analysts, are dealing with is the ghostly form of subjectivity which is barren of all Euclidian finalities. And I might add, as a result of that, they cannot make accurate judgments, totally accurate, because they are not divinely inspired enough to see clearly what is not clearly seen. So what do movie raters and social scientists, a group of whom you heard earlier, and Wall Street analysts do? They draw smudged lines. They estimate. They surmise, and they have to. Remember, when a Wall Street analyst cannot remember his phone number, he will give you an estimate.

That is what we are dealing with in movie ratings, and we have to understand that. Let me say a word about the FTC reports. When that first report came out on September 11, 2000, it was critical of a number of marketing plans of some of our companies, and frankly I thought they were not off the mark. I found some of these marketing plans to be indefensible, and I so publicly declared. But 17 days after that publication of that report, the movie industry presented to the Senate Commerce Committee a 12-points set of initiatives in which we vowed we would remedy the frailties of some of these marketing plans, and those initiatives are in place now and they are working. How to confirm that? Well, the FTC's second report, which came out in April of this year, in 17 separate citations commended the movie industry for making visible improvements in its marketing plans.

Is it all over? Are we totally improved? Of course not. We have got some ways to go, but the point is we are trying and we have made visible improvement, as witness the FTC report. Now, just a final statement, a brief word about the Media Marketing Accountability Act; I want to say that I do not for one moment question the integrity or the commitment or the deeply-felt passions of this bill's sponsors. Every one of them is a person for whom I have personal admiration. They are superior public servants and the Nation is the beneficiary of their skills, their leadership and their fidelity to this country. But in all candor, I have to say that that proposed legislation treads heavily on the spine of the First Amendment. This government, through a regulatory agency, cannot, cannot, cannot intervene in First Amendment-protected properties or creative material.

Now, I believe that is unconstitutional, and if anyone wants to question me, I would say read the June 20 decision, handed down this year, *Lorillard v. Reilly,* by the Supreme Court of the United States, which had to do with a company advertising its own prod-

uct, and the court, citing *Reno v. ACLU* and *Baker v. Michigan,* said that no matter how well-intentioned the government's interest was in trying to protect children from so-called harmful material, that did not justify the suppression of speech to adults. Now, you can indict me, Mr. Chairman, for appearing before this Committee and practicing law without a license.

Let me finish my last comment. What the ratings do is what the Federal Trade Commission has urged the Congress to understand, and that is that industry self-regulation of First Amendment-protected material is the best way to aid parents. Now, I am so enchanted by what I am saying here that really I do not want to stop, but I will, and I only hope that someone on this panel will ask me some questions about the letter sent to me, which I answered, by the National Institute of Media and Health, or whatever it was, but I would like to answer some questions about that.

Thank you, sir.

Chairman LIEBERMAN. Thanks, Mr. Valenti. I have no intention of indicting you, but I do disagree with you about the Media Marketing Act, as you know, and I feel very strongly that it is not unconstitutional to simply amend the existing Fair Trade Practices Act that governs the Federal Trade Commission to say that if a business makes a representation about a product, such as rating it with regard to appropriateness for children, and then turns around and markets it to children, that is a deceptive practice.

Mr. VALENTI. May I respond to that?

Chairman LIEBERMAN. My final point is this: As you know, there is nothing I would like more than to get out of this area and see the industry self-regulate, and that is why, in fact, in the proposal that we have made, in the Media Marketing Act, Senator Kohl and Senator Clinton and I have created a safe harbor, and said that if any entertainment industry creates its own code of marketing and self-enforcement mechanism, they are protected from FTC action, period, exclamation point. So I hope that that will happen with the movie industry and all the other industries.

Mr. VALENTI. May I respond quickly to that? In Section B of that act, the safe harbor says that the FTC will specify certain criteria and that if producers abide by that criteria, then they are going to be protected from these fines, unless they are found guilty of marketing to children. I think that very definitely connects umbilically to the *Lorillard v. Reilly* case, but more than that it seems to me is what this bill does that I think puts to peril the movie rating system; it immunizes peoples who do not rate, because if you do not rate your film, you do not come under the canopy of this bill. But if you do rate your film, if you are trying to give information to parents, then you are going to have a possible penalizing, and that is where I think, in a respectful way, that we differ, but it is done very respectfully, Senator.

Chairman LIEBERMAN. And my opposition to your position and Mr. Baldwin's is done with the same respect.

Mr. Lowenstein.

TESTIMONY OF DOUGLAS LOWENSTEIN,[1] PRESIDENT, INTERACTIVE DIGITAL SOFTWARE ASSOCIATION

Mr. LOWENSTEIN. I should start off complaining. It seems whenever I testify, I have to follow Jack Valenti. I am not sure that is fair. Thank you for having me here this morning—I should say this afternoon. I perhaps should rest my remarks on the statement that you made regarding our rating system, very kind remarks, and I appreciate them, but even though that is probably the better part of valor, to probably not say any more, I am going to plunge ahead. Let me start with a few very brief comments on our industry. It is a myth that most gamers are kids, which is something that I think is still widely held amongst the population. In truth, 145 million Americans play video games—that is 60 percent of the population—and their average age is not 12 or 14 or 16, or even 18. Their average age is 28 years-old; 61 percent of people who play games are over 18; 43 percent are women. So this is a pretty diverse market we are talking about.

I want to now turn quickly to the perception, as well, that many of the games out there, and I think you know this is not the case—you have often cited many of the quality games out there—do not contain violence. In fact, 70 percent are rated as appropriate for everyone, and last year, only about 117 of the 1,600 titles released carried a mature rating for violent content. Let me turn quickly here to the Entertainment Software Rating Board system, or ESRB, as we call it. As you yourself have said, this is, I think, a highly-effective system, one that provides a great deal of reliable and useful information to parents. You said so in the past and we appreciate your recognition of our efforts. I would like to—and I am somewhat hesitant to do this in view of the technological glitches this morning—but we do have about a 1½ or 2-minute video from the ESRB that describes the ratings process, so if we can take a shot and see if it works—if it does not, I will quickly move on and proceed with that.

Chairman LIEBERMAN. Fine.

Mr. LOWENSTEIN. Can you hear that?

Chairman LIEBERMAN. No. Could you make it louder, please?

[A video is played in the hearing room.]

Mr. LOWENSTEIN. Thank you for letting me show that. The message there is that this is a fairly rigorous process. It involves individuals coming from all walks of life who review the game play and make independent decisions as to what content they think is appropriate, and then generate both an age-based rating and a content rating, and I think that is one of the reasons you said some kinds things about the rating system, because we have made the effort from the very start to provide information on content.

I understand that there are those who disagree with some of the ratings on some of the games. Ms. Smit, who, by the way, from what I heard, is not only a good mother, but she must also be a cool mother—she was a very impressive witness—clearly has some differences of opinion with the ratings, and I respect that. But I do not concede that her opinion or my opinion is necessarily more valid than that of a demographically diverse panel of raters that

[1] The prepared statement of Mr. Lowenstein appears in the Appendix on page 123.

the ESRB uses. Now, we have done—again commenting on some of the earlier testimony—we have gone out and tried to validate the system. We have not just assumed that it is right. Peter Hart, one of the most respected pollsters and researchers in this country, did scientific national research with 410 adults, and found that in 84 percent of the instances, average consumers rate games equal to or less strictly than the ESRB.

Inevitably, some parents will differ from ESRB, and as I said, I concede the point. But the disagreement hardly reveals a flaw in any of the rating systems. It is not even surprising. Rather, it reflects, as Jack Valenti has said, the broad diversity of opinion that exists in a free and pluralistic society where individual parents have different views about what is acceptable and appropriate for their children. In the end, people do react differently to the same piece of entertainment, and not even a proposed government-blessed universal rating system offers any assurance of more reliable ratings or more accurate ratings, because accuracy does not exist here. This is simply a matter of perception in the end, and I would argue that, to the extent there is a government role in this, that is even less reliable than what industry is doing.

I know we are very short on time. I am going to suspend the rest of my remarks. We have done, as you know, a great deal, I think, to try to educate consumers. We have supported retailer enforcement of our ratings, notwithstanding the fact that means that games that would otherwise sell are not being sold. We have done public service announcements with Tiger Woods and Derek Jeter and others to promote the rating system. We have advertising guidelines that you have referred to, and overall I think we are doing a good job. We will keep working at it, and I thank you for your attention this morning.

Chairman LIEBERMAN. Thanks, Mr. Lowenstein, very much. The vote, as is the habit of the Senate, has been postponed, so we can proceed to questioning. I have referred to the letter from the National Institute on Media and the Family, which is really what occasioned this hearing, and I want to ask the three industry-group association representatives to respond to the letter. Obviously, we do not have time to take on every point of it, but I am essentially asking at this point, is there anything that you are going to do in response to the letter? Because the letter, leaving aside the debate—it is an important debate about what effect entertainment has on behavior—this is all about the ratings. You all have ratings of one form or another. The letter says that the ratings, as they are now, are either inadequate, as in the case of the record industry, they are inconsistent across the industry, and they are confusing, and that is why they recommend the uniform system.

So let me start with you, Ms. Rosen, and let me say first I appreciate what you have announced today, which is that you are going to have a mass-mailing about the parental advisory, you are going to update the labeling in all the stores, and you are going to produce some public service announcements featuring Quincy Jones. But the obvious targeted question I want to ask you is why not provide more information than the simple parental advisory, "explicit content"? Even Mr. McMillon today—and I appreciate it—

has essentially asked the industry to give the retailers a more standardized, delineated rating system on records.

Ms. ROSEN. Mr. Chairman, thank you. I think that actually the Kaiser study yesterday illuminated us quite a bit on this, where they actually found that a majority of people, over 50 percent, 55 percent, I think, thought that they did not believe that a uniform rating system would be useful, and so I think there is clearly divided analysis on this, and the presumption that is what parents want, I think, is just fundamentally incorrect. With regard to the music system, it would be really easy to sit here and say we are going to try and make everybody happy. We are going to come up with a rating system. We are going to tell you whether this is sex or violence, and Mr. McMillon is telling us if we did, we would sell more music in Wal-Mart. That is an awfully attractive offer. Why aren't we taking it? For a reason, and that is because words are difficult to categorize. The fact is that we cannot make such subjective decisions when it comes to words, and it is virtually impossible, I think, for somebody to tell me how they would do it. Every lyric is going to mean something different to different people.

Chairman LIEBERMAN. Let me take you up on that. In other words, if a record has language that goes to violence or sex, or the language is vulgar, each of these other industries has attempted in rating systems to—generally they have developed a system that is fairly comprehensible and delineated, on these various categories, leaving it to parents to decide whether they want their kids to experience one or another of these. Isn't it possible to do the same with music?

Ms. ROSEN. It is not, and I think there is not an easy solution for parents who want this, and I just have to say this consistent reference to parents as somehow parents are calling for something and we are different is just overwhelmingly offensive to all of us in the industry. We are all parents, too. I am a mom who lives in the suburbs of Maryland and drives a minivan, so I am as qualified on that subject as Ms. Smit is. The fact is that I do not want to tell a parent whether Chuck Berry's singing about his ding-a-ling is about sex or whether it is about music. I do not want to tell a parent that when somebody says that they were blown away by that, whether that means that they have been shot, whether it is about the weather, or they are simply impressed. I think you have to concede that words are so different when it comes to interpretation than when you have a picture where there is very little doubt, and that is why we cannot do what seems like should have been an easy thing to do.

Chairman LIEBERMAN. OK. I remain unconvinced, but one thing I am convinced of, I know you are a parent and I know that people in the industry that I have talked to, in your industry and others, are parents and have a lot of the same concerns about their kids and what their media diet is. Some are struggling very sincerely with it. Some have changed the behavior of their companies. I was with Mr. Valenti in Hollywood and heard that from some folks who lead studios. So I appreciate it, and I guess in the end, I wish that the parental instinct would overcome the industry instinct, and that there would be—I am not speaking to you personally; I am speaking to the legion of people I have seen—and that their con-

cern for their own kids as parents, and good parents and great parents, would be reflected more in the judgments made about what they produce and also what they tell us about what they produce.

Ms. ROSEN. So many places to go with that. There are many people in the music community and many people in society today who think that subject matter that is subject to interpretation actually is art, that they have put both their parental responsibility and their instinct for creative exploration first. As Mr. McMillon just said, this is not a commercial decision for us.

Chairman LIEBERMAN. Jack Valenti, it is a form of torture to ask you to respond to my question in the 3 minutes and 55 seconds that I have left on my time, but see if you can do it.

Mr. VALENTI. I cannot take a breath in 55 seconds. [Laughter.]

Chairman LIEBERMAN. Why don't you see if you can——

Mr. VALENTI. I will sum it up very quickly.

Chairman LIEBERMAN. In other words, what is your response, and is the MPAA—and you represent Hollywood and TV—going to do anything in response to the letter?

Mr. VALENTI. Already have. I received this letter from Dr. Walsh, singed by some 20 or 30 people, on July 20. On July 28, I sent him what I thought was a well-thought out four- or five-page letter. I wrote in the last part of the letter—this is a letter much too long to read—but, "The reach of your critical comments makes it impossible to reply either briefly or blithely. Would you pass along to the other signatories a copy of my letter to you? I am available at any time to meet with you and whomever else you suggest. All you need do is call me and I will instantly respond." I want to meet with these people to talk it out. I have heard no response from any one of the 25 or 26 respondents.

Chairman LIEBERMAN. Let me phrase it in a somewhat different way, and direct it. Some time recently, I read a comment from Bob Iger, the head of Disney Pictures, former head of ABC.

Mr. VALENTI. He is president of the Walt Disney Company.

Chairman LIEBERMAN. OK—who said that he was interested in the idea of a uniform rating system, perhaps not surprisingly, but certainly credibly, based on the MPAA system. Now, you are the godfather or the father of that system. Why not try to have the MPAA system be the basis of a uniform rating system?

Mr. VALENTI. I am grateful to you for giving the entire Iger comment. Most people stop in saying I am for a one-size-fits-all rating system. He says, "And the rating system that ought to fit is the MPAA rating system."

Chairman LIEBERMAN. Right.

Mr. VALENTI. Very briefly, the reason is why, as Hilary Rosen and Doug Lowenstein and others have testified, we are dealing with vastly disparate art forms. For example, the video game is interactive. Movies, music and television programs are not. Music is for the ear. It is like words, as Hilary said. The rest of us are not. The movies produce 650—we rated 650 movies last year. On television, Mr. Chairman, there are 2,000 hours a day of television program and the equivalent of 1,000 movies every day, 40,000 albums, 1,300 video games. Now, where is this cyclopean eye, this all-seeing eye that is going to oversee all of this and meld it into a harmonious whole? It cannot be done, and by the way, what you

Senators should understand is if you have one single system, do you know what you would have to do? You would have to make it exactly the duplicate of the TV system. Why? Because when the manufacturers of these new sets, and there are 50 million of them in this country today with the V-chip, passed by this Congress, you will obsolete 50 million sets, because the circuitry in there is irrevocable. It cannot be changed.

Finally, the TV system does not have an adults-only category. Video games do, movie ratings do, but there are none in television. So when you mix all this together, what seems like a gloriously resplendent idea becomes decayed when you begin to look at it.

Chairman LIEBERMAN. My time is up. I was hoping that you would be the one to find that cyclopean eye, and that you would do it with Euclidian finality. [Laughter.]

Mr. VALENTI. I am pleased to know that you have been listening to me, Mr. Chairman. Thank you. Most people do not.

Chairman LIEBERMAN. A vote has begun on the floor.

Senator Thompson, why don't I go over and vote, and we will sort of roll the questioning so we can continue the hearing without interruption?

Chairman THOMPSON [presiding]. I am reluctant to bring down the level of this socratic dialogue to the more mundane, but as I have indicated, I have a real question to the extent of whether or not we ought to directly or indirectly, through hanging out there the threat of government agencies trying to do something that do not do a very good job of in any other respect, and that is fine-tuning a complex problem and getting it exactly right, even if we had the constitutional right to do that.

I must say that in reading that Lorillard tobacco case, I was somewhat surprised to see where the Supreme Court said that even though there is no question about the harmful effects of tobacco, unlike the issue that we have concerning violence causation, that the government could not restrict advertising designed to be for the benefit of the children if there was this pour-over effect, and, in fact, it was making what adults would be subject to, down to the level of children, and that is something that I think we have to deal with.

So looking at that, we are—our next fallback is the rating system, and I think what you are trying to do is admirable. I admire these individuals who are trying to get a better rating system. I think they are very good parents. But I hope we do not fall into the notion that is somehow going to really deal with the problem. There are too many people it will not touch, too many people it will be irrelevant to. There are too many one-parent households out there. It is too pervasive. At the risk of doing what I said I questioned, I guess I would simply use this pulpit to express what I would hope to be the direction that we ought to go in, because you have the right to do something does not mean that you ought to do it. I think we all know that, and because the Supreme Court says one thing today does not mean that it will not say something else tomorrow.

Ms. Rosen, quite frankly, I think it will be the music industry that tests that limit—and I represent a lot of music people in Nashville. Of course, the biggest controversy we have in Nashville

is whether or not country has gone too mainstream. It is a little bit different than what we are having to deal with here, but in many cases, a lot of this troublesome stuff is marketed almost solely to children. It has mass availability and you have got the most egregious examples. You can say what you will about music that depicts somebody's throat being slashed and listening to the blood gurgle, and killing your mother and stuff like that. But the fact of the matter is that is going to test the outer limits, and if I were in the industry, strictly from a bottom-line standpoint, I would simply add this suggestion: Take a long look at that. Nobody wants to stifle anybody's creativity. Nobody wants to stifle, I do not think, anything that even some people might find offensive, because of First Amendment considerations. But I see a trend that I would be concerned about if I was in that business.

We were told with some certainty up here, back for the last couple of years, that the Supreme Court undoubtedly would, on the basis of the First Amendment, strike down State laws having to do with campaign finance regulation, because the whole trend has been going in one direction. The Supreme Court did not do that. It surprised everybody in town, a 5–4 decision, and they said that you could regulate. In that particular case, it was a hard money situation, and I wonder to what extent that might have had something to do with what was going on in the country. Since *Buckley v. Valeo,* there has been a sea change out there. We are awash in money from all directions.

I do not think the Supreme Court is immune from seeing what is going on in the Nation, plus all that being brought to them in a legal forum. I see the same thing in the music industry. As time goes on, as these pressures mount, some of which I think are improper, but they are going to be there, by government and by others, I am wondering where you are going to be a few years from now. We talk about crime being in decline right now. I think the reason for that is demographics. The crime-committing age group is relatively small right now. In a few years, mid-teens to mid-twenties, just demographically, we are going to have many more of that age group, and the chances are we are going to see a substantial increase in crime for that reason alone. So you are going to have a substantial increase in crime. You are going to have Eminem still doing his thing, and stuff that is embarrassing to all of us with no redeeming social value that anybody can see, and you are going to rest comfortably on the fact the Supreme Court is going to be where it always is.

The Supreme Court might do something that is unwise or questionable in the long run. I do not know. I am just talking here, because I do not feel like I ought to be telling you what you have to do. I might, as a citizen, if we had a private conversation, I would tell you some things as a citizen, in my opinion, that I do not feel, as a government official——

Ms. ROSEN. You have.

Senator THOMPSON [continuing]. I have any particular business doing. But I would just put that out for your consideration. I think that, as I say, rating systems have the purpose, but the underlying product I would really question, in the movie industry and the music industry, about whether or not we could do a little better

without sacrificing artistic freedom, to do our part with regard to the underlying product. I think William Baldwin is certainly doing his part. I had the benefit of going to New York and being with Bill and Alec and others awhile back, and I thought I was going to be, as a Republican up there, and several other actors, I thought I would probably be the one served for dinner. But I found all parents, all concerned, all, I would imagine at one time or another, have had some concern about the scripts that you have seen, things that you have had to make decisions on.

I would be interested in knowing whether or not, from all of this discussion that we are having in the country right now, from your end of it, do you see any changes, any differences, any changes for the better? Are the people who make the decisions, you think, becoming a little more sensitive to what they might want their own kids to be seeing, or am I being overly optimistic? I have not seen any of that in awhile.

Mr. BALDWIN. Well, I would have to say that because there are so many more new opportunities and new entertainment outlets, there is so much more product being manufactured, there is so much more product being made, so there is much more excellent quality material being produced. But I think proportionally speaking, on a percentage basis, perhaps there is just as much bad, and I think part of the problem is that it is called show business for a reason. The operative word is business, and it does not have to be a violent film. It could be a film like "Happy Gilmore." It could be an Adam Sandler film that people—you know, the opening weekend, it will open at $40 or $50 million, and then "A River Runs Through It" makes two cents and closes after its opening weekend, and the more those types of films are profitable, the more they are going to be made, and I think that they are a viable form of entertainment, even the violence and the sex is a viable form of entertainment and they have a constitutionally-protected right to express themselves in that way, and people have a right to see it.

But there are a lot of times I will appear on television and I will say is it my fault for appearing here today? Is it your fault for inviting me? Or is it their fault for watching, because the main reason you had me come out here is because I am famous, and the main reason you had me come out here because I am famous is because you know it is going to generate ratings and you know more people are going to watch and you know this network is going to make more money because I am appearing on the show. You can have somebody appear on the show who is an expert in this area who is not famous, but they are not here today. You have me here today. And I said is it my fault for showing? Is it your fault for inviting me or is it their fault for tuning in? And, at some point, it has to be what will drive the market is demand, not supply. I think there has to be a greater demand.

I am saddened by the fact that—I wish that "A River Runs Through It" or "Quiz Show"——

Senator THOMPSON. But you make the point or you mentioned "Hunt for Red October." As I think back on it, I do not know what the rating of that was. Now that I think about it, I do not recall even any profanity in the movie, much less any of the other stuff that cause people problems. I do not recall any of that, and yet

they are still running it. I am amazed, you know, late-night cable. In other words, it did very well. So again we have a causation question. I think it attracts some kids, which is part of the problem, some of the bad stuff—but with regard to a large segment of the population, it seems to me like it does not matter whether it is there or not.

It has to do with the quality of the script, primarily, and it has to do with the quality of the actors and the direction and all those things. But you can walk out of one of those movies, like "Hunt for Red October," and it does not occur to you that there was no violence or nudity or bad language. It was just a good movie. So I do not think—I think from a production standpoint, it would occur to me that if I were making these things, that if you want to appeal to a younger crowd and do some things in there to induce them, I guess that is valid, because the R-rating causes ratings to fall off because young people under 17 want to go see them and they are not allowed to see them, and they are the moviegoing audience, primarily, I guess.

But in a broader sense, it looks to me like the problem is not is if you have a so-called clean movie, that you are going to drop audience. The problem is it is more difficult to write. As you know better than anybody, a good script and a good story and done well is extremely hard, and I do not know what we do about that, but I would hope that it would induce folks to try harder in that respect.

Ms. ROSEN. I think, at the risk of answering a question that was not asked——

Senator THOMPSON. It is just like I am finally back in control again here. [Laughter.]

Ms. ROSEN. So as long as we are stalling, I might as well throw it out.

Senator THOMPSON. Well, I have a vote I am going to miss, but I will take that chance. Go ahead.

Ms. ROSEN. I just wanted to say two quick things. One is that I think that fundamentally the entertainment industry relies on the First Amendment, but does not use it as an excuse for everything that is made. I think that there is a sense of artistic credibility in things that you do not find credible, and when I heard you say that you thought "Saving Private Ryan" was a great movie for 14-year-old boys to watch, I heard groans in the audience because you have to concede you are seeing that through the prism of your own judgments and your own values.

Senator THOMPSON. Exactly.

Ms. ROSEN. And that there are people in this country who would listen to Chuck D. or Mostep or Eminem, even, and suggest that that is through the prism of their world and their own values, and that is essentially the reliance on the First Amendment, not that you cannot touch us, but rather this expression all has some validity to somebody, and therefore it must be protected by everybody.

Senator THOMPSON. But we all make judgments. I mean, that was my judgment about that. People who produce records make judgments. It is not like you do not make judgments. Everyone presumably has some line somewhere. The question is who makes that judgment? Should the government be making that judgment?

Ms. ROSEN. That is right. That is my point.

Senator THOMPSON. And since it is the producer who makes that judgment, is it not appropriate for other people to voice their opinions, and the customer of this—this is a commercial enterprise that we are talking about here—and the customers getting together and expressing their opinion on the judgments that you make? I think that is what we are dealing with here. That is why I find a congressional forum for all of this an uncomfortable one. These are decisions and discussions that ought to be happening all across America, but it concerns me when the first thing we think about—when we have a problem in this country, the first thing we think about is government, and usually the Federal Government.

Ms. ROSEN. Right, and I think when the Supreme Court looks at this issue again, because people suppose that it might, if there is still crime in the streets and poverty in people's homes——

Senator THOMPSON. You will have more reports, showing more causation.

Ms. ROSEN [continuing]. And divorce and child abuse, there is going to be music that reflects that. There is going to be movies that have those themes, and those are undeniable pieces of society.

Senator THOMPSON. Anybody else have any comment?

Mr. BALDWIN. Yes, I just wanted to say one thing, that based on my experience with this issue, I just found it a little troubling, and I noticed Senator Lieberman addressed this earlier, but an overwhelming and disproportional amount of what the reason why we are here today, graphic and explicit violence, sex, profanity, the Media Accountability Act, it all addresses hip-hop music—disproportionately addresses hip-hop music and rap music. As Hilary mentioned earlier, the testimony of Russell Simmons, I read it and I think that it makes some very, very interesting points, and I think it is a little bit unusual that nobody from—no hip-hop artists or no rap artists—and it is interesting that publicly they cite Eminem because he is the token white guy who is doing this, because I guess publicly it does not want to be targeted as a black issue. But I really think that his thoughts and his feelings and the expression of that community needs to be included in this dialogue, in this discussion, next time.

Senator THOMPSON. Well, you might go back over that with the Chairman, who has just walked in. But I thought about that as she was speaking. I think the notion that this in some way is a racial targeting, I think, is not only invalid, I think it hurts those of us who are really concerned about protecting the First Amendment rights of artists. I do not know what the numbers are. I do know that Eminem has been singled out. I think he is the one whose record I have described awhile ago, about the throat slashing and the killing of the mother and that sort of thing. I really question, from the standpoint of African-Americans, whether or not someone coming forth and urging that this, in some ways—these kind of lyrics is an indigenous part of race, is beneficial. I think there are millions of families out there——

Ms. ROSEN. That is not what they say.

Senator THOMPSON [continuing]. That would not want to be represented by those kinds of statements. I think that it ought to be considered on its merits. I think that when people use racial motivations for people who there has never been any indication, any-

where or anytime, that that is the case, hurt the legitimate claims that they have concerning this music.

Senator Lieberman, concerning not having someone here from the hip-hop industry and the implication that that music has been targeted for racial reasons, as Mr.——

Mr. BALDWIN. Can I just—I am not accusing this Committee of targeting that for racial reasons. I am saying it is a consequence. It is an unconscious consequence. The overwhelming amount—the reason we are here today is to talk about protecting children and empowering parents from violent media, from sexual media, and from profanity, and by definition, an overwhelming percentage of hip-hop music and rap music falls into this category, and I think that when we look at Shakespeare, when we look at the Greek tragedy, we see an honest reflection and portrayal of the times in which they lived and the culture in which they lived, and I do not think it is going to take 50 years or 100 years or 500 years—at that time, it was provocative and controversial, as it is today. I do not think it is going to take 100 years to look back and see how honest a depiction or a portrayal that was for minority communities who live in urban areas.

I understand that now, and I respect that now, and I think that is just as honest as Waylon Jennings twanging his guitar and talking about how he fell in love with his sweetheart and she broke his heart and he had too much to drink and he thought about killing himself, and I think that that is as honest and accurate a portrayal as country music or as a Shakespearean play or a Greek tragedy, and I think, unfortunately, most of this music has fallen into—has become prey of what this Committee is interested in addressing, and I think just because it has violent or sexual content or profanity, I do not think that there should not be information given to parents and I do not think that there should not be a parental advisory for that at all, by no stretch of the imagination. But I just want to acknowledge publicly that I do not think there is anything wrong with people expressing themselves in that way.

Senator THOMPSON. Mr. Chairman.

Chairman LIEBERMAN [presiding]. Thanks, Senator Thompson. Obviously, I am at some disadvantage because I have not heard the preceding, but just to go back to Mr. Simmons, when the request came in, it came in at a late hour, and it was our hope to have the industry association representatives here, representing all elements of the recording or TV and movie or video game industry. So we did not have an opportunity to include him.

Second, I am intrigued by what my staff tells me is the notion that a disproportionate number of those records stickered are either hip-hop or rap records, and that is something that is worth considering. I do not, to put it mildly, claim to be an expert here. But in the previous work we have done on music, it seems to me that a lot of rap and hip-hop was not in the parental advisory, explicit content category. It is obviously clear that no one racial group has any—at least as I view the entertainment industry—any monopoly on producing material that is of questionable content to parents. I mean, it is broader than that.

Go ahead, Ms. Rosen.

Ms. ROSEN. You know, the facts of both the marketplace and the genres are that hip-hop music tends to have more profanity, and therefore subject to more labels, and that you can be talking about the very same domestic abuse in "Goodbye Earl" by the Dixie Chicks, but because they are not saying it with a lot of curse words, it is not going to get a parental advisory label for explicit content, because that is what the label means. I think the larger point here, Mr. Chairman, I think is that I think this is probably the eighth or ninth hearing I have testified at on this issue over the years, and consistently there has been a desire on the part of people who actually create this music to come and tell their stories, and they are consistently denied, because it is frankly easier to make this be about corporations than about artists.

Chairman LIEBERMAN. So you are saying you would like not to testify at the next hearing?

Ms. ROSEN. I think that would actually be a nice thing, certainly provided that artists get to speak for themselves, because they do have views, and the irony of all of this, when you talk about content labeling and things, is that when parental advisory labels were first created for music lyrics in 1985, there was a hearing in the Senate, promulgated by the Parents Music Resource Center, and artists were invited to testify at the very first hearing, and that is why we do not have content descriptors, because Dee Snyder of Twisted Sister came in after having his song, "Under the Knife," be attacked for an hour-and-a-half by Senators on the panel as being disgusting and violent, about murder and slashing, and he came in and said, "What are you talking about? My friend was going to have surgery the next day, and that was about feeling vulnerable in an operating room under the surgeon's knife." That sort of irony, when an artists gets to speak for themselves about the multiple meanings and experiences of their life, does not get represented at these hearings.

Chairman LIEBERMAN. I look forward to meeting with Mr. Simmons, and if there is a good reason to hold another hearing, I will be happy to do it. I wish that all the violent and sexually explicit lyrics and content that parents are concerned about had the same ironic and innocent explanation as the case that you gave, because they do not.

Mr. BALDWIN. I just wanted to make one more comment that sort of reinforces what Hilary said. Clearly, she knows a lot more about this, and Russell Simmons knows a lot more about this than I do, but my wife is a recording artist, and she has written several albums, and she had an album. Her debut album had her first single that went to No. 1—was a song called "Hold On," and she got hundreds and hundreds of comments from people on the street and hundreds of letters from people that said that they were on the verge of committing suicide, they were on the verge of hurting themselves, and when they heard the song—the lyric is "Hold on for one more day," they thought she was speaking to them about overcoming the despair in your lives or heartbreak in relationships and so on. The song, in reality, was about sobriety, 1 day at a time. The song, "Hold On For One More Day," was about trying to fight to stay sober.

So I think it just plays well into the argument about subjectivity and interpretation, and how the written word is different than the visual image and how a universal rating system may not apply because of that.

Chairman LIEBERMAN. Also, because of the power of music and all the entertainment media to affect behavior—both constructively, positively, and negatively—in the example you give, I have got two quick questions about the ratings.

I understand the opposition to the uniform rating idea. Mr. Valenti, on the question of the TV ratings, the Kaiser Family Foundation study that came out today shows that—the headline is "Few Parents Use V-Chip to Block TV Sex and Violence," but more than half use TV ratings to pick what kids can watch. There is actually a statistic that says that 53 percent of parents who now own a TV equipped with a V-chip do not know that they have this capability. Is there something more that the industry can do to better inform people—parents, particularly, but viewers generally—of this capability that they have?

Mr. VALENTI. Good question, and the monitoring board met last week. We had public advocacy groups and members of the industry there, and we were briefed by Vicki Rideout on the Kaiser study. I think one of the most relevant pieces of information that came out was that half of the people who had a V-chip in their television set did not know about it. One of the things that we are trying to do now is to do work with retailers of television sets and manufacturers of television sets. All they have to do is get a little sticker on it, a yellow sticker with black lettering, that says, "This TV contains a V-chip," and to have something xeroxed there, very simple; when you buy the set, you get this little xerox piece of paper that says you have a V-chip, this is what it allows you to do and this is how to use it. That is not extant at this time. It does not exist, and one of the things we hope to do is to try to get point-of-sale information, because the time to know that you have a television set with a V-chip is when you buy it, not afterwards, and 36 percent of the people who know they have a V-chip, use it.

Now, it may be, if you look at this, that maybe we complicated the television ratings too much and maybe it is a little bit difficult to use, as many of us still today cannot program our VCR longer than 30 minutes, and therefore that might be. But we are working on trying to get this point-of-sale information, so when you buy that television set, you say, "Eureka. I have got a V-chip, and this is what it does."

Chairman LIEBERMAN. Good. I appreciate that. Final question: When I was out in Hollywood a couple of months ago and I met with the MPAA and The Creative Coalition and the Directors Guild, I found an interesting and, I would say, an encouraging amount of dialogue—maybe some would call it tumult—within the creative community about the ratings system, from the point of view of the creative artists and the directors, particularly, as you know, taking a lead on this from their own point of view, wanting to delineate the system in more detail, which would have the effect of better informing consumers of movies, viewers and parents, obviously; and if I understand the premise, it is that the R-rating has become ubiquitous, so that more than 50 percent of the movies are

rated R. You know these numbers better than I do, Jack Valenti, and that it covers such a wide latitude that the viewing public would be benefited by more delineation and particularly by trying to sort of revive the original intention behind the NC–17 rating—which, as somebody said earlier, only three or four movies have received—so that it is not a kiss of financial death, but that it makes clear that these are really movies that are intended only for adults.

So I would ask both Mr. Baldwin and Mr. Valenti if they want to comment on that. I know in the meeting I had with The Creative Coalition, there was a fair amount of discussion of this matter. Jack Valenti, what is the latest? I believe the Directors Guild came out with a proposal on this publicly; am I right?

Mr. VALENTI. I do not know if they have come out with it publicly, but I listen very carefully when the Screen Actors Guild or the Writers Guild or the creative community, Billy Baldwin's Creative Coalition, and particularly the Directors Guild, makes any comments, and I have met with them several times, listening to them and some of the things they think ought to be done. And, of course, we have a partner in the rating system. Keep in mind, Mr. Chairman, there is one thing that people who wrote me this letter and people who speak about the rating system do not understand, and that is that the industry has nothing to do with it.

Lew Wasserman, in his powerful day, Sumner Redstone, Rupert Murdoch, Michael Eisner, have zero influence on this rating system. The only two people in this country who have anything to say about the policy and the people who inhabit the rating board, one is the president of The Motion Picture Association and the other is the president of the National Association of Theater Owners, and if any producer, any director, any studio boss, any mogul, tries to pressure the rating system, they have to run me down, and as you can see, I am still standing.

Chairman LIEBERMAN. You mean pressure about a particular rating on a particular movie?

Mr. VALENTI. Absolutely.

Chairman LIEBERMAN. But we are talking about the whole system. In other words, whoever created this system presumably can change it, if there are good recommendations to change it.

Mr. VALENTI. That is right. I met with a number of exhibitors 3 years ago, and we created this system. We talked to studios. We talked to independents. We talked to the three creative guilds. We talked to religious organizations. We talked to movie critics, to try to form a consensus, and that is how it came about. But I am saying to you that only two people really have the power to change this thing, and the reason why is if we did not, there would be bedlam out there. I am listening to the Director's Guild, because some of the people with whom I have conferred are people for whom I have enormous respect.

Chairman LIEBERMAN. So you are listening to them?

Mr. VALENTI. I beg your pardon?

Chairman LIEBERMAN. You are listening to the Directors Guild?

Mr. VALENTI. Absolutely.

Chairman LIEBERMAN. Do you think that you and those two people you mentioned are open to some of the changes that they are recommending, which I think would not only more reflect their cre-

ative instincts and work, but would better help viewers understand what the movie contains?

Mr. VALENTI. I am not prepared to tell you what we are going to do or what we are not going to do. I am very merely saying that their voices command respect, and we have met several times. We will meet again, and also they are meeting with the National Association of Theater Owners, who are partners in this, because if you do not have the theater owners, you do not have a rating system.

Chairman LIEBERMAN. For my part, based on the discussions I have had with them, I think that they are on to something. Incidentally, I love the movies.

Mr. VALENTI. Well, I hope so.

Chairman LIEBERMAN. No, in other words, my criticism is the criticism of a fan, really, an admirer. But for my part, as I listened to them, their recommendations made a lot of sense, and I hope you will look at them.

Mr. VALENTI. We are looking at them very carefully, and I know that one of the directors who talked to you has been in touch with me, and we are listening, and, as I said, so is the theater owners' association listening.

Chairman LIEBERMAN. Mr. Baldwin, what does The Creative Coalition think about—on your own, no government influence—about altering the rating system to better reflect what is on the screen?

Mr. BALDWIN. Well, this is not an area of my expertise. Clearly, Mr. Valenti knows a lot more about this than I do, but I think many different circumstances have converged, such as certain events in our history, new information, political pressure from this body and from the media and from advocacy groups, parents groups, have already led to the dividing of the PG rating to PG–13, and the introduction, the implementation, of the NC–17 rating, and I think that recently Mr. Valenti has spoken to me about, for example—Mr. Valenti, you said something to me yesterday about how new information, if you have an advertisement for a movie in a newspaper and the ad is more than a quarter-page in size, it provides information that gives more information to consumers and to parents about the specific reasons for why a film was rated the way it was rated.

Mr. VALENTI. Correct.

Mr. BALDWIN. These are ways in which—again, when the First Amendment comes in conflict, when defending freedom, when protecting freedom comes in conflict with protecting children, you cannot expect dramatic results to happen overnight, as I said before. This has to happen incrementally. It has to be carefully thought out, and I think that the business, through self-regulation, has elevated the bar, and I do not think the system is perfect and I think there are areas where we can tinker with it and certainly improve it, and I think that the recording industry—I think all the different mediums have done so. Is there more work to be done? Yes, and I think the role for government, as we discussed before, is to do exactly what you are doing, be the leaders that you are being and work with parents and advocacy groups and the media and the entertainment industry, and can The Creative Coalition be a bridge from Capitol Hill to the entertainment industry, to create access and opportunities and a dialogue and raise awareness and educate

people, and try and strengthen these systems to empower parents? I believe we can.

I think everyone is doing a nice job, and I think that members of Congress and parents do not think that it is happening quickly enough, but when you factor in the First Amendment, it is not going to happen fast enough.

Chairman LIEBERMAN. Senator Durbin has sent a message that he wants to return. This mean, unfortunately for you, that I am going to ask a question or two more, to give him time to return, and if he does not in about 5 minutes, we will adjourn the meeting.

Mr. VALENTI. I was hoping you would say that, Senator.

Chairman LIEBERMAN. Yes. I know you did not want to leave, Jack.

Mr. Baldwin, you talked about media literacy. That was a topic that I raised at every meeting that I was at when I went out to Hollywood, and I do think it is something, an area of common ground that we ought to all be able to work on constructively. I guess I will end it by simply saying that anything you think government can do to be supportive of those programs, insofar as they are educational, and we may be able to help in that sense, and I would certainly appeal to the various industries to be proactive in helping to support and fund media literacy programs. It is as important, I think, for our kids today in this electronic age to learn how to comprehend, understand, and deal with the stories that are told to them over the electronic media, as it was for kids in my generation to learn reading comprehension.

So I am going to end there and yield to Senator Durbin.

Senator DURBIN. Thanks a lot, Mr. Chairman. I apologize for being held up on the floor for a few minutes. Mr. Baldwin, I thought you made a great statement. I like your balance in suggesting that there are a lot of reasons for young people to get into trouble, and I know that Senator Levin often uses the example of his city of Detroit, which shares the same television market and the same movies with Windsor, Ontario, and that the number of murders and violent crimes committed on his side in Michigan are substantially larger than those committed on the other side, in Ontario, and he raises a question, a legitimate question, what lesson do we draw from that? And I think you have drawn an appropriate lesson, the availability of guns and a lot of other things should be factored into questions about youth violence and what causes it, and I also want to commend you for saying at some point maybe this does play a part. Maybe this whole thing, media, does play a part in it.

I do not know where you draw the line. There has been a lot of reference here to the tobacco industry during this entire testimony, and I have spent 19 years fighting them tooth and nail, and am damn proud of it, as we say in the Senate. But I would say it troubles me and my wife to sit and watch all the movies with people smoking in them that kids are watching, and I am thinking I wonder what lesson that is. But I wonder if that is a line that we need to draw or the industry needs to draw, or do you just appeal to the creative people and say, "Think twice about this, if you will." What are your thoughts on that? Have you ever been on a movie set

where they have said this is something we want to do, and you say, "Wait a minute. That goes over the line?"

Mr. BALDWIN. Oh, of course. I mean, I turn down material all the time on a—I would like to say on a daily basis, but I do not get that many offers—but, on a weekly basis, I am sent material that I am offered, that I turn down, because it does not meet my standards. But I think, again, it is subjective. There is someone that would see violence in a Shakespearean tragedy, and that is acceptable. They would see it in a "Home Alone" comedy, where McCauley Caulkin pushes the piano down the staircase and it pins Daniel Stern and Joe Pesci against the wall, and say that that is violence, but that is OK, because it is shrouded in comedy and there is a cute little boy in the film; whereas "Natural Born Killers," because it is sensationalized in some way, is not acceptable and it is inappropriate. So I think that it is subjective. It is up to the interpretation of the individual.

Senator DURBIN. I agree with that, and I think that makes the point.

Mr. SIMMONS. Can I make a statement? You are talking about me like I am not here for the last hour. I keep hearing my name pop up, and I am here, and I have a statement, but, I do not know if I want to read the statement. I certainly would like to interject here.

Chairman LIEBERMAN. Mr. Simmons, why don't you wait a minute, let Senator Durbin finish his questions?

Mr. SIMMONS. Because I did request to speak on this panel 10 days ago, and most of what is really being discussed is about hip-hop, although we are not making——

Chairman LIEBERMAN. Yes, I hope you understand that the reason you were turned down was only because, if we started to——

Mr. SIMMONS. Twenty-three out of the 27 artists the FTC cited were black.

Chairman LIEBERMAN. I am going to give you an opportunity to speak after Senator Durbin is done.

Mr. SIMMONS. Oh, good. Thank you.

Mr. BALDWIN. Where were we?

Senator DURBIN. I think that you responded. I think you made your point about the subjectivity of these decisions and how far you go and what line you draw, and I think that is why Senator Lieberman and I would agree it is very difficult, if not impossible, in this free society we live in for government to lay down these standards. We have had a tough enough time with the Supreme Court trying to figure out what is right and what is wrong, and I will not go any further on that line of questioning. But I do want to ask Mr. Lowenstein a question.

You make an interesting point with your video about the standards that have been applied to video games. Senator Lieberman—I have joined with him in some legislation relative to this area, because we find—and maybe there are some analogies and parallels to movies and other things—but that we find that in your industry, when you have rated one of these games, for example, as adults-only, that that does not necessarily mean that kids cannot walk into a store and buy it, and that becomes, I think, the real failure of the system, if it is not complete from start to finish.

My Attorney General in the State of Illinois, Jim Ryan, who happens to be of the opposite political faith, but I agree with him completely on this effort, conducted an investigation to determine whether national retail stores were complying with the voluntary video game rating system developed by the Entertainment Software Rating Board. Attorney General Ryan found that in 32 out of 32 instances, children between the ages of 13 and 15 were able to buy those games rated for mature audiences, games that were not recommend for children under 17. There was no documentation necessary, no proof of age, no questions asked. Some stores came forward and said, "We are going to get serious about this," and we have since learned they did not.

How do you follow through? Once you have the rating, do you feel that your hands are clean then? It is entirely up to retailer to make sure these do not get to the hands of children?

Mr. LOWENSTEIN. Ultimately, yes, it is entirely up to the retailer. Obviously, we do not control the policies at retail. We have for over 3 years, well before this issue really took up steam, encouraged retailers not to sell mature-rated games to persons under 17. That has been a position we have taken consistently, notwithstanding the fact that the rating itself has never said that the content is inappropriate for people 17 and under. It has never made that distinction. We voluntarily said let's make this a hard M-rating. We support retail enforcement. Since then, Wal-Mart, Circuit City, Staples, CompUSA, Kmart, I believe, and a number of other mass merchants, have all adopted policies in one way or another to card for M-rated games. We support those policies. How effective they are at retail really is something that the retailers need to continue to work on. We continue to work with them. We encourage them to carry those policies through, and I should note that in many cases, the same policies in terms of restricted sales do not carry through to other content. So we have sort of taken the position we are willing to have our M-rated games treated, frankly, more harshly at retail than other content, and we encourage retailers to adopt those policies to restrict sales to minors.

Senator DURBIN. What should be the government response if we find that retailers do not enforce your own standards, in terms of inappropriate games for children?

Mr. LOWENSTEIN. Well, candidly, I do not think there is a government response, in my view. This is a legal product. It is a constitutionally-protected product, and at some point, I think, besides the encouragement that some Senators have had—Senator Lieberman, I know, has had a dialogue over the years with retailers to encourage them to be more proactive in this area—and I am not sure there is much more you can do, and there is certainly not much more that we can do. We have made our position clear to the retailers. I meet with them regularly and encourage them, not only to promote the rating system—to regulate sales—but to promote the rating system, because ultimately we believe parental awareness and education is enormously important.

Many retailers are running our Tiger Woods public service announcements, our Derek Jeter public service announcements, in their stores. So many retailers are taking additional steps to try to increase awareness, as well.

Senator DURBIN. Well, I will just close by saying, going back to the tobacco analogy, for years, they would buy full-page ads in the *Wall Street Journal,* telling children not to smoke, and that really was not the appropriate venue or forum, and perhaps running a video at a store has some value, particularly with someone as popular as Tiger Woods, but more important is whether the retailer takes his responsibility seriously, and I think your industry, frankly, should be part of that, too, to make certain that there is some enforcement when it comes to the sales. Otherwise, this is a sham, and I think some of these games are pretty outrageous.

Mr. Valenti, 13 people sit down and grade movies?

Mr. VALENTI. Yes, sir, 12 or 13.

Senator DURBIN. You are the one who ultimately has the last word in hiring them?

Mr. VALENTI. Yes, sir.

Senator DURBIN. The only requirement is they have to be parents?

Mr. VALENTI. Parents, yes, sir.

Senator DURBIN. And they are paid about $30,000 a year?

Mr. VALENTI. Well, I do not want to go into that, sir, if you can let me pass that question by, but they are paid full-time.

Senator DURBIN. There has been a suggestion from Ms. Smit and others that perhaps we need some people in there with a little background and interest in child psychology and childhood development. Do you take that into consideration?

Mr. VALENTI. Earlier, I did have a couple of child behavior experts on there, and, in all candor, I did not find them any more unerring in their judgment than just plain parents. What we want to do is to have these parents ask themselves one question: Is the rating I am about to vote to apply to this picture one that most parents in America would judge to be accurate? This is totally subjective, Senator. As I said earlier, we do not have any precision here. Child development experts, social scientists, carpenters, do not have any idea about how individual people are going to react to an individual movie. All parents are not alike. All children are not the same. Only parents know the emotional, intellectual, and maturity level of their children. No one else knows that. Therefore, what we do is to give some direction to parents. We say R says this movie may contain some adult material, though it is not adult-rated, and therefore a child must be accompanied by a parent or an adult guardian. The NC–17 says we believe this is unsuitable for children. It is the only category where we make a mandatory stand against admission by children, and the PG–13 says this is a movie, obviously, that does not, in our judgment, reach the level of an R, but some material, to some parents, may be inappropriate for preteenagers.

And then we are now putting in every ad and every web site of every movie, plusfilmratings.com, that anybody can come to that web site, and we have put in here what the rating is and why it got the rating on each of these ads, so that a person can look at it and say, "Graphic violence, language, nudity." Now, if you do not like any of those for your children, do not take them to see that movie.

Senator DURBIN. Let me ask you a similar question I asked Mr. Lowenstein. How much of an effort do you make in the industry to make certain that the movie theaters pay attention to the 17-year-old limitations, for example?

Mr. VALENTI. Well, that is not my turf. However, they are partners in the rating system, and my judgment is, based on their own research and independent research, I think doing a pretty good job, maybe 70, 75 percent of theaters are enforcing. But we have speed laws, we have drug laws, we have all sorts of laws in this country, Senator, that are not being obeyed each day. That does not make it a bad law, it is just that some people will violate something. If a kid is resourceful and really wants to get into an R-movie, he can, just as if somebody is a good hacker, they can get into the Pentagon war room if they need to.

But I think that my judgment, which I will give to you, and it is a judgment call, is I salute the theater owners. I think they have done a terrific job in turning away revenues at the box office in order to fulfill our obligation to parents. How many other industries in this country do that? I do not know of any, except video games and probably music. Who else turns away revenues? We do.

Senator DURBIN. Thank you. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Senator Durbin, thanks for your interest in this subject.

Mr. Simmons, because you are here, because you have been referred to repeatedly and your concerns have, I do not have any hesitation to make an exception to the normal rule, and I look forward to your testimony now.

Mr. SIMMONS. Thank you, Mr. Chairman. Well, I did not come to testify, but I certainly do want to make a few comments.

Chairman LIEBERMAN. Please.

TESTIMONY OF RUSSELL SIMMONS,[1] CHAIRMAN, PHAT FARM

Mr. SIMMONS. At a later date, I would like to testify if these hearings continue. I want to start by saying something very positive about what the hip-hop industry is doing to take responsibility, because I believe it is our, as industry leaders, job to take responsibility. We recently held a summit in New York where most of the leaders attended, and we dialogue about what our responsibilities are and how we might expound on the ideas that we have already implemented, including the rating system that we have, or the parental advisory sticker that we do have already, and we have talked about how we may—and I guess we adopted—the whole industry has agreed that every time there is a television ad run or a radio spot run, that we will use those stickers. Where they were not visible before, they will be now, going forward.

And we also agreed that we want to put—and in most cases, up to 70 percent of our lyrics are posted on web sites. So you will be able to see detailed descriptions of what is inside.

Chairman LIEBERMAN. On the artists' web sites?

Mr. SIMMONS. The lyrics, yes. That is correct. So we are looking to make sure parents know what they are buying, but I want to make it clear to this Committee that most of the people who you

[1] The prepared statement of Mr. Simmons appears on page 45.

are indicting today, and 23 of 27 of the FTC's groups that they have chosen to go after are black and are hip-hop. Eminem is an exception. He has maybe been profiled or something. But we are working hard on making sure that everyone understands what it is they are buying, but it is not easy to make this Committee or some of the other people outside the community, and I mean young people and hip-hop people, because 80 percent of the people who buy our records are not black.

So the plight of the kids who live in Compton is a lot clearer now to the kids in Beverly Hills, and that may be a big—that probably is one of the reasons so many people are afraid of hip-hop. But we have worked very hard over the years to have integrity and promote honesty in our artists, in their lyrics. Some of the songs you may find offensive, protests songs or other songs, are actually reflections of realities that need to be expressed. I think the real issue is how do we address these issues, more than it is that we want to shut these reflections of our realities down.

Some of the things that come out on records are things that mostly are behind doors, and on records now are visible. The real issue of how we address the issues and the suffering in the communities—and an example, one of my favorite songs was "F the Police," and I know there was a big stir about that 15 years ago, not as big as it would be if it came out today, because, of course, now you have got 80 percent non-black listening. That song was a protest song, and it reminded you—in case you did not know about the way people were being treated by the police in Compton. Racial profiling still exists and we still have to deal with it, but that song was very important in identifying that issue. So hip-hop, the poetry, is a lot different from the love songs or the fun songs.

In fact, Eminem's song, I find a lot less offensive than a lot of the hip-hop songs you may find more offensive, because they are critical of our realities. Eminem is a college kid ranting and raving. Just like he said, "Natural Born Killers" was—you said "Private Ryan" was OK. "Natural Born Killers" is a movie with a bunch of funny references to violence, as opposed to scary violence, to me. It did not hurt me or offend me or I did not find it as harmful as I did "Private Ryan." So that again is so subjective, and when you are talking about cultural issues that divide us here in America, then it even becomes much more subjective. And with the absence of anybody from the hip-hop community on this Committee or involved in this process, it is difficult for you to make these choices, of which the other day, I think, that the FCC and the government is already involved in aggressive censorship. They are suing radio stations, or they went after a poet who I happen to represent or work with very closely. Her name is Sarah Jones, and they said that she said revolution is not between her thighs. Well, it is not, and I thought that that was a pretty good statement as part of her poem. It is kind of a feminist poem.

Eminem flipping the bird is not so offense to me, either. But then they decided those radio stations were to be sued for playing those records. It is a very sensitive—and I know it is an important issue, how parents know what their kids—but they have to be parents. I think that is first, and I think everybody on this panel has said that. So the cultural issue is the most important issue when you

start deciding what is good and what is bad, because if you do not understand it, it is impossible for you to rate it, and the universal rating system is, in my opinion, and most people here have agreed it does not work when you are talking about words, because then what would you do about Mark Twain years ago or jazz or blues or rock-and-roll and all those things that have become such important parts of our American Heritage?

You have to understand that what is offensive today and so scary today, with the depiction of our realities today, in most cases, in rap's case, it has always been as bad as it has ever been, from Shakespeare all the way until now, and this is not a new discussion, as we have all said, as well. This dialogue is—they are going to teach DMX, who you will probably find offensive if you listen to his lyrics—they will be teaching his poetry in UCLA in a few years. I am sure of that, and most people in the hip-hop industry or who understand hip-hop will believe that statement. So it is very complex. It is not as simple as shutting down the reflection of our reality. The real issue, I think—I just want to make this statement very clear—is to address the issues, to listen to the songs, the disconnect between young people and politics, and young people and American responsibility—is clear in those songs. Again, it is all America. I say blacks are delivering the messages, but it is clear to all young people in America. So I hope you take that idea and put it in your mix when you—thank you.

Chairman LIEBERMAN. Thank you, Mr. Simmons, for a very eloquent statement. You contributed greatly to the hearing. I agree with you that the real issue is to deal with the problems portrayed, described in hip-hop music, and I would like to continue the dialogue with you.

Mr. SIMMONS. Thank you. I look forward to it.

Chairman LIEBERMAN. On another occasion, because I have kept everybody here too long. I appreciate what you said about the interest that came out of the summit that was held——

Mr. SIMMONS. And we are planning two more; one in L.A. this month and one in Miami next month.

Chairman LIEBERMAN. Yes, and I appreciate what you said about the sticker policy and putting the sticker into the advertisement. It is very important, and sometime when we have more time, I would like to ask you the same question I asked Ms. Rosen, which is whether there is not a way for the stickers to be more delineated, just give a little more information for the consumer.

But, with thanks to you for ending the hearing on a constructive note, I want to thank all of the witnesses. To me, it has been a beneficial, informative day. I think we always see, to me, how important these matters are, but also how, in some senses, complicated they are. I guess, bottom line, I make the appeal that I always make, with thanks to the industry and creative artists for the steps forward, and to urge you to keep moving forward. I mean, the best of all worlds would be for government never to get near any of this, and that will happen if mothers like Ms. Smit are feeling that they are better informed and, in some sense, protected by what the industry does. I thank you all.

The hearing is adjourned.

[Whereupon, at 1:29 p.m., the Committee was adjourned.]

APPENDIX

OPENING STATEMENT OF SENATOR BUNNING

Thank you, Mr. Chairman.

You don't have to look very hard to find profanity, sex and violence in today's entertainment from movies and television to video games and music.

Unfortunately, it seems that use of vulgar content is increasing every year.

Parenting and grandparenting are wonderful roles and rewarding. Raising children has never been easy, but it seems tougher today because our popular culture is at war with parenthood.

There was a time when we could comfortably and confidently let our child watch TV alone or flip through the radio stations. But anymore those precious and innocent years of youth are being lost.

Movie ratings have been around for years. Yes, we have implemented a television rating system and warning labels on video games and music to warn of explicit sexual and violent content or profanity.

These warnings and labels may or may not help. But the question to me is not always whether or not we are making sure we are properly posting ratings and warnings.

The question should really be, why do we have to have these ratings and warnings?

How did we get to this point in our history where we must always be on guard and covering the ears and eyes of our children?

Before, we had to worry about our children going to a theater or maybe a concert to see or hear improper content. Now, we have to worry about the entertainment industry—especially Hollywood—directly pumping inappropriate content into our homes. The home was always thought of as the last safe haven. But not anymore.

Yes, ultimately parents are responsible for what their children hear and see regardless of any type of ratings and warning system. Parents are the first line of defense in protecting children from lewd content.

But, I think it important that we also all ask the question as to how we arrived at this point in time where in our entertainment the objectionable is the norm, the shocking is the model, and morality is mocked. We may not find these answers today, but these issues must be raised.

Thank you, Mr. Chairman.

Testimony of

Dr. Dale Kunkel,
University of California, Santa Barbara

Thank you for the opportunity to testify today on the topic of media ratings. I have conducted numerous studies over the past 15 years on the issues of media violence and sexual content, and served as a senior researcher from 1994-1998 on the National Television Violence Study, one of the largest media research projects to date. I have also followed the topic of media ratings closely since the introduction of the V-chip which Congress triggered with an amendment to the Telecommunications Act of 1996.

In my testimony today, I wish to cover three primary points: (1) why do we have media ratings; (2) how well are media ratings working to assist parents; and (3) how can media ratings be improved to better accomplish their purpose of informing parents about the nature of sensitive media content.

Why Media Ratings?

Concern on the part of the public and Congress about the harmful influence of media violence and other sensitive material on children dates back to the 1950s and 1960s. The legitimacy of that concern is corroborated by extensive scientific research that has accumulated since that time. Indeed, in reviewing the totality of empirical evidence regarding the impact of media violence, the conclusion that exposure to violent portrayals poses a risk of harmful effects on children has been reached by the U.S. Surgeon General, the National Institutes of Mental Health, the National Academy of Sciences, the American Medical Association, the American Psychological Association, the American Academy of Pediatrics, and a host of other scientific and public health agencies and organizations.

Lest I seem pedantic in reviewing this overwhelming consensus about the harmful effects of media violence, I must note a troubling development that has surfaced recently. Echoing patterns from the distant past, industry officials are once again contesting the premise that media violence poses a risk of harm for children. Indeed, in a letter written just weeks ago by Jack Valenti, Chairman of the Motion Picture Association, to Dr. David Walsh, President of the National Institute on Media and the Family, Mr. Valenti claims that the scientific community **does not agree** on the conclusions of research in this area. Mr. Valenti cites a recent research

review funded by the Motion Picture Association that calls the evidence in this realm "inconsistent and weak." This stance sharply diverges from the position of industry leaders during the period in 1995-96 when the Congress was considering more stringent measures to address the problem of media violence. At that time, industry officials including Mr. Valenti were uniform in their recognition that media violence is a legitimate cause for concern, and they were quick to accept the V-chip rating system as an appropriate mechanism to address that concern in lieu of other policy options under consideration at the time that the industry found less palatable.

Notwithstanding Mr. Valenti's recent comments, it is well established by a compelling body of scientific evidence that television violence poses a risk of harmful effects for child-viewers. While exposure to media violence is not necessarily the most potent factor contributing to real world violence and aggression in the United States today, it is certainly the most pervasive. Millions of children spend an average of approximately 20 hours per week watching television, and this cumulative exposure to violent images can shape young minds in unhealthy ways.

Using media ratings as a means to address the problem of violence and other sensitive material in the media has both advantages and disadvantages. By merely labeling rather than limiting the presentation of material likely to be harmful to children, the rights of adults to watch whatever they choose are protected. But there are two important issues involving the use of media ratings to reduce children's exposure to violence and other types of potentially harmful content. One is the concern that parents may not understand and use the rating systems to help guide their children's media use; and the other is that media content may not be accurately labeled, resulting in inappropriate content "slipping through the cracks" in the filtering system of the V-chip and other rating formats even though parents actively employ them. These are the two key issues to consider in evaluating how well the current rating systems are working.

How Well Are Media Ratings Working?

Studies that examine parents' knowledge about and use of the V-chip television rating system have produced mixed results to date. Research conducted by both the Kaiser Family Foundation and the Annenberg Public Policy Center indicate that although a substantial proportion of parents know about the ratings, there is a lot of confusion about the meaning of the various categories and labels. This may account for why only a modest proportion of parents report using the ratings to make decisions about what their children may watch.

In May of 1999, the Kaiser Foundation reported that 77% of parents said they would use the V-chip if they had one. But the same study also found that only 44% of parents "often" or "sometimes" used the TV ratings to help guide their children's viewing. More recent research by the Annenberg Public Policy Center indicated that only about 50% of parents were aware of the V-chip ratings in 2000, compared to 70% in 1997 when the press coverage for the roll-out of the new system was at its peak. This reduction in the awareness of ratings almost certainly stems from the lack of any systematic effort by the television industry to publicize their ratings framework.

Even among those parents who know about the rating system, nine out of ten could not accurately identify the age ratings for a sample of programs their children watched, according to the Annenberg Center data. Confusion abounds about the meaning of many categories. For example, most parents mistakenly believe that the "FV" designation, which indicates "fantasy violence" in children's shows, is meant to identify programs appropriate for "family viewing." Given this confusion *within* the V-chip rating system itself, it is hardly surprising that the lack of consistency *across* the rating systems used for differing media -- including films, television, music, and video games -- leads to even more consternation on the part of parents trying to figure it all out.

The second key issue to consider in assessing the efficacy of media ratings is whether or not the content that poses the greatest risk of harm to children is labeled accurately. If it is not, even those parents who understand and use the rating systems will not reap any benefits in reducing their children's exposure to potentially harmful material. In this realm, there are a

number of concerns. Research I have conducted in the first and second years following adoption of the V-chip rating system indicated that the age-based rating judgments (TV-G, TV-PG, TV-14, etc.) were being applied accurately, but that the content-based descriptors (V for violence, S for sex, etc.) were not. Indeed, the majority of programs that contained violence did not receive a "V" rating and thus any parent using the V-chip to screen out programs rated with a "V" would accomplish little in reducing their children's exposure to television violence. If this pattern persists today, parents could not effectively screen out violent portrayals by relying upon the content-based aspect of the V-chip rating system.

A recent study by researchers at the National Institute on Media and the Family published in the June issue of *Pediatrics* found that parents tend to rate programs in more restrictive fashion than the judgments that are applied to the same shows by the television industry. Given the obvious economic incentive for television networks to rate programs leniently so as to avoid diminishing their audience and hence reducing their revenue stream, this is a worrisome finding.

Finally, one additional concern involves limitations in the design of the rating categories rather than their application to specific shows. Children's programs may receive only one of two basic rating labels -- either TV-Y, appropriate for all youth; or TV-Y7, appropriate for children age 7 and over. In many children's programs, there are significant amounts of violence that are presented in a manner that makes them particularly likely to encourage aggression and other harmful effects in child-viewers. For example, an episode of the futuristic cartoon "Beast Wars" showed hunters hovering in a helicopter, shooting wildlife below on the ground while exclaiming cheerfully "I love it when prey cannot shoot back!" The fact that such programs are rated as "fit" for those over age 7 strikes me as a fundamental design flaw in the current rating system, when clearly there are many children's shows on television that are inappropriate for those in the 7-10 year old range due to their violent content. This structural limitation of the current V-chip system is an independent issue from the question of how accurately the ratings are applied to most programs primarily intended for adult audiences.

How Can Media Ratings Be Improved?

The assignment of media ratings are determined by those in the industry who are responsible for the content's production and/or distribution. Practically speaking, there is probably no alternative to that course given the amount of material that must be categorized and the turn-around time constraints inherent in the rating process. Nonetheless, there is a rich body of scientific research that helps to identify the types of media content that pose the greatest risk of harmful effects on children. More training, education, or sensitivity on the part of raters to the relevant research about media effects on children is needed. This goal could be accomplished in a number of ways involving the cooperation of experts in the areas of child development, media effects, and the public health community. Unless media ratings can consistently and accurately label the content that poses the greatest risk of harm to children, such systems cannot accomplish much help for parents.

More active monitoring and oversight of the ratings process is also needed. While several of the media rating systems maintain advisory boards charged with supervisory responsibility, none have played a vigorous role in discharging their responsibilities to date, and all are dominated by media industry officials with only token participation at best by a parent or child advocate representative. There is a precedent for the television industry funding truly independent research from neutral parties to evaluate its performance in the realm of presenting violence responsibly, as was done with the National Television Violence Study and the UCLA Violence Report in the 1990s. Such an effort should be considered to evaluate the accuracy and consistency of rating judgments for the V-chip system as well as for other media rating systems.

Finally, it is time to seriously consider the prospects for a universal rating system that could be applied across all media. The lack of consistency across media in their rating formats makes it incredibly difficult for parents to master all of the subtleties that vary across television ratings, film ratings, video games, and so on. As Dr. David Walsh has noted in a letter to this committee, a media product that included extreme violence would be rated R if it were a movie, TV-MA if it were a TV show, M if it were a home video game, display a red sticker if it were an

arcade video game, or have a "Parental Advisory" sticker if it were a music CD. This causes needless confusion for parents, and undercuts the utility of all rating systems.

An apt comparison in this regard involves the uniform system of food labeling that is employed in the U.S. A consistent framework that indicates calories, grams of fat, and so on is included on all food packaging, and the uniformity of the system facilitates easy comparison across all types of food products. Imagine that food labeling was not accomplished uniformly, but rather in idiosyncratic fashion that made comparisons across different products impractical. Such a labeling system would be of little value to consumers -- and that is the current situation we face with the alphabet soup of differing media rating systems.

I have already read the comments of media officials who claim "it can't be done" when the prospect of a uniform rating system is raised, but this appears to be little more than a knee-jerk reaction. The "can't be done" chorus was also heard when the V-chip idea first surfaced, but we have obviously proven that reaction wrong already. The potential value to parents of a uniform rating system is too great to pass up without serious consideration by all of the media industries. That consideration will not come without strong prompting from the public, and hearings such as this are an important catalyst to help focus the attention of already busy and overwhelmed parents on the importance of media in their children's lives. I commend this committee for its pursuit of this issue and its contribution to the ongoing public dialogue about the efficacy of media ratings. Thank you for your time and for your attention to this important issue.

STATEMENT

of

Roger Pilon, Ph.D., J.D.
Vice President for Legal Affairs
B. Kenneth Simon Chair in Constitutional Studies
Director, Center for Constitutional Studies
Cato Institute
Washington, D.C.

before the

Committee on Government Affairs
United States Senate

July 25, 2001

"Rating Entertainment Ratings: How Well are They Working for Parents, and What can be Done to Improve Them?"

Mr. Chairman, distinguished members of the committee:

My name is Roger Pilon. I am vice president for legal affairs at the Cato Institute, where I hold the B. Kenneth Simon Chair in Constitutional Studies and am the director of Cato's Center for Constitutional Studies.

I want to thank you Mr. Chairman for your invitation to testify this morning on the subject of "Rating the Entertainment Ratings: How Well are They Working for Parents, and What can be Done to Improve Them?" You have also asked me to address the issues raised in the June 19, 2001, letter to you from the National Institute on Media and the Family. The concerns raised in that letter have contributed, I gather, to the bill you co-sponsored and introduced in the Senate on April 26, 2001, S. 792, the "Media Marketing Accountability Act of 2001, about which I will also comment.

At the outset, let me say that I share many of the concerns raised in the Institute's letter, concerns that you have raised over the years about the quality of some of the entertainment that has been produced and distributed in America for some time, especially as it bears on the development of children. Obviously, this is a land of many tastes. Given our relative freedom and the market system it entails, producers will arise to satisfy those tastes. That can coarsen our culture, giving rise to "entertainment" that some would prefer not to have in their midst. Yet the very freedom that enables that fare to arise also enables great and often controversial works to flourish. The issues here are ancient, of course. Sex and violence have been the stuff of literature and entertainment from our earliest days. The only question, therefore, is what to do about it. And on that, I

part company with the proposals raised in the Institute's letter, especially as they might entail governmental initiation or oversight, and with the provisions contained in S. 792.

In so doing, however, I want to make it clear that I am not here to represent or to speak on behalf of any part of the entertainment industry. I am speaking only for myself, although I share, of course, the general outlook of my colleagues at the Cato Institute on the virtues of individual liberty and limited, constitutional government. In fact, it is a concern for that kind of government that will animate my remarks this morning and that so troubles me about the proposals before the committee. To go to the heart of the matter, I would ask, without elaboration for the moment, given the limits imposed on Congress by the Constitution and by the First Amendment, why are these hearings even being held? And why are they being held before, of all things, the Committee on Governmental Affairs? The regulation of the entertainment industry of a kind that is proposed in S. 792 is not only thought by most to be unconstitutional but is also not what one ordinarily thinks of as a "governmental affair" like management, rule in the District of Columbia, or campaign finance. It is an odd concern, at least.

Having noted my interest in these hearings and my basic concern about the proper role of government in the regulation of the entertainment industry, let me turn now, Mr. Chairman, to the question immediately before the committee and to the issues raised in the National Institute's letter. Regarding your question, I am afraid I do not know precisely how well entertainment ratings are working for parents, nor does anyone else, I submit. I am struck, however, by the implicit presumption of the National Institute to be speaking for "parents," as if parents spoke with one voice on the matter. Thus, their letter claims that "Parents and child development experts disagree with the current [media] ratings." No doubt some do. At the same time, annual national surveys conducted since 1969 by the Opinion Research Corporation of Princeton, New Jersey, show growing parental satisfaction with the voluntary movie rating system in place since 1968. The latest poll, conducted in September, revealed that 81 percent of parents with children under age 13 found the ratings "Very Useful or Fairly Useful" as a guide for deciding what movies children should see. Only 17 percent found the ratings "Not Very Useful." Those numbers would seem to undercut the claims of parental dissatisfaction made by the National Institute.

More precisely, however, the National Institute claims that the voluntary rating systems now in place for television, video games, motion pictures, and music fail to identify sensitive material accurately, consistently, or in a way that helps parents. And there are too many rating systems, their letter says. Thus, they call for the creation and implementation of an independent ratings oversight committee composed of parents, media industry representatives, academic media and child health researchers, public health representatives, and child advocates. The committee would create a universal ratings system, would monitor media ratings for accuracy, and would conduct research to ensure valid ratings.

Although the National Institute asks only for "your support and influence," Mr. Chairman, including possibly "calling for hearings, issuing a statement to media

executives asking for these changes, or convening a summit to discuss these issues," one imagines that they would like more. Government grants to support the proposed research come immediately to mind, of course, but more extensive "public-private partnerships" may be in the offing as well, including commissions with coercive legal powers. Quite apart from such possibilities, however, one also wonders why, if the concerns are as well-founded as they purport to be, there is not more private support to see them implemented. Why, that is, does the National Institute feel it necessary to come to Congress with its concerns? There is nothing, after all, to stop the people who signed the June 19 letter to you from establishing their own, privately funded committee to accomplish everything the letter sets out as being worthy of accomplishing. Our history is replete with examples of private self-help, of course, as de Tocqueville documented early in that history. Just what is the government angle in this case?

Let me set that question aside for the moment, however, and look more closely at the National Institute's underlying assumptions. In claiming that current ratings are both inaccurate and inconsistent, they imply that a more "accurate" and "consistent" system of ratings is not only desirable but possible. That implication is problematic at best. To be sure, the different media have different rating systems. But why should we assume that music should be rated by the same standards as, say, video games? And how could those ratings possibly be made consistent across the different media? Given the subjectivity that is inherent and inescapable in applying any rating system, consistency could be hoped for only if the rating were somehow centralized—performed by a single body or committee, as envisioned by the National Institute. But at current annual production levels, that "single" body would have to review some 650 films that are rated each year, some 2000 hours per day of TV programming (the equivalent of 1,000 movies every day, and growing), 1,300 computer and video games (forget web sites), and 40,000 music releases. To the extent that any committee undertook such a task, it would, as a practical matter, have to do so through many subcommittees, which would reintroduce all the purported problems of inconsistency. The National Institute's proposal sounds fine until you start to think about it.

But similar concerns arise over the claim of inaccuracy in the ratings. True, one can always raise questions about the "accuracy" of a particular rating; given the inherent and inescapable subjectivity of the enterprise, however, it is the very idea of "accuracy" that in the end is called into question. Just what does it mean to say that a film or a CD should have been given a higher or a lower rating? How many "sexual events" or "violent acts," and of what kind, given the larger context of the work, enter into that judgment? The very idea of "accuracy" in such judgments is illusory. This is not mathematics. It isn't even science.

Yet the National Institute's letter speaks of "valid ratings" and of "validity research known to the scientific community." The "science" on that subject, however, is anything but settled, nowhere more so than with the assumption implicit in the letter about the connection between media violence and violent behavior. In your bill, Mr. Chairman, you make that assumption explicit when you list among your congressional findings the contention that "Most scholarly studies on the impact of media violence find

a high correlation between exposure to violent content and aggressive behavior." With all due respect, that is false. In a recent review of the extant English-language research on the subject, Dr. Jonathan L. Freedman of the Department of Psychology of the University of Toronto concluded that "the research does not provide consistent or strong support for the hypothesis that exposure to media violence causes aggression or crime." In fact, he continues, "fewer than half (in some instances far fewer than half) of the studies provide evidence that supports a causal effect, while many find evidence against such an effect. ... Moreover, studies outside the laboratory produced very weak results and none found consistent support for a causal effect." Correlation is not causation, of course, but neither is it the stuff of serious scientific inference. The cock's crowing is highly correlated with the sun's rising; yet only the cock would think he had caused the sun to rise.

But there is a deeper and often unnoticed problem with the assumption underlying the National Institute's letter. The behaviorism implicit in their efforts to correlate media violence with violent behavior has the unsavory result of taking that which is distinctly human—namely, choice—out of the equation. The stimulus-response model of behavior may be appropriate for studying lower life forms. When employed to study human behavior, however, it has the distinct disadvantage of denigrating us as human beings with a capacity to choose. To some extent, of course, we are all "influenced" by our environments. But even those who are influenced to action by what they see are held responsible for their actions only because they have independent choice. The irony of the causal model is that it denigrates us in the name often of uplifting us.

Let me conclude, Mr. Chairman, with a few legal comments on S. 792, which would prohibit as an unfair or deceptive practice, under regulations established and enforced by the Federal Trade Commission (FTC), the targeted marketing to minors of adult-rated media—providing a "safe-harbor" for producers or distributors who adhere to a voluntary self-regulatory system established under criteria drawn by the FTC. The first legal question one wants to ask about any proposal of that kind, of course, is where in the Constitution Congress finds its authority to act. The second question, having determined that the end is authorized to Congress, is whether the proposed means are necessary and proper—proper in not running afoul of any the guarantees afforded by the Constitution.

As we all know, since the notorious Court-packing scheme during the New Deal, the first question has been all but unasked. In the past few years, however, the Supreme Court has begun to ask that question, reviving the doctrine of enumerated powers in the process, albeit still in a very limited way. Nevertheless, whether a given end is proper to Congress—whether such a power was ever delegated to Congress—is a question very much back in play today. Thus, even before we get to the First Amendment, we can ask whether Congress has any authority to regulate the entertainment industry. Plainly, Mr. Chairman, the authors of S. 792 believe that Congress's power to do so, like so much else that Congress does today, falls under its power to regulate "commerce among the states." And, even under Chief Justice Rehnquist's readings of the Commerce Clause in the 1995 *Lopez* and the 2000 *Morrison* decisions, Congress can be said to have power to regulate the "instrumentalities" and the "channels" of interstate commerce—thus, presumably, the marketing of media.

But as Justice Thomas has noted in concurrence in both those cases, the Chief Justice's reading, albeit a bit narrower than that of the past 60 years, is a far cry from the original understanding of the Commerce Clause. The clause was written to enable Congress to ensure the free flow of goods and services among the states, especially in light of state efforts at the time to erect protectionist barriers to free commerce. It was not meant to be the equivalent of a general police power of a kind that belongs to the states, enabling Congress to regulate anything for any reason, provided only that the thing "affected" interstate commerce. In fact, the Court over the years has repeatedly said that there is no general federal police power, even as it has allowed the commerce power to be used as such, in effect, for more than 60 years. Thus, properly read, with reference to its function, Congress's commerce power kicks in only if necessary to ensure the free flow of commerce among the states, particularly in light of state action that might impede that commerce. There is nothing here to indicate any such warrant for Congress to act. In fact, commerce in media is flourishing, and no states are impeding it.

But what about the "deceptive practices" that S. 792 addresses? Does Congress not have power to regulate those? Again, the regulation of fraud and other such practices is a function, quintessentially, of the general police power that belongs to the states. Only if such regulation were to be so uneven or inconsistent as to threaten or impede the free flow of commerce would the federal commerce power kick in. That is how a functional account of the clause, the original understanding, would limit its scope and hence would limit federal power. Had the ratifying generation thought they were giving Congress the kind of regulatory power Congress regularly exercises today, the Constitution would never have been ratified.

Yet there is something almost as disturbing here as the absence of congressional authority to enact S. 792. It is the bill's characterization of targeted marketing to minors of adult-rated media as an "unfair or deceptive practice." Just how is that "unfair or deceptive"? Where is the deception? The movie or CD, say, is rated. It is not parading under false colors. It is just being marketed, presumably, to an inappropriate audience, one for which it is not suited. That is not unfair or deceptive. No one is being defrauded. Plainly, this is an effort, using linguistic legerdemain, to recast a police power action of a kind that belongs to the states—the protection of minors—as a regulation of commerce and hence, under the modern reading of the Commerce Clause, as an end authorized to Congress. If there is any deception, it is in this bootstrapping effort.

We come, finally, to the second constitutional question, whether S. 792, even if grounded in constitutional authority, runs afoul of any constitutional guarantees. As a practical matter today, of course, it is the First Amendment that poses the greatest risk to the bill. And the drafters appear to have understood that, for they have provided a "safe-harbor" for producers and distributors—other than the one set forth explicitly in section 102 of the bill. Section 101 declares illegal the targeted marketing to minors of adult-rated media. In section 106, however, we find "adult-rated" defined as "a rating or label voluntarily assigned by the producer or distributor of such product, including a rating or label assigned pursuant to an industry-wide rating or labeling system." Thus, it would

appear that a producer or distributor could remove himself from the coverage of the act, if enacted, simply by not rating his product. The bill's incentives, therefore, are perverse. If enacted, the measure would encourage less rather than more information. Out of simple self-protection, producers and distributors would be encouraged to avoid labeling their products.

Yet even that reading may not be accurate, for the subordinate clause in the above definition introduces an ambiguity. On a natural reading of the definition, a rating "voluntarily" assigned by a producer "includes" one assigned pursuant to a labeling system to which he "voluntarily" subscribes. In other words, "voluntary" "includes" voluntary membership or operation under such a system. An alternative reading, however, would enable such a system to "assign" a label, whether or not the producer subscribed to the system. That, of course, would not amount to a voluntary assignment and so would not seem to be "included" under the term "voluntary."

But even on the more natural reading, the speech of the producer is burdened and chilled. For whatever reason, a producer may want to label his product—perhaps to hype it. If he does so, however, the bill imposes a cost and hence burdens his speech by forcing him under its provisions. It thus acts also to chill his speech.

Yet the explicit "safe-harbor" of section 102 is also coercive, even though it purports to be "voluntary." That section says that targeted advertising of adult-rated products will not be treated as targeted advertising "if the producer or distributor responsible for the advertising or marketing adheres to a voluntary self-regulatory system" established under criteria written by the FTC. This is a classic example of coercion, little different than the mugger's proposition: "Your money or your life—you choose." You hand over your money "voluntarily" only because the alternative is worse. This is "voluntary" self-regulation only under Orwellian principles.

In sum, this appears to be one of those classic examples of a problem searching for a solution in the wrong place—government. The Founders established a limited constitutional government on the understanding that not every problem required a government solution. The problem here is occasional irresponsible behavior—how occasional is open to debate. The solution, as with most examples of irresponsibility, is moral suasion. Will that solve the entire problem? Of course not. But it is far better, as the history of overregulation has demonstrated in spades, than introducing the heavy hand of government where it does not belong—morally or constitutionally.

Testimony of
Michael Rich, MD, MPH
Children's Hospital Boston/Harvard Medical School
Before the
U.S. Senate Governmental Affairs Committee
July 25, 2001

Chairman Lieberman, members of the Governmental Affairs Committee, thank you for the opportunity to testify before you today as a pediatrician, as a child health researcher, as a filmmaker, and as a parent. My name is Dr. Michael Rich. I practice pediatrics and adolescent medicine at Children's Hospital Boston and I teach at Harvard Medical School and Harvard School of Public Health. In my research, I study the effects of various entertainment media on the physical and mental health of children and adolescents. I began my professional career as a filmmaker, working for 12 years as a writer, producer and assistant director, including 2 years in Japan as assistant director to the great director Akira Kurosawa on *Kagemusha.* I love audiovisual media and continue to work in video and radio production, developing pro-child and health-positive media as tools for health research, education, and advocacy. Finally, and most importantly, I am the father of a 14-year-old daughter and a 12-year-old son.

Media and Child Development

Our entertainment media, motion pictures, television, music and video games, represent not only a successful industry, but important cultural documentation of us, the United States, as an idea and as a people. Our First Amendment-guaranteed free expression has allowed the creation of the most influential entertainment industry in the world, a wide variety of products that excite, inspire, and move us. Media images, stories, melodies, and lyrics engage us, grip our emotions, and provide powerful messages about life and how we live it. By allowing us to experience issues and events that otherwise may not touch our lives, media serve as potent teachers. Until recently, we have drawn an artificial distinction between education, which occurs in formal settings such as schools, religious institutions, maybe even the doctor's office, and entertainment, which is fun, diverting "down time" for our minds. What any child development expert will tell you is that there is no "down time" for a child's developing brain. Children learn the ways of the world by observing and imitating -- they cannot help but be influenced by media. They are always curious, always learning. In 1999, a national survey determined that the average American child between the ages of 8 and 18 spent 6 hours and 43 minutes each day using one or more forms of entertainment media, more time than they spent at school, with parents, or in any other activity except for sleep. Media are teaching our children and they are incorporating the attitudes and behaviors that they learn into their lives. The question that many parents, pediatricians, and child advocates are now asking is, what are they learning?

The Impact of Media on Children's Health

The medical community first voiced concern about the effects of media on child health in the early 1950s. Since that time, thousands of research studies have been conducted by scientists of public health, psychology, sociology, and communications using a variety of research methods to investigate whether there is evidence of media use having an effect on health outcomes. Without

reiterating and belaboring oft-cited research data, among thousands of studies, all but eighteen have shown a positive association between viewing media violence and subsequent violent behavior. The findings of hundreds of studies, analyzed as a whole, showed that the strength of the relationship between television exposure and aggressive behavior is greater than that of calcium intake and bone mass, lead ingestion and lower IQ, condom nonuse and sexually acquired HIV, or environmental tobacco smoke and lung cancer, all associations that clinicians accept and on which preventive medicine is based without question. Research into relationships between media exposure and substance abuse, obesity, sexual activity, poor school function, eating disorders, and other health risk behaviors, while smaller in numbers, shows a similar trend, that media use is associated with greater risk to the physical and mental health of children and young people. While there has been and always will be debate over technical aspects of individual studies, the preponderance of evidence is undeniable. One leading communications researcher has stated that "the scientific debate is over" and urged the research community to focus on interventions rather than continuing to examine causality. Since 1972, comprehensive reports from the Surgeon General of the United States and the National Institute of Mental Health have indicated widespread concern among the public health community. Last year, the major health organizations of the United States, the American Medical Association, the American Academy of Pediatrics, the American Psychological Association, and the American Academy of Child and Adolescent Psychiatry, issued a consensus statement indicating that the research evidence pointed "overwhelmingly to a causal connection between media violence and aggressive behavior in some children." It was not so long ago that while the tobacco industry argued over scientific minutiae of various research, the medical community and society at large recognized the serious health risks associated with smoking and began to intervene. Look at how our personal attitudes and behaviors, our social environments and public health awareness have changed for the better. We are at a similar crossroads in relation to media effects on health. It is time to be honest with ourselves, acknowledge the risks, and address them in a serious and responsible manner.

Ratings Systems

Media ratings systems are not new or controversial. Child health professionals, parents, and the entertainment industry have all voiced their support for a system whereby parents can determine how best to guide their children's media consumption so that it is consistent with their values. The question and the current debate is how best to design and implement such a system. In response to public concern, the Motion Picture Association of America instituted the familiar age-based movie rating system in 1968. They are proud of this rating system and often cite the statistic generated by their own survey that indicates over 70% of parents are happy with their system. Unfortunately, their survey question is phrased in such a way that it is asking parents whether they are happy with the existing system as opposed to no system at all. The gaming industry has had several ratings systems in place since 1994. The music industry has a parental advisory label that it affixes to some of its products at the discretion of the producer or artist. In 1997, the television industry introduced the most detailed of the entertainment ratings systems, which has six levels of age-based ratings, supplemented by six content descriptors for fantasy violence, violence, language, sexual situations and sexual dialogue. Further, these ratings can trigger a v-chip, built into all new televisions, to screen out material that exceeds a pre-programmed rating beyond which parents do not wish their children to view. In response to public concern and legislative pressure, the entertainment industry deserves credit for making efforts to rate its products.

Problems With Current Systems

Validity and Reliability

To function effectively as a tool that parents can use to protect their children, a rating system must be trusted, consistent, and usable. From both the scientific perspective of a child health professional and from the practical perspective of a parent attempting to use these systems, I find several problems with the current media ratings systems. In assessing a health-related situation, the health professional seeks out information about the situation that is both valid and reliable. Validity is the proximity of the assessment to that which is assessed; reliability is the consistency with which the assessment tool measures it. None of the current media ratings systems have been tested for either validity or reliability, a basic first step in the assessment of any instrument used in public health or social science research. A study published in *Pediatrics* this June compared the movie, television and game ratings systems to a media evaluation instrument designed for parents that was tested and refined over two years. This instrument was found to be valid and reliable with all three types of media. 276 films, 253 television programs, and 166 computer games were evaluated by 55 adults, mostly parents, grandparents, or child development professionals. When the current ratings systems for each of these three media indicated that a product was unsuitable for children, parents universally agreed. However, there were significant discrepancies between what parents and the ratings systems found suitable for various age groups. Like bank errors, all of the mismatches were in one direction -- the current ratings systems were more lenient than parents, with as much as 50% disagreement. If up to half of parents disagree with the media rating systems, there is significant concern that these systems may not be valid with the population for which they were designed. Reliability was also called into question by an assessment of television ratings done by my fellow panelist Dale Kunkel, which found that 8 out of 10 shows with sex or violence did not carry the appropriate content descriptors.

Objectivity

This gives rise to a second concern about the current ratings systems – objectivity. The entities which assign current media ratings range from the artists and producers in the television and music industries to industry-appointed ratings boards in the motion picture and gaming industries. These memberships of these boards are industry secrets, which is cause for concern about accountability. A recent Washington Post story interviewed a terminated member of the motion picture ratings board who violated his secrecy agreement to report an idiosyncratic, inconsistent, and ultimately autocratic rating assignment process. Only the television ratings system has an oversight board for their ratings system, but, by report, this board does not review all ratings and, indeed, has not met often. When the entertainment industry rates their own creations, there are powerful incentives to down-rate product in order to make it accessible to a larger market share. There is a strong tendency to create for the top end of a rating, competing in an ever-tougher market to "push the envelope" with violence, sex and other rating-critical content. The "ratings creep" indicated by large discrepancies between industry and parent assessment of media appropriateness for 13- to 17-year-olds may be the result of these pressures. Finally, there is public concern that industry-applied ratings are used as a tool for marketing to children rather than protecting them. The discovery by the Federal Trade Commission of plans and procedures to market R-rated movies to children as young as 8 did little to allay this concern.

Complexity

The current ratings systems are complex, confusing, and difficult for parents to use. They vary in structure, detail, and even approach, from the strictly age-based rating of motion pictures to the dichotomous parental warning on music to the complicated age- and content-based television rating system. After more than 30 years, parents feel that they understand the motion picture rating system, but few understand and fewer still use the television and game ratings. In my own practice, 0 out of ten parents could tell me the meaning of the content descriptor FV, and six of them told me it stood for Family Viewing, when, in fact, it indicates Fantasy Violence. Several apparently similar ratings, such as PG-13 and TV-14, often represent very different content. The ultimate result of this unnecessarily complex system is that parents' eyes glaze over, they throw up their hands, and they give up their control over their children's media consumption.

Age-based

A final concern to me as both a parent and a child development professional is the concept of age-based ratings. Essentially, what an age-based system does is ask parents to accept the opinion of a group of strangers regarding what is appropriate material for their children based solely on their dates of birth. It does not account for variations in the rates of child development, socialization, or in values of individuals and families. It also gives rise to the concept of ratings enforcement, the prohibition of young people from media that others have determined inappropriate, a concept that verges on censorship.

Possible Solutions

What are the possible solutions for these concerns? What can the entertainment industry, consumers, and society as a whole do to make media ratings more effective in protecting the health of young people? First, we can attempt to generate media ratings that are more valid and reliable than the current systems have proven. When parents and child development experts disagree by as much as 50% with ratings, those ratings do not function as they were designed because parents do not trust that the ratings are an adequate proxy for their judgement and will not use them. Second, ratings must be more objective. If they could pass the same rigorous tests of validity and reliability as other social science measurement tools, they would function more effectively as a child protection tool. An independent oversight committee, consisting of members of the entertainment industry, child development and public health professionals, social scientists and parents, could ensure more democratic, representative, and consistent applications of media ratings across media types and ensure regular evaluations of the ratings' validity and reliability. Finally, the ratings need to be simplified and streamlined, so that they are understandable and user-friendly to parents. A single universal media rating system might be a solution. However, given the inherent differences between motion pictures and music, between television programs and video games, such a system would be difficult to design so that it would be simple, appropriately descriptive and protective, yet responsive to the differences between media and the way they work in the developing young person.

Simplifying the ratings system will not be simple. Any solution will be imperfect. However, from my perspective as both a pediatrician and a parent, a content-based rating system, similar to the content descriptors of the television ratings, would be the most useful, valid, and parent-

friendly solution to rating our wide variety of entertainment media. Just as we want to look at the label on a can of food and read what we are feeding our children's bodies, we should be able to determine with equal ease what we are serving our children's minds. Content-explicit ratings would not supercede parents' assessment of what their children of certain ages are capable of handling and would be responsive to variations in values that families may hold in relation to content such as nudity, language, or violence. If parents know the media menu, they can choose thoughtfully and knowledgeably what they are feeding their children's heads.

Media ratings are important to us as individuals and as a society. Designed and used properly, they allow us to create and consume a variety of media while protecting both child health and creative freedom. Censorship is anathema to our free society. It suppresses the free expression of ideas, and stifles both science and culture, the mind and soul of our society. I know and love the possibilities of media, and I respect them. Entertainment media are not inherently dangerous. They are a powerful tool that must be used thoughtfully and wisely. Just as the same shovel can be used to hit someone over the head or to prepare a field for planting, so, too, media can harm or help. What we teach our children today will determine the world they create for all of us tomorrow. It is our task, as parents, as citizens, and as compassionate people, to do what we can to teach our children the lessons that will help them make their world safe, healthy, and free.

Testimony presented to
The Senate Committee on Governmental Affairs

July 25, 2001

"Rating Entertainment Ratings: How well are they working for parents, and what can be done to improve them?"

By Laura Smit, Columbia, Maryland

My name is Laura Smit. I am the mother of an 11-year-old-girl and an 8-year-old boy. I am honored to be here today to talk about the rating systems for movies, TV shows, videogames and music, from a parent's point of view.

I am, I think, an average mom. I live in a suburban Maryland neighborhood, I drive the standard minivan, I'm active with two PTAs (at my son's elementary and my daughter's middle school), I help out with the neighborhood swim team, and I do my share of carpooling and child-chauffeuring.

In addition to all these jobs, I have the constant burden of making *daily* decisions about my children's media consumption. Every day, I have to make judgment calls about what television programs to allow them to watch; what movies they can go see; what electronic games they can play and what music they can listen to.

Every day I have to choose between being a *good mom* and a *cool mom*. When I'm a *good mom*, I "stick to my guns" and say "no" if I have even the slightest doubt that this product might not be appropriate for my children.

When I want to be a *cool mom*, on the other hand, I sometimes take the risk of letting my children see or play something inappropriate … because I want my kids to "fit in" with their friends, or because I want my kids to be happy, or simply because I'm tired of arguing. As every parent knows, you have to choose your "battles."
The *good mom* in me looks to the current rating systems for guidance and tries to determine *why* a particular media product has been given the rating it has. I try to figure out whether the rating is for violence (how much? what type?), sexual content (are the people in bed, having sex? how much is shown? what kind of innuendos?), or language (is it lewd? what types of words are used? are they obscenities?).

Equally importantly, I try to figure out whether there are adult *themes* in this "entertainment" which make it inappropriate for children: themes such as incest, misogyny, rape, abortion, cold-blooded murder, or brutal killings. I believe that the ratings are determined in a rather arbitrary fashion.

Many parents find the PG-13 and TV-14 categories too broad, lacking helpful descriptive labels. PG-13 movies range from action movies (with weapons) like *Lara Croft – Tomb Raider*, to military movies like *Pearl Harbor*, sexy teen movies like *Bring it On*, comedies with sexual references like *Legally Blond* and with sexual content like *What Women Want*, crude humor movies like *The Animal*, to movies with complex themes like abortion in *Cider House Rules*. I have noticed that PG-13 movies often have more violence in them than a lot of R movies.

With video games, as far as I can tell, a first-person-shooter game with no blood can earn a "T" for Teen rating. *With* blood, that same game would be rated "M" for Mature. Most mothers I know are very uncomfortable having their young sons playing first-person shooter games – who made the decision that they are "appropriate" for teens, just because they don't show blood?

In order to try to figure out what I should allow my own children to see and hear, I have to spend considerable amounts of time reading movie reviews, looking at websites, and talking to other parents to see what they think.

But I don't always have the time or energy for all this sifting. On many days, I have to make a split-second decision, such as when a TV program comes on that I find questionable, but my son wants to see it. Or when we arrive at a movie theater and the movie we had planned to see is sold out.

The *cool mom* in me listens to my children's pleas: "Mom, *all* my friends have seen it! (or played it or bought it)" or "Haley's mom let her see it and she says it's O.K. even for a second grader!" Sometimes, the *cool mom* gives in, even when I know in my gut that a *good mom* would have said "no" and stood firm. So sometimes I end up feeling like a *bad mom* – a mom who is not protecting her children enough.

But why should I be put in this position? As parents, we spend *billions* of dollars on entertainment products for our children. Shouldn't the companies who make so much money from parents and children make our lives *easier*, not harder? One reason I agreed to come speak with you today is because I am very upset by the way these companies flood my children's lives with advertising for violent and inappropriate materials – and then make *me* feel like a "bad mom" if I don't have the energy to "fight" my children on a daily basis.

Some of you may think that I am making a mountain out of a molehill here. Each of you can remember, I am sure, a particular forbidden movie you begged your parents to see when you were young. But there is one difference between my task as a mother today and *your* mother's task. The difference today is that the level of extreme violence, foul language and blatant sexual content that *my* children are being exposed to is on a totally different level than the fare you and I were exposed to as kids. *The Lone Ranger* bears no resemblance to *The Power Rangers,* and the wrestling you remember has no relation to the *World Wrestling Federation* fare.

Each movie, video game, TV program and music album seems to push the envelope just a bit further in the depiction of graphic violence, language and unhealthy sexuality. There is more blood, gore, machine guns, dead bodies and sheer mayhem in today's movies than our parents could ever have *imagined*, let alone let us experience.
For me, violent entertainment is neither innocuous nor harmless. It was clear to me, even before formal and respected research studies began to appear, that violent content in media products was related to increased aggressive and violent behavior in children. All over the country, schools are seeing the results of children's consumption of violent entertainment.

We have all heard stories of kindergarten children and first-graders behaving in aggressive and violent ways toward each other. We have also heard far too many stories of children who shoot other children or even their teachers – sometimes without even comprehending the finality of what they did. They seem to believe the TV stories and movies they have seen – and the video games they have played -- which show characters bouncing right back to life after being bopped on the head, kicked in the stomach, or shot with a gun.

Any mother can tell you that young children *cannot* tell the difference between fantasy and reality. As I was writing this testimony, I asked a psychologist and friend, Brad Sachs, for his comments. He told me a story that gave me goose bumps.
"A mother consulted with me for a psychological evaluation for her eight year-old daughter, convinced that her daughter must have been sexually abused," Brad told me. "Her daughter was repeating a sexually-explicit phrase over and over again. As it turns out, her daughter had simply mimicked the words to a song she'd been hearing repeatedly on one of her favorite radio stations."

Is it any wonder parents worry about what entertainment is doing to their children? It seems like on a daily basis I wonder, "What will watching this movie do to my daughter? Will the sexual content in that movie give her a warped sense of what love and good relationships are all about? Is she old enough and mature enough to see this?
And "Will my son act out what he sees in a violent movie? Will he end up shooting someone because he plays violent videogames? Or will he end up committing suicide, having been rejected and bullied by his peers, because I *didn't* let him play violent first person shooter videogames at his friends' houses?"

My interest in this issue led me to The Lion & Lamb Project, a parent advocacy group, which is working to inform and mobilize parents around the issue of the marketing of violent entertainment products to children. I attended a Lion & Lamb workshop for parents in 1999. The workshop and their website, www.lionlamb.org, opened my eyes to many issues around violent entertainment as well as the various rating systems.

This hearing is intended to consider the need for a universal ratings system. Let's look at the kinds of ratings information parents have to contend with now. I have here a handy, little flyer, which clearly lists the current ratings systems: the movie, video game, television and music system. It is small and fits neatly in my purse, but let me ask you: who's got time to pull out this accordion-length flyer and study it before making an entertainment purchase?

And what kind of information does it really give me? Let's start w[illegible] [illegible]e alphabet soup that parents are now required to memorize. For the movies, w[illegible] [illegible]ve G, PG, PG-13, R, NC-17. For television, we have: TV-Y, TV-Y7, TV-G, TV-PG, TV14, and TV-MA. For video games, we have "E" for Everyone, "T" for Teen, "M" for Mature, "RP" for "Rating Pending" and "AO" for Adult Only. The music industry has a one-size-fits-all "Parental Advisory."

So what do all these letters really mean? Could somebody please tell me: where is the line between PG-13 and R? The Motion Picture Association of America (MPAA) website states: "PG-13 – parents strongly cautioned. Some material may be inappropriate for children under 13." *What material,* I wonder?

I go deeper into the MPAA site and find this helpful explanation: "A PG-13 film is one which, in the view of the Rating Board, leaps beyond the boundaries of the PG rating in theme, violence, nudity, sensuality, language, or other contents, but does not quite fit within the restricted R category." *Leaps beyond* the boundaries of the PG rating? And what *are* those boundaries?

Several parents I spoke to thought *Planet of the Apes* is an R-rated movie, based on the scary previews they saw with their children. I know others who thought last year's James Bond movie, *The World is Not Enough,* was definitely R-material. On the other hand, *Billy Elliot* is a movie many of my friends thought was a good movie to see with their kids, but it was rated R because it had too many "f" words. How am I as a mother to make heads or tails of such a system?

And let's look at the video game rating system. Here is how the Entertainment Software Rating Board describes "T" games: "Content may be suitable for persons ages 13 and older. May contain violent content, mild or strong language, and/or suggestive themes." How *much* violent content? As a mother, I could use a little more help.

I would like to request the Chairman's permission to demonstrate a "Teen-"rated video game called *Time Crisis* at the end of my presentation. To my uneducated mother's eye, this Teen game is nothing but a first-person shooter – but you can judge for yourself later. To play this game, a teen points a so-called "light gun" at the television set, and shoots human-looking characters on the screen. That is the *entire* point of this game – there is no other action, no other choices. Just shoot and kill.

How is this "teen" game different from "Mature"-rated first-person-shooters such as *Duke Nukem, Quake* and *Doom*? As a mother, I would like to know the answer.

From what teenage boys tell me, the difference is that this game has no blood. If it had blood spurting from all these dead bodies, then it would be an adult game. Does this make sense to you?

As far as I am concerned, there are basically two problems with the current ratings system. The first is the issue you are already concerned with. The fact that there are too many different ratings system for parents to keep up with. There is definitely a need for one ratings system, especially as these media converge through the internet and other technologies.

(Video games are already becoming more like movies, and movies are being made of video games. And movies, video games as well as music are now being delivered through the internet. Furthermore, many companies of the same companies now create and deliver music, movies and video games. So industry can no longer claim that these products are "unique" and incomparable.)

The second, and equally important issue, is that each of the current rating systems is controlled by the industry itself. Most parents I know are *not* happy with the current movie ratings system, because it does not give us *nearly* enough information. Same for the other ratings system. What parents need, I believe, is uniform ratings created by people who really *care* about the needs of both children and parents: professionals such as psychologists, teachers, pediatricians, guidance counselors, early childhood experts, and others.

As a mother I would appreciate a clear, descriptive labeling system in addition to the age and parental guidance descriptors. The labels would be the equivalent of the government-mandated labels on food. When my son asks me if he can have Haagen Dazs ice cream, I know that he would be ingesting 11 grams of saturated fat, 120 milligrams of cholesterol, and 21 grams of sugar. Knowing these facts, I can choose whether to let him eat it or not.
My children consume a steady "diet" of entertainment products. Clear labels would provide me with concrete reasons for making a decision. This decision might be different for each of my two children, just as it might be for each of their friends. I have noticed that children vary a lot in their maturity levels, and what they can "take in" at a particular age. When it comes to violent shows, some children get scared, some act out, others are fine … but we can't always see the damage that was caused.
With uniform labels on all entertainment products – movies, TV shows, videogames and music -- it would still be my choice as a parent whether my children should consume a product or not. But labels would make it much easier for me to give my children good reasons why something is not appropriate for them.

Going along with a good labeling system, I would also need information on what the *effects* of the particular labels could be. If I knew something would be harmful to my child, I would be much more careful about letting him or her see it. Going back to the food example, I know *why* it is bad to eat foods high in saturated fat, cholesterol,

sugar and sodium. I would like to have the same type of information for the effects of entertainment products.

That is why I would want this labeling system to be developed by child development experts, not by the entertainment industries. Having descriptive labeling of entertainment products would really put the "guidance" into "Parental Guidance." Parents are not one monolithic group. Every parent has different values and beliefs. The messages each individual parent received about sex, violence and language when he or she was growing up all play into the type of "guidance" they will give their children.
Some parents are concerned primarily with sexual content, others worry more about the effects of viewing violence, still others focus more on language and the obscenities their children will be exposed to. What is OK for one parent may be totally unacceptable for another. The entertainment industries keep saying that "it's up to the parents" to make decisions – *but we don't have the tools we need to make those decisions.*
Let me give you an example of how poorly the current ratings system works. Last week, I went to see the movie *Shrek* – rated PG -- with my 8-year old son. As always, we had to sit through the previews, which according to MPAA are "approved for all audiences."
So before *Shrek,* my son and I were subjected to a preview for *Evolution* -- PG13-rated film. My son was terrified during this trailer, which was clearly *not* appropriate for him. That night, he was so scared as the images kept coming back to him that he had to sleep in my room. And my son is not the only one – I've recently read Joanne Cantor's book *Mommy I'm Scared,* which relates stories of many many children who have the same experience.

A few days later, when my children turned the TV on to watch a *Rugrats* special, they were subjected to a preview for the new movie *Planet of the Apes,* rated PG-13. *Rugrats* is a show watched primarily by young children. Why advertise a violent, scary PG-13 movie during a cartoon program watched by the under-10 set? I found it incredibly hypocritical, by the way, that at the end of the preview there was a loud voice-over announcement proclaiming: "Parents Strongly Cautioned."

I've talked to many parents who feel that TV advertising for upcoming shows definitely needs some reform. Frequently, my children will be watching a TV-Y7 show – and they will be subjected to commercials for upcoming shows rated TV-14 and TV-MA, as well movies rated PG-13 and R.

These ads frequently contain sexual content and/or violence. As a parent, I find it extremely frustrating that these shows and movies are being pointedly marketed to children and young teens. Do you have *any* idea how hard it is to say "no" to a show for which my child has seen more than 20 commercials? Again, why should I as a parent be put in this position? Why can't the entertainment industries be held to at *least* the same level of "responsibility" that they expect from parents?

I don't believe that R-rated movies should be advertised before 9 pm, nor should they be advertised during G and TV-14 shows. I also don't like to see previews for movies rated higher than the feature film I am taking my children to see. So if I'm paying for a G-or PG-rated movie, I *don't* want my child to be exposed to previews for PG-13 or R-rated movies.

And movies and television are not the only media I have to worry about. There is also the radio. Just last week, as we drove home from a movie, my 11-year old daughter began hopping between her three favorite radio stations, 102.7 FM , 104.1 FM and 99.5 FM . These are the three stations all her friends listen to.

I found myself listening to "popular" songs about being "caught 'butt-naked' making love on the bathroom floor" and another asking to have sex in French (*voulez vous coucher avec moi?).* A few days later, I was flabbergasted to hear my third-grade son singing the words to City High's song, *What would you do*?

"What would you do if your son was at home, crying all alone on the bedroom floor, and the only way to feed him is to sleep with a man for a little bit of money, and his daddy's gone," he sang. When I told him not to sing those words out loud, that they weren't nice, he just told me he liked the beat. So now we can't listen to the radio, either?

The music industry, which I believe lags behind the other industries in terms of rating their products, seems to think that having an all-purpose "Parental Advisory" warning label is enough. But as with other media, parents need more information before they can responsibly decide whether a particular music CD is appropriate for their child.

Parents new to having a teenager may hear the radio version of songs, such as Eminem's *Slim Shady*, and think that the CD version will be the same. It won't be. Just try finding one of the "cleaned up" versions at your local record store – it won't be easy. And even if you do manage to land one of the "clean" versions, you may still be shocked as to the words and themes that are left.

My husband and I experienced this recently with Eminem's *Marshall Mathers* CD, which my daughter purchased with her own money (this was before all the publicity). We put the CD in the player as we were driving home -- and were frankly horrified. We immediately told our daughter that she just couldn't have the CD, explained why, and gave her back her money. She felt very embarrassed about the incident. It was a big lesson for us also, and we now ask her to print out the lyrics of the songs on an album from the web before we'll let her buy the CD. But again – is it fair to make parents, *consumer*s, do all the work here??

I would like to make one thing clear here -- I am *not* opposed to any artist producing any movie, video game or lyric that they want, for adult consumption. What I *am* strongly opposed to is the marketing of blatantly adult-oriented products to children. As a country, we no longer market cigarettes, alcohol or pornography to children. We know enough now about the effect of violent entertainment on

children's behavior to know that *viewing violence leads to increased violent behavior,* especially among children.

As a mother, I ask this Senate committee to consider just how *difficult* the current ratings and marketing issues are, particularly in light of the public health findings. And make no mistake about it – the two issues are very closely intertwined.

I know that here are no simple answers, and no magic pills. But our country, more than 30 years ago, managed to put a man on the moon. So in the year 2001, is it too much to ask that our elected officials and corporate leaders help find a way to label our children's entertainment products for what they are?

Yes, parents need to exercise responsibility. But to do a half-way decent job, we need help. We need honest ratings. The First Amendment does not stand in the way of food labels, or cigarette warning labels … or accurate labels on entertainment products.
Thank you for taking your time to listen to one parent's point-of-view. I hope that this congressional hearing will be the beginning of much needed changes in the entertainment industries' rating systems. The improvements I have suggested would be welcomed with open arms by the parents who struggle every day to bring up their children to be peace-loving, responsible, and healthy citizens working towards a more civil society.

Statement of
William Baldwin
President, The Creative Coalition
to the
United States Senate Committee on Governmental Affairs
July 25, 2001

Mr. Chairman and members of the committee, thank you for inviting me to appear at this important hearing. My name is William Baldwin and I am here as a parent, an actor and as President of The Creative Coalition, the leading nonprofit, nonpartisan advocacy organization made up of members of the arts and entertainment community.

Senator Lieberman and I have had many discussions about the role of media in our culture, its effect on our children and ways in which we can help parents and kids find their way through the overwhelming barrage of words, images, sounds and ideas that bombard us daily. Although we agree there is a problem, we don't agree on the specific definition of the problem and we are even further apart on potential solutions. Despite this, we consider him a partner in the effort to empower parents.

In recent years, there have been many welcome changes in the approach of the arts and entertainment industries to issues of violence and sexual content, and the ratings systems that we are discussing today are among the most significant. But let's be clear. Even if we could devise the most perfect ratings system imaginable, we would be no closer to solving the real social problems of this country.

We are all horrified by the destructive acts that have so disturbed the nation in recent years. But in spite of a great deal of rhetoric to the contrary, the real issue isn't media violence; it's youth violence. The core causes are drug and alcohol abuse, divorce and family breakdown, and physical and sexual abuse. The culprits are neglect, poverty, mental illness and easy access to firearms. And, yes, there may be a role for the media in indirectly contributing to aggression, desensitization or over-stimulation. But the problem is greater than violent movies or video games, and the ratings we use to control access to violence and sexual content are not going to solve the deeper issues afflicting children today. Printed warnings on rap CDs are not going to raise anyone's children, or make them go to school, or keep them away from drugs. Broken families are not going to be healed by a sticker on a video game.

Ratings are merely one tool that parents can use to find entertainment that matches their own values. They are not a substitute for those values themselves, nor can they instill values if they don't exist. Ratings are extraordinarily valuable and could be made stronger and more informative. Like any subjective judgment, there will never be unanimity about every rating. But no one could argue that ratings serve no purpose, and no one could argue the current system can't be improved. In my view, any system that indiscriminately lumps "Schindler's List," "Billy Elliott" and "Saving Private Ryan" in the same category as slasher movies clearly is ripe for reform. As a parent I want to know why a movie received a particular rating so I can intelligently apply my own judgment and values. Descriptive labels that let a parent know what caused a rating,

whether it's language or sexual content or violence, would make the ratings more rational and credible.

But no matter what rating system is adopted, it must be voluntary. Oversight committees, no matter how well intentioned, cannot be allowed to impose their own judgment on constitutionally protected expression. Government sanctions of any kind to enforce subjective standards of "accuracy" or appropriateness are a clear violation of the First Amendment.

There has been much discussion about mandating a so-called universal rating system that uses the same terminology and standards of judgment no matter which medium is being rated. Many apparently fear that parents are easily confused, even though the FTC has determined that parents are overwhelmingly familiar and satisfied with the current systems. We believe that whatever confusion exists should be fixed within each medium's particular system and not by creating a one-size-fits-all concept.

A universal system assumes that all media are the same and affect audiences in the same way. But each artistic medium addresses its audience differently. An argument can be made that more visual media like movies and television are intrinsically different from media that rely on more subjective interpretations, like music. A single standard, applied across all media, might be impossible to devise. And if we are talking about age appropriate ratings for all media, does that mean we should start labeling books and the evening news as well?

Clearly, though, within the context of self-regulation there is still work to be done. Ratings systems should be made stronger and more informative. Movies that would have been given an R rating only a few years ago are now given a PG-13 rating. Parents are understandably concerned as standards of acceptability grow softer every year. The credibility of self-regulation requires consistency and honesty, and the industry should take a hard look at both.

Although reforms need to continue, we don't actually know how effective the current ratings systems are because they have never really been enforced. Let's be honest. It's pretty easy for any resourceful kid to get into R-rated movies or buy video games meant for mature audiences. We must find incentives for retailers and theater owners to enforce ratings systems in ways that are not cost prohibitive.

My organization is proud of the recent efforts of the industry to alter its marketing practices. The pressure needs to continue to make sure that all media is made and marketed to appropriate audiences. But unless attitudes change at the retail level, these hard-won changes will be wasted. Moreover, as we work to cease inappropriate marketing practices, we must be vigilant in guarding the industries' right to market to adults, as well as the right of adults to receive those messages.

I would like to suggest one more idea that is rarely discussed. I believe that not only must we give parents the tools they need to help guide their children, but we also must

give children tools to interpret the media onslaught. We need to institute media literacy programs that can help children understand and process with a critical eye the incredible amount of information they receive from media of all kinds.

The Creative Coalition is eager to work with other interested parties to develop media literacy curricula that can be used in schools nationwide. Kids need to develop inner filters that help them make sense of what they are digesting. The more they understand how and why media is created, the better armed they will be to fight the battle we are discussing today.

I thank the committee for its concern about our children's future. Senator Lieberman and many others have held our industries' feet to the fire, and I believe we are all better for it. Legislators, advocacy groups, the media and most important, parents, should continue to pressure the entertainment industry in this effort to empower parents. But we must be mindful to avoid governmental regulation and any direct or indirect censorship; improve the ratings systems; by strengthening them and making them more informative; improve enforcement; and incorporate media literacy in the schools. In the end, though, voluntary self-regulation is the only constitutionally acceptable way to address these issues. We look forward to working with you to find common ground that protects both fundamental freedoms of artistic expression and the freedom of families to protect their values.

Thank you.

United States Senate

Government Affairs Committee

Hearing on

Rating Entertainment Ratings: How Well are They Working for Parents, and What can be Done to Improve Them"

Testimony of Doug McMillon, Senior Vice President and General Merchandise Manager, for Wal-Mart Stores, Inc.

July 25, 2001

Introduction

Mr. Chairman, members of the Subcommittee, I am Doug McMillon, Senior Vice President and General Merchandise Manager, for Wal-Mart Stores.

At Wal-Mart, we have worked hard to create and protect our relationship with our customers. They are and always have been the guiding force behind our decisions. We have created stores that offer every day low prices, quality merchandise, and fast and friendly service. Our associates are involved with the individuals and families in our communities. Last year alone, we supported our communities with $190 million in charitable giving. Ninety-seven percent of that money was donated at the local level through our stores. We aspire to be an important part of our customers' communities and to provide products and services that raise the standard of living for the working families of America.

Consistent with that aspiration, Wal-Mart attempts to sell entertainment products in a way that allows our customers to make informed decisions and to exclude from our shelves, merchandise that our customers find objectionable due to its sexually explicit or extremely violent nature. The challenge we face is in our ability to 1) help the customers understand what they are buying and 2) determine which products they find objectionable either before, and in some cases after, we have made it available for purchase. At times, this is harder than it sounds due to the subjective nature of some of these decisions.

Any success we achieve in these efforts is accomplished, in large part, by following rating systems established by the entertainment industries.

Movies

In the case of movies, we use the MPAA, Motion Picture Association of America, voluntary ratings (G, PG, PG-13, R, and NC-17) as we make decisions about which movies to carry. For example, we do not carry NC-17 rated content. We do carry G, PG, PG-13 and some R rated content. Our buyers for movies determine which R rated movies to carry based on their best judgment. They use their knowledge of our customers and the customer response to the movie in theaters to make a decision on a specific title. We then utilize a register prompt at our cash registers to verify the age of the customer buying the R rated movie. In accordance with our policy only those customers who are age 17 and above are permitted to purchase R rated movies.

We believe that because MPAA ratings have been in consistent use since 1968, there now exists a widespread customer understanding of the ratings. As a result, we have few customer questions about the ratings themselves. Our customers seem to clearly understand what they are purchasing.

Video Games and Computer Software

In the case of video games (for example, Sony Playstation or Nintendo games) and computer software, we use the ESRB, Entertainment Software Rating Board, ratings (EC, E, T, M, and AO) as we make decisions about which products to carry. We do not carry software rated adults only (as rated by the ESRB). As a rule, we do not carry Parental Advisory stickered products. We do carry EC, E, T, and select M titles. Our buyers for video games and computer software determine which M rated products to carry based on his or her best judgment. They use their knowledge of our customers to make decisions on specific titles. We then utilize a register prompt at our cash registers to verify the age of the customer buying the M rated product. In accordance with our policy only customers who are age 17 and above are permitted to purchase M rated titles.

Since the ESRB has only been in existence since 1994, we sense that a large number of our customers do not clearly understand the ratings system. In addition to register prompting, we have taken several steps to educate our customers on how to interpret the ratings including in store signing; print advertising; and associate training. As a specific example, Wal-Mart stores display in store signing which explains the ESRB ratings. For video games and software, in store signing is placed in either the glass case or section where the item is stocked and explains the ESRB ratings to customers.

Music

In the case of music, we do not have a ratings system to follow. The music labels determine on a title-by-title basis whether to attach a parental advisory sticker or not. We refer to this as stickered music. Today, we do not carry parental advisory stickered music.

The music labels make edited versions of some stickered music available. We do carry edited versions of music on selected products. This product is labeled "edited version." Our buyers for music determine which non-stickered and edited music to carry based on their best judgment. From our perspective, an unbiased, standardized ratings system would help our customers determine whether specific music is appropriate for their needs and tastes.

We do not restrict the sale of any music products. If we were to make the decision to carry parental advisory music, we would most likely restrict the sale through a register prompt as we do with R rated movies and M rated video games.

Proposed Modifications and Improvements to Rating Systems

We are aware that the National Institute on Media and the Family has proposed that media ratings be more accurate, even to the point of establishing an independent ratings oversight committee and a universal media ratings system. We share their concern that ratings systems accurately and consistently identify sensitive material. We want our customers to be able to make informed decisions regarding the entertainment products they purchase.

While we obviously would be supportive of continued improvements in media ratings systems, Wal-Mart and other members of the retail community have voluntarily made substantial investments of time and resources to ensure that both our associates and our customers are fully informed of existing ratings standards. For example, the ratings system for movies was first initiated in 1968 and generally has been effective in establishing sufficient levels of consumer familiarity with movie content. Accordingly, any proposals to make media ratings more accurate should build upon this current level of familiarity.

With respect to the notion of an independent ratings oversight committee, there are serious concerns over whether such a body would interfere unduly with consumer choice and discretion in the purchase of constitutionally protected free speech. These concerns would be compounded by the fact that Wal-Mart and other retailers have already demonstrated a commitment to enforce and comply fully with voluntary, industry standards. Accordingly, we feel that the formation of an independent regulatory body would at this point be premature and should be considered only after the related constitutional issues are fully examined.

Finally, it has been proposed that a universal ratings system be established for purposes of simplification. Prior to making a recommendation regarding such a system, we would want input from our customers.

Conclusion

While we use our best judgment at Wal-Mart on which items we carry, and while we work hard to restrict the sale of certain products to those under the age of 17, it is simply not possible to eliminate every image, word or topic that an individual might find objectionable. In addition, we're the first to admit our systems and our associates, good as they are, are not infallible.

However, it is our sincere hope that our policies make it possible for our customers to make informed decisions and for them to feel we are handling entertainment products in an appropriate manner.

At this time I am pleased to answer any of your questions.

Appendix

MPAA (Motion Picture Association) Ratings
G (General Audience) - All ages admitted.
PG (Parental Guidance Suggested) - Some material may not be suitable for children.
PG-13 (Parents Strongly Cautioned) - Some material may be inappropriate for children under 13.
R (Restricted) - Under 17 requires accompanying parent or adult guardian
NC-17 - No One 17 and Under Admitted.

ESRB (Entertainment Standards Ratings Board) Ratings
EC (Early Childhood) – content suitable for persons ages 3 and older
E (Everyone) – Content suitable for persons ages 6 and older
T (Teen) – Content suitable for persons ages 13 and older
M (Mature) – Content suitable for persons ages 17 and older
AO (Adults Only) – Content suitable only for adults

PREPARED STATEMENT OF HILARY ROSEN, PRESIDENT AND CEO
RECORDING INDUSTRY ASSOCIATION OF AMERICA

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before you today. My name is Hilary Rosen. I am president and CEO of the Recording Industry Association of America, which represents more than 600 record companies.

I am here to discuss the recording industry's Parental Advisory Program. I am here also as a parent, a citizen and a member of the music community who has listened to the blame game on this subject for fifteen years. But my history does not extend back as far as the criticisms of music and popular culture do. That has been a subject of public opinion and government scrutiny for over 70 years when Duke Ellington's song "The Mooche" was subject to protest because of fears it would inspire rape. It won't end with today's hearing. And perhaps that is as it should be. For music is so often identified with youth rebellion and generational misunderstandings that simply the dialogue about this subject has the potential to build bridges. If that is the goal.

Too often the goal, however, is to cast blame or intimidate the creative community. While I could discuss this more philosophical issue with the Committee all day, as a responsible industry representative, I want to first make sure that you know about the important initiatives the recording industry is currently undertaking to give parents and consumers the information they need to make choices for their music buying family.

As you know, the recording industry's Parental Advisory Labels have appeared on our products for more than 15 years, ever since we reached agreement with the Parents Music Resource Center and the National Parent Teacher Association. The premise of this system is to balance an artist's right of self-expression with parents' and consumers' legitimate need for information to make decisions based on their own values.

By the measure that matters most -- what parents say -- the program is a success. According to the FTC report, 77 percent of parents are aware of the Parental Advisory program, and 75 percent of them approve of it. A new Kaiser Family Foundation study released yesterday said 90% of those who used it found it useful.

As this hearing proceeds, it will be helpful to keep the issue of explicit lyrics in the broader perspective of all music. Themes and language in music reflect virtually every part of society. As a result, despite the emphasis at these hearings on recordings with explicit content, they comprise a relatively small portion of our industry's output. In an average retail store, only 500 of 110,000 titles -- less than one-half of one percent -- carry the Parental Advisory Label.

Over time, the Parental Advisory program has evolved as retailers' and parents' needs -- as well as technology -- have changed.

We have consistently surveyed the public to find out what consumers need. In 1990, after some parents complained that they couldn't spot the advisory easily, we established a uniform, universally recognizable Parental Advisory logo. It is one inch by one half-inch on cassettes and CD jewel boxes. Our guidelines require that it be placed on the front of the permanent packaging or be made a part of the artwork.

Most recently, last October we amended our guidelines in three specific areas:

1. A Uniform Standard of Application: We provided record companies with uniform standards to guide a label and artist in deciding whether to apply the Parental Advisory logo. We also clarified that the logo should be released to single-track recordings as well as full albums.
2. Advertising: We established a policy to include the Parental Advisory label in consumer print advertisements for recordings with explicit content in addition to the product packaging itself.
3. Internet: Finally, we established uniform guidelines to urge all of our online retail partners to prominently display the Parental Advisory logo for all labeled products, from catalogue pages all the way through to the shopping basket.

In February of this year, the FTC issued a report on the industry's implementation of these guidelines. They gave us a failing grade. We deserved it, and I said so publicly.

We've spent the last several months working hard to do better. We established an Implementation Task Force in cooperation with the National Association of Recording Merchandisers (NARM) and our member record companies. I have met personally with the top executives of every major record company to review the implementation of the program, and I have begun meeting with our retail partners as well.

We are working to implement recommendations formulated by that task force as well as by an impressive coalition of hip-hop artists and music executives who met last month in New York and who, incidentally tried to appear today but were not given the opportunity to testify. Those recommendations include:

1. Expanding our advertising requirement to television and radio ads
2. Prominently displaying the Parental Advisory label on street marketing posters and music sampler giveaways held in conjunction with a labeled release
3. Where they are available, encouraging posting of lyrics on an artist's website or some central on-line location.

Last week we announced a broad-based campaign our industry is launching to improve awareness of the Parental Advisory Label among educational leaders in a position to carry the message to students and parents.

We are mass-mailing a brochure on the Parental Advisory Label to parents, caregivers and other consumers. This mailing will be targeted at those in a unique position to inform parents and influence children -- including parent-teacher organizations, school principals, coaches, music teachers, school guidance counselors, school psychologists and elected officials nationwide.

We are partnering with the National Association of Recording Merchandisers to make sure parents can learn more about the Parental Advisory Label at the places where most music purchases are made: retail stores. We will update all Parental Advisory Label countertop displays and store posters with the web address for parentalguide.org. This site is a one-stop resource for parents to learn about our program as well as ratings systems for television, motion pictures and video games.

Finally, we've produced a PSA featuring Quincy Jones, a legend in our industry, and we'll distribute that to TV and radio stations around the country. He communicates with simple eloquence the idea behind the Parental Advisory Label: It's there to provide information. The rest is up to us -- as parents.

Now, we look forward to incorporating this program into the next generation of music sales and marketing: the online world. In the coming months, the major record labels -- in partnership with technology companies -- will launch several subscription services to expand the ways consumers learn about and purchase music online.

In addition to providing a new opportunity to connect with music lovers, we view these services as a new forum for expanding the tools available to parents. Each of these services is exploring how to clearly label explicit content. Some will feature filters that will enable parents to block music identified by the Parental Advisory Label if they choose to do so.

This new opportunity will build on the commitment we already have in place: to give people the information they need to make decisions based on their own values.

We're going to work hard to make sure our industry lives up to all these commitments. And I hope the FTC and others will recognize that progress over the long term.

However, Mr. Chairman, I must take exception to the FTC's other and most persistent criticism: the erroneous claim that the recording industry markets to children products it has already decided are inappropriate for them.

By the definition of our program, that charge is untrue. The Parental Advisory Label system provides parents with information. We do not attempt to dictate to parents whether that information makes a product appropriate or inappropriate for any one age group.

The reason, Mr. Chairman, cuts to the heart of why attempts to legislate in this area are both Constitutionally and practically doomed.

It is impossible to dictate -- or, as some characterize it "encourage" -- ratings without making judgments about content. The propriety -- even the nature -- of any creative expression is ultimately in the eye of the beholder. Indeed, the purpose of creative expression itself is to stimulate interpretation and imagination.

That is precisely why no one would propose to label books. But that is the inescapable conclusion of the chain of logic set in motion by imposing government judgments on the content of other forms of creative work.

You cannot go after sexual or violent content without ensnaring Toni Morrison's *Beloved* or Alice Walker's *The Color Purple* -- both of which depict rape -- in the same web as today's musical acts.

Indeed, you cannot distinguish even between what many members of this Committee would probably call "acceptable" and "unacceptable" violence within music itself.

Pick your recording. Surely *Mack the Knife,* which depicts mutilation, would be caught in any trap being set for violent lyrics. *Me and a Gun,* a song in which Tori Amos movingly recounts being raped at gunpoint, could not withstand any filter for sexual or violent content. Neither could Linda Ronstadt's "Tumbling Dice," a song about rape written by Mick Jagger and Keith Richards. And on and on.

Nor, Mr. Chairman, is it possible to lump all forms of expression together under the same rubric. Ratings must reflect the nature of the medium being rated.

Informational Rating Systems Should Reflect the Nature of Their Respective Industries

Our labeling system is often compared to the ratings systems in place for the television, motion picture and videogame industries. While our industries work together to bring information about our systems to parents through the www.parentalguide.org website, our systems are very different. And for good reason. Each system is designed and has evolved to reflect the media to which it applies.

Books have no label or rating, even those that contain explicit content and are marketed to children. Why? Because words are particularly subject to interpretation and imagination, and most feel that labeling books is a bad idea.

Lyrics likewise are susceptible to varying interpretations. Words can have different meanings depending on who is hearing them. Also, words cannot be viewed in isolation from the music that accompanies them. Lyrics, when accompanied by loud and raucous music, can be perceived differently than the same lyrics when accompanied by soft and soothing music.

Music consists of lyrics and composition, and we as an industry do label recordings that contain "explicit content". As our guidelines suggest, context is obviously important: some words, phrases, sounds, or descriptions might be offensive to parents if spotlighted or emphasized, but might not offend if merely part of the background or not a meaningful part of the lyrics. The context of the artist performing the material, as well as the expectations of the artist's audience, is also important.

Music is much closer to books than it is to movies or video games in nature. We label when explicit content is contained in a sound recording. We provide a well-known and commercially accepted logo to identify recordings that contain explicit material so that parents have a "heads-up" in making purchasing decisions. We feel it is appropriate to warn parents that there may be objectionable material in a CD or song but leave it to them to decide, based on their own values, what's appropriate for their children.

Books consist of words; they are not rated because they are subject completely to imagination and interpretation. In recordings, the impact of words cannot be assessed separately from the music to which they are set. In movies or TV, the addition of images must be reflected. And so, in video games, must interactivity.

All these differences -- and the profoundly different effects they have on the consumer -- make uniform ratings impossible. To be sure, that does not mean different entertainment industries cannot work together to inform parents. We can, and, through "parentalguide.org", we do.

For all these reasons, Mr. Chairman, legislation in this area would also be impractical and unconstitutional.

We are Governed by the Principle

Today's hearing is nominally about ratings. Some will continue to insist that marketing practices and self-regulated rating systems, not the First Amendment, is our topic today.

Respectfully, Mr. Chairman, I disagree. This hearing is very much about the First Amendment. If it is about government oversight of our rating of entertainment products -- and the potential for legislation in that area -- then it is about government judgments about the content of creative expression. And that means we are here to talk about the First Amendment, plain and simple.

Let me be clear: I am proud to discuss in any forum the recording industry's commitment to helping America's parents make informed decisions about their children's entertainment. And I have told this Committee a lot about what the industry is doing today.

But this is more than a public meeting convened to discuss an issue of public importance. It is a hearing of a standing committee of the United States Senate. As such, it carries the imprimatur of government power -- and the hint of government direction and governmental pressure.

And under our Constitution, creative expression -- no matter how provocative, or offensive it may seem to one person's eyes or ears -- is not subject to official review, whether that review is exercised outright or through the back door of implicit threats.

Some say their concern about youth violence trumps protection for what they regard as offensive expression.

The most sincere motives are behind that concern, but the facts are not. Scientists who have studied the matter thoroughly have found no conclusive link between children's entertainment choices and behavior.

Here is how one expert panel characterized the state of science on the issue: "There does appear to be general agreement among researchers that whatever the impact of media violence, it likely explains a relatively small amount of the total variation in youthful violent behavior."

That panel, Mr. Chairman, was the Federal Trade Commission. The report dealt with the marketing of entertainment products to children.

That conclusion did not appear in many of the news stories on a report that was otherwise widely trumpeted. It did not appear in the executive summary, or even in the body of the report itself. It was buried in the appendix. But it is absolutely central to this Committee's consideration of exhortations for restrictions on creative expression based on the belief that it is inherently bad or contributes to violent behavior.

Not long after the FTC report was completed, another study of the studies by the Surgeon General of the United States was urged by the Senate and requested by the President appeared. It found that "it was extremely difficult to distinguish between the relatively small long-term effects of exposure to media violence and those of other influences."

And while the jury may still be out on the research, the verdict of experience is very decidedly in. Youth violence in America has decreased over the last five years. It fell throughout the 1990s, while concern about explicit lyrics seemed to be rising. It would be as erroneous to give explicit lyrics credit for that decline, as it is to blame them for a supposed surge in youth violence that simply did not occur. Teen pregnancy is down. Virtually every statistic about the state of young people today is more positive than it was ten years ago. Yes, there are many problems in society but the consistent blame that the music community takes for horrors that occur is simply outrageous.

Yes, some of today's music is coarse and rude. But once again, to deny that coarseness and rudeness exists in society today or that it would end if the music were cut off is to suggest magic powers unimaginable to me as a mortal.

Other critics, Mr. Chairman, say their concern is limited to what they call the explicit extremes rather than what is, to them, the mainstream of creative expression. To them I respond first that expression is by definition subjective -- that what sounds foreign to them speaks compellingly to the experience of another.

Unfortunately, the most offensive expression, however one defines it, is exactly the point. Because it is exactly that expression that the First Amendment was written to protect.

But that does not mean we do not take our own duties seriously. Indeed, the freedom I am here to defend also confers a responsibility. We are doing everything we can to market our products in the right way, to the right people. We recognize our track record is far from perfect -- and we're working very hard to correct our mistakes.

But this is our responsibility, Mr. Chairman. We choose to act on it. We choose to do so fully, enthusiastically and in the sincere hope that members of the Committee will reach the same conclusion as America's parents: The Parental Advisory Label system works.

But most important, Mr. Chairman, we choose to speak -- and artists choose to express themselves -- separate from government approval, classification or permission. We hope this Committee will honor that freedom as deeply as we respect the sincerity of its concerns.

Thank you.

The film industry's voluntary movie rating system and why it has endured
+
the FTC's First and Second Reports, and how the movie industry responded to the First and how it was treated by the Second
+
Why the proposed Media Marketing Accountability Act treads heavily on the spine of the U.S. Constitution.

A factual catalogue offered to the Governmental Affairs Committee of the United States Senate

by

Jack Valenti
President & Chief Executive Officer
The Motion Picture Association of America

Washington, D.C.
July 25, 2001

The film industry's voluntary movie rating system, and why it has endured

Of the current members of the United States Senate, only five resided in that chamber when the film industry's voluntary movie rating system was born. The date was November 1, 1968. In the ensuing thirty-two years and eight months, movie ratings have become part of the daily life of the nation, with a 98% 'recognition' factor among American families.

In a marketplace usually brooding over the fragility and the brutishly short lives of products and enterprises, the rating system has endured, buoyed by an ascending curve of parental approval. Nothing lasts almost thirty-three years in such a volatile marketplace unless it is providing a visible benefit to the people it was designed to serve -- in this case, the parents of America.

Is it perfect? Of course not. Perfection is nowhere to be found in anything made by mortals. But since 1969 in annual national surveys conducted by the Opinion Research Corporation of Princeton, New Jersey, parents have given the movie ratings an ever-rising level of approval. Last year in September, 2000, the latest poll revealed that *81% of parents with children under 13 found the ratings Very Useful to Fairly Useful in helping them make decisions about the movie going of their young children.* That is a parental authority that must be invulnerable against outside interference.

The Federal Trade Commission, in the summer of 2000, undertook its own separate, independent survey and reported that *80% of parents were "satisfied" with movie ratings.*

These are massive parental endorsements. The settled fact is that over these almost thirty-three years the vast majority of parents have come to know the movie rating system. They use it. They find it helpful.

During those long years, as of this date, the rating board has rated 16,892 films. While there is criticism about the 'accuracy' of the ratings of individual films, never once have there been accusations faulting the integrity of the system. There will always be disagreements about the rating of a specific film. Frankly, sometimes I privately take issue with a particular movie's rating. But if there are errors in some ratings, it is a matter of a judgment call, not an exile of integrity.

Let's discuss "accuracy." In rating movies, we are not dealing with the purity of Euclid's geometric equations where the answers are always clean-shaped and final. Vexing though it may be to social scientists, Wall Street forecasters -- and movie raters -- they are all equally confronted with the ghostly form of "subjectivity," barren of Euclidean precision. Finality and proof always lie beyond their grasp. The reason why is simple. None of them is divinely inspired enough to see clearly what is not clearly seen.

Where does one find accuracy in anything 'subjective?' How will a six year old boy behave when he becomes twenty and under what circumstances would he turn "bad?" What is too much violence? Where is the line to be drawn? How does one predict the future years of that six year old boy who becomes briefly aggressive (as laboratory experiments reveal) after watching action visuals? When he becomes twenty is there sufficient connective and causal evidence from the experiments that he will pick up a Glock Nine and blow someone's head off?

Plainly, when there is no sublime absolute, when you walk down ill-lit corridors, what do social scientists, Wall Street forecasters and movie raters do? They draw smudged lines. They estimate. They surmise. They leap into a good faith of judgments, without any conclusive and reassuring proof that they are right. For example, social scientists make fragile estimates which emerge from a laboratory experiment. But they cannot begin to fathom nor can they measure with any precision how a 'human being' will act and react in the real, hurly burly world beyond the confined landscape of the lab. To put it bluntly, the computer, a magical piece of technology, can do everything except one thing: <u>It cannot predict human behavior. Neither can anything or anyone else.</u>

So, how does the Rating Board deal with subjectivity and accuracy? All the members of the Rating Board are parents. They look at each film through the lens of a parent's eye. And before the Board comes to a final decision, each rater tries to answer this question: "Is the rating I am about to apply to this movie one that most parents in America would agree is the correct rating?" To go beyond that is to reach for immaculate finality which, alas, is not available.

Consider this: in 2000, the Surgeon General of the United States conducted the largest excavation of extant research into what incites

violence in young people. The Surgeon General's final report put "media watching" near the bottom of "risk factors" which contribute to anti-social behavior. This report ought to be required reading for anyone perplexed about the origins of the source-bed from which violent youngsters emerge.

What about violence among juveniles? The latest FBI crime data reveals that of the some 70 million juveniles in the nation (under 17 years old), only 1/16th of one percent of them have been arrested for a serious crime (though not necessarily convicted). This means that 99.84% of all juveniles have never been involved in serious crime. Moreover, juvenile crime, according to the FBI, has declined some 28% in the last five years.

The National Safety Council has reported that the safest place for children today is the school and the schoolyard. The great majority of the deaths of children occurs in automobile accidents.

We do not point accusatory fingers at anyone. We do know that parents are being bombarded in this cyberspace age with literally an avalanche of information, entertainment, facts, data, chat rooms, and the tide rolls on. It is not easy being a parent in these times when so much is available to so many and when so few of us can sort it all out. Parents with young children deserve a never-ending compassion from the general public.

It is a fact that all parents are not the same, all children are not alike, and that only parents know the emotional, maturity and intellectual level of their children. Which is why parental decisions are best left to individual parents.

The First and Second Reports of the Federal Trade Commission and How the movie industry responded to the First Report, and how it was treated in the Second Report

The First Report of the Federal Trade Commission was made public on September 11, 2000. In that Report the FTC pointed some accusatory fingers at a number of films whose marketing plans were, in the FTC's

judgment, flawed. Some of these plans involved marketing R-rated films to young children.

My own response was that some of the criticisms by the FTC were not off the mark. Some of the marketing actions were indefensible, as I publicly conceded.

On September 27, within sixteen days of the publication of the FTC's First Report, the member companies of the Motion Picture Association of America conveyed to the Commerce Committee of the Senate a 12-Point Set of Initiatives which confronted the FTC's criticisms and vowed to revise movie marketing designs to coincide with the Initiatives.

Those Initiatives are in place and working. They include the creation of Compliance Committees within each company whose mandate it is to monitor the marketing plan of every film released by that company. Moreover, each Compliance Committee would report to the Chief Executive Officer of the MPAA on a frequent basis as to how they were carrying out its responsibilities.

Additionally, we pledged we would offer expanded information to parents about "the reasons for the rating of a specific film." Those reasons are now resident in all newspaper ads of reasonable size, are available on web-sites of the MPAA and each individual company. We believe it is right and useful to make sure that parents can determine the "why" of a rating, before they decide whether or not they want their children to see that movie.

The Second Report of the FTC was made public in April, 2001. The Commission commended the movie industry in seventeen separate citations for improving the marketing of movies and the industry's commitment to continue its marketing scrutiny. Is there room for more improvement? Yes, there is. We are doing our dead level best to make sure that we redeem the public pledges we made.

But more importantly, the Federal Trade Commission in both its First and Second Report, and in its testimony before the House Commerce's subcommittee on Telecommunications on July 20, 2001, made clear its firm conviction that "because of First Amendment protections afforded these products, the Commission continues to believe that vigilant (voluntary) self-

regulation is the best approach to ensuring that parents are provided with adequate information....."

Bear that sober admonition in mind as we move now to proposed Senate legislation entitled:

The Media Marketing
Accountability Act of 2001
And
why it treads heavily on
the spine of the United States Constitution

The first question to be asked is: Why does this proposed legislation turn a blind eye to the FTC Reports' clear and readily absorbed statement that the best approach is self-regulation which insures that parents are provided with adequate information on which to base their decisions about their children's movie going?

This legislative proposal sanctions the intrusion of the FTC into a voluntary rating system. The bill specifically and baldly states: "The Federal Trade Commission shall prescribe rules that define with specificity the acts or practices that are deceptive acts or practices under Section 101." Whatever its sponsors may declare, this FTC empowerment clearly trespasses on the 'content' of First Amendment protected films which is a frontal attack on the Constitution.

Moreover, the bill **immunizes** those producers who **do not** rate their films, and **penalizes** those producers who do voluntarily rate their films and give information to parents. This would infect, fatally, the movie rating system. Why would sane producers continue to submit their films for voluntary rating when they could be subjected to fines of $11,000 per day per violation of necessarily broad subjective rules set down by a government regulatory agency? The bill would inevitably cause abandonment of the voluntary MPAA ratings system, which has worked so well for so long.

The bill also suffers from the prospect of a stern scrutiny by the Supreme Court of the United States. In Lorillard v. Reilly, a recent decision several weeks ago revolving on the right of a company to advertise, the High Court said that retailers and manufacturers have a strong First

Amendment interest in "conveying truthful information about their products to adults." The Court further said that the governmental interest in protecting children from harmful material doesn't justify suppressing speech to adults, citing the decision in Reno v. American Civil Liberties Union as well as citing Butler v. Michigan, which said...."incidence of this enactment is to reduce the adult population...to reading only what is fit for children."

Also keep in mind that the recent Lorillard case cited above did not involve products protected by the First Amendment. Creative material, movies, etc. are **fully protected by the First Amendment** which certifies that this bill, if passed, would be 'dead on arrival' in the first federal court to hear the case. Moreover, if the Supreme Court decisions cited above mean anything, they mean that under the canopy of the First Amendment, creative material will be more securely protected by the High Court from assaults by the federal government and its regulatory agencies.

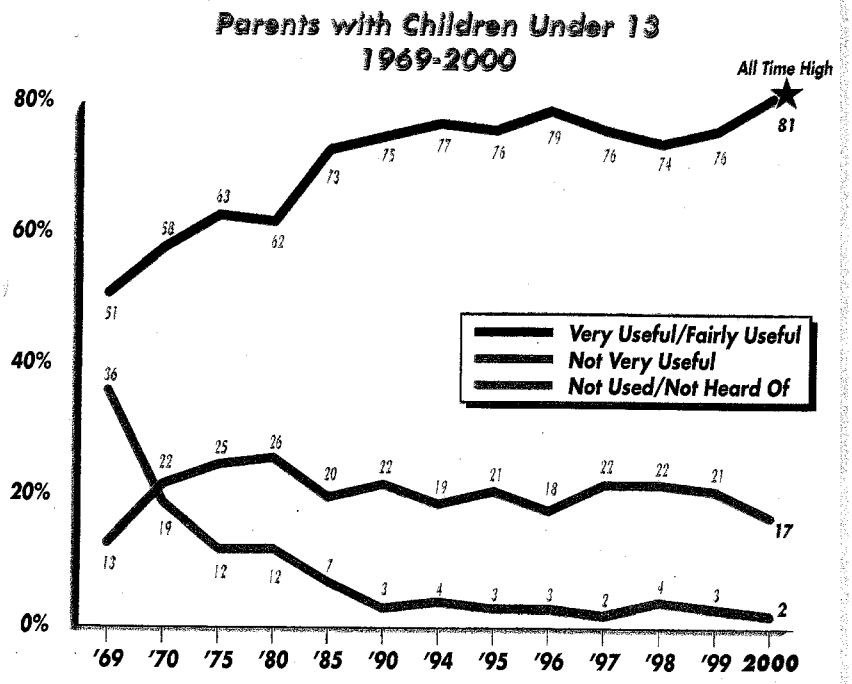
A Summary of the movie industry's commitment to Parents:

For almost thirty-three years, the movie industry has been offering advance cautionary warnings to parents. The voluntary movie rating system has endured for over a third of a century for one simple reason: It is provisioning parents with information which parents count as valuable in helping them make their own parental decisions about the films they want their children to see or not to see. If the movie rating system was not suitable to parents, if it was laggard in redeeming its obligations in aiding parents with their movie-going decisions, it would not be alive today.

What the movie rating system does is what the Federal Trade Commission urges the Congress to understand, that robust and vigilant voluntary industry self-regulation of First Amendment protected creative material is the best way to help parents. The FTC has repeatedly, in respectful language, cautioned the Congress not to over-run the free speech barricades of the Constitution. It's a joyous fact that the First Amendment is the one clause which guarantees all others in the greatest document ever struck off by the hand and brain of man.

Usefulness of Rating System

"How useful do you think the motion picture industry's rating system – with the symbols G, PG, PG-13, R and NC-17 – is as a guide for deciding what movies children should see?"



Opinion Research Corporation – September 2000
Accurate to +/- 3.5%

September 26, 2000

Initiatives of MPAA Member Companies

1. Each company will request theater owners not to show trailers advertising films rated R for violence in connection with the exhibition of its G-rated films. In addition, each company will not attach trailers for films rated R for violence on G-rated movies on videocassettes or DVDs containing G-rated movies.

2. No company will knowingly include persons under the age of 17 in research screenings for films rated R for violence, or in research screenings for films which the company reasonably believes will be rated R for violence, unless such person is accompanied by a parent or an adult guardian.

3. Each company will review its marketing and advertising practices in order to further the goal of not inappropriately specifically targeting children in its advertising of films rated R for violence.

4. Each member company will appoint a senior executive compliance officer or committee to review on a regular basis the company's marketing practices in order to facilitate the implementation of the initiatives listed above.

5. The MPAA will review annually how each member company is complying with the initiatives listed above.

6. The MPAA will strongly encourage theater owners and video retailers to improve compliance with the rating system.

7. The companies will seek ways to include the reasons for the ratings of films in its print advertising and official movie web sites for such films.

8. The MPAA has established or participated in the establishment of the following web sites: "mpaa.org" - "filmratings.com" - parentalguide.org." "Mpaa.org", among other things, describes the rating system and includes a database listing almost every movie rated since the commencement of the rating system in 1968. "Filmratings.com" is a separate site devoted exclusively to providing ratings information on all rated movies, including the reasons for the ratings on recent releases. "Parentalguide.org" was established by MPAA in conjunction with the electronic game, music, cable and television broadcast industries. The site is intended to provide parents with one central site where they can obtain information about each of the ratings systems that have been developed in those industries. To insure that this information reaches a wider audience, each company will link its official movie web site to mpaa.org, filmratings.com and parentalguide.org.

9. Henceforth, each company will include on all packages of new rated releases for its videocassettes and DVDs the rating of such film and the reasons for the rating.

10. Henceforth, each company will include in the preface to its new rated releases for videocassettes and DVDs the reasons for the rating of the film, plus information about the filmratings.com web site.

11. The MPAA and each company will strongly encourage theater owners to provide reasons for the ratings of films being exhibited in their theaters in their customer call centers.

12. Each company will furnish newspapers with the reasons for the ratings of each of their films in exhibition and will request that newspapers include those reasons in their movie reviews. The MPAA and each company will seek newspapers' cooperation in printing a daily column listing films in exhibition, their ratings and the reasons for the rating.

Testimony of Douglas Lowenstein
President, Interactive Digital Software Association
Before the
Senate Committee on Governmental Affairs
Regarding Entertainment Rating Systems
July 25, 2001

Good morning, and thank you for inviting me to testify today on entertainment rating systems. I am testifying today on behalf of the Interactive Digital Software Association[1] the trade body representing U.S. video and computer game software companies. Our members publish games for use in the home. In 2000, the industry generated $6 billion in retail software sales, and analysts forecast that this will double or nearly triple in the next three to five years.

We wholeheartedly agree that the issue of media ratings is an important one for America's parents. We're very proud of the fact that Chairman Lieberman and others have called the video game rating system operated by the Entertainment Software Rating Board (ESRB) the best entertainment rating system in the country. We are committed to providing America's parents with the tools they need to make informed decisions on the games they permit their children to play, and the Chairman well knows the numerous voluntary steps we've taken as an industry to raise awareness of the rating system and calibrate it so it meets the needs of all consumers, including parents.

You have asked us to address the issue of the reliability and accuracy of the current video game rating system, as well as whether replacing the current entertainment rating regimes with a uniform content rating system is desirable. Let me address each of these questions. But before doing so, I want to make some broader points about our industry and our customers.

Majority of Game Players are Adults, not Kids

First, the myth that video games are played predominantly by teenage boys is wrong. In fact, the primary audience for video games is NOT adolescent boys. According to research by Peter Hart last year, 145 million Americans – 60 percent of the population -- say they play computer and video games, and their average age is 28 years old; 61 percent of all game players are over 18, 35% are over 35 years old, and 13% are over 50; 43% of those who play computer and video games are women.

70% Of Games Appropriate for Everyone; only 9% Are Rated Mature

Second, let me dispel the myth that most video games are rated Mature and have significant levels of violence. Again, this is inaccurate. With the demographics of the industry changing rapidly, so too has the type and mix of products published by game companies. Contrary to popular perceptions, most games do not contain significant levels of violence. In fact, the video game rating system the industry voluntarily set up six years ago, and which has been widely praised (the FTC called it "the most comprehensive" of any of the systems it studied), has rated nearly 8,500 titles of which

[1] IDSA's members only publish software for the home. The arcade game business is a different sector with its own representatives.

only 9% carry a Mature rating indicating significant violent content. Seventy percent are rated for Everyone over six. In 2000, only 117 out of over 1,600 titles released were Mature games, and these represented just 9% of total sales.

Not only are most games appropriate for everyone, but also most of the best sellers are not violent. For example, in the last six months, the top selling games have been the Sims, Pokemon, Roller Coaster Tycoon, and racing and sports games. In 2000, only two of the top selling PC and video games year were rated M, and 16 were rated Everyone. So far through June 2001, only two of the top selling computer and video games are rated mature, compared to twelve that are rated "E" and six that are rated "T".

What all this reflects is the fact that video games are now mass market entertainment and the range and diversity of products has widened, resulting in a substantial market for casual games like puzzle, board, and card games, and hunting and fishing titles, in addition to staples like racing, football, and action games.

In short, this industry has seen its sales double since 1995 and the bulk of that growth has been fueled by consumers over the age of 18 and by games whose content has broad appeal.

Parents and Adults, Not Kids, Actually Purchase At Least Eight Out Of Ten Games

One last critical point of context: unlike other entertainment products, most newly released video games cost anywhere from $40-60. Thus, it's not surprising then, when you add this to the fact that a majority of consumers are adults that IDSA research finds that nine out of every ten video games are actually purchased by someone over 18. Furthermore, 83% of the kids who do buy games say they have the permission of their parents to do so. Similarly, in a survey completed by Peter Hart last Fall, 83% of parents said they "try to watch or play at least once every game that their child plays to determine whether it is appropriate."

Notably, the FTC's own survey confirms these findings. "It is clear that most parents are able to play a watchdog role when they choose to do so...According to parents' responses, [83%] are involved in the actual purchase transaction; 38% report that they usually purchase or rent the games, and another 45% of parents do so together with the child."

So any discussion of how our industry markets its products must bear in mind the fact that a majority of those who buy and use our products are adults, not kids, so parents are still almost certainly going to be involved in the actual purchase. As the FTC said,

> "This level of parental involvement, either at the point of selection or purchase, means that most parents have the opportunity to review rating information or to check the product packaging to determine whether they approve of the game's content."

Put another way: if a child has a game that's not appropriate for him or her, chances are that Mom or Dad is the one who bought it.

This does not mean our industry does not have an obligation to market products responsibly and to label them accurately. But it does mean that parents are the first, last, and best line of defense against products that are not appropriate for their children.

Accuracy of Ratings

The catalyst for concern about the accuracy of the Entertainment Software Rating System (ESRB) is research released in the June issue of *Pediatrics* magazine and conducted by the National Institute for Media and Families (NIMF), an avowed critic of entertainment industry rating systems. The article makes sweeping claims characterizing "overall" research as suggesting that there is a "poor correspondence" between industry ratings and content, making the ESRB ratings "not valid." Bluntly, the article vastly overstates the results of the research, and does not support the broader claim questioning the validity of industry ratings. Indeed, articles of this sort, based on research of this kind, are a disservice to those who seek an informed debate on the merits of this important issue.

With respect to the NIMF research, the article itself acknowledges that the sample used "is not random and may be biased." Really, that about says it all. Even the authors themselves aren't prepared to defend the research as reliable. Indeed, they are quite correct to urge caution when interpreting the data. The sample size of 55 is extremely small and is drawn from a single city. I know of no serious researcher who would argue that the results could be nationally projected. Ask your own pollsters whether they would ever give you advice based on a sample size of 55 people drawn from a single few blocks of your state?

Moreover, the sample is extremely biased by the fact that nearly two-thirds of the participants were child development professionals or people who worked professionally with children. Again, this is not even remotely representative of the population at large, and certainly not of the parent population nationally.

The ESRB Rating System

In contrast, we believe the ratings assigned by the independent raters of the Entertainment Software Rating Board (ESRB) accurately reflect the content of the games produced by this industry. The ESRB raters are drawn from a demographically diverse cadre of individuals, a fact that alone makes their findings more valid and credible than those generated by the NIMF "raters." I understand that a parent will testify today that she strongly disagrees with the rating of a particular video game. I respect her views and opinion. But I do not concede that her opinion is more valid than that of the demographically diverse panel of raters used by the ESRB, or that it invalidates extensive consumer research conducted by ESRB to test the accuracy of its ratings.

The ESRB research was conducted by the nationally respected research firm Peter Hart and Associates in a far more scientific manner than that of the NIMF. The research involved mall-intercept interviews with 410 adults nationwide, including 246 parents who were shown videotapes of game clips and asked to rate them based on the ESRB standards. The survey found that "in 84% of all instances, games are rated equal to or less strictly than the official ESRB rating." Hart found that the ESRB is "twice as likely to be more conservative than the public" in rating decisions. With respect to the content

descriptors that accompany the age ratings, the survey found "participants are generally in agreement with the ESRB on violence descriptors, and in instances in which there is disagreement, they are usually less strict than the ratings board." In short, the ESRB ratings are reliable and effective.

Inevitably, some parents, including the witness this panel has heard from, will have different views of the accuracy of the rating of some games. We found that in ESRB's research. But let's look beyond the rhetoric and examine what NIMF actually found: the study reported that fewer than one out of five raters – just one out of five -- disagreed with the Teen rating assigned by the ESRB. That's hardly surprising. The fact that 18% of the NIMF raters disagree with the rest of the sample does not necessarily reflect a flaw in any of the rating systems; rather, it reflects the broad diversity of opinion that exists in a free society where individual parents have different views about what is acceptable and appropriate for millions of children. Indeed, it would be far more surprising if there was universal agreement.

As the Committee may know, NIMF has its own rating system. But I am confident that I could conduct a survey and find at least one out of five persons disagreeing with its conclusions as to how to rate video games, films, TV programs, and other content. However, I would not sit here and tell you that I have found the Achilles heel of the NIMF. All I will have done is shown that people disagree when it comes to their reactions to the same piece of entertainment.

NIMF's proposal to create a "big brother" committee of super raters will create no greater likelihood that parents will agree with the ratings than any industry system because it ultimately will remain a subjective process. The only difference is that the biases of the "super raters" will be substituted for the views of a demographically diverse cross section of Americans. But that does not mean a more accurate result.

However, ESRB does value expert input. In fact, seven years ago, before NIMF came on the scene, the ESRB itself created an advisory board made up of some of the most distinguished names in child development and child advocacy to advise it on how the rating system is serving the needs of parents. This advisory panel includes such persons as Dr. Jeffrey Cole, Director, Center for Communication Policy, UCLA, Karen Jaffe, Executive Director, Kidsnet, Dr. Lewis Lipsitt, Founding Director, Child Study Center, Brown University, Dr. Parker Page, President, Children's Television Resource and Education Center, Mary Ellen Fise, Consumer Federation of America, and Dr. Rosemarie Truglio, Director of Research, Children's Television Workshop. ESRB has made several changes in its ratings over the years as a result of input from the academic advisory panel, and as a result of research it periodically conducts.

NIMF has also said that "most parents still do not understand" the ESRB ratings. I think that reflects a rather dim view of the intelligence of American parents. There is nothing especially complex about the ratings -- the age categories are self-explanatory and the content descriptors direct and clear. Moreover, most video game packaging clearly describes the contents, both through screen shots and marketing text. It's rarely a mystery.

IDSA does agree that parental awareness of the ratings is not as high yet as we would like. And we've been working hard to change that. We have launched a multi-faceted public education campaign to increase public awareness and usage of the system,

including PSA's with Tiger Woods and Derek Jeter, point of sale educational partnerships with retailers, and outreach to medical groups and organizations like NIMF. Candidly, we've been quite disappointed at the reluctance of those who profess to support parent education to actually step out of the critics' peanut gallery and join the effort to raise use of the ESRB ratings. In any event, we will continue to search for ways to bring our rating system to the widest audience of parents. We believe this is by far the best way to help parents make the right decisions for their children.

Beyond these steps, we've actively encouraged retailers to stop selling Mature rated games to persons under 17 even though the Mature rating itself does not say that a title is not appropriate for a person under 17; rather, the rating says that the content "may not be suitable" for a person under 17, and notwithstanding the fact that enforcement often means that video games are treated more harshly at retail than other entertainment offerings.

Universal Ratings

Let me close by addressing the issue of a universal ratings system. I believe such a system is unworkable and undesirable.

First, the content and nature of diverse entertainment is far too different to lump them together under a universal rating. Motion pictures and television programs are usually a passive experience involving visual depictions of real actors in real situations; video games, by contrast, are interactive experiences that typically depict animated characters in fantasy environments; recordings are not visual at all. The difficulties in adopting a one-size-fits-all ratings system for such diverse media are enormous and likely to produce precisely the kind of parental confusion sponsors are hoping to avoid.

Moreover, there is not a shred of evidence that consumers are confused by these existing ratings; indeed, what is confusing about a "PG-13" rating for a motion picture or a "Mature for Violence" rating for a video game? A mandated universal ratings system will put the government squarely into the business of regulating content by allowing it to develop ratings standards. In addition, it means the Executive Branch or Congress could change content standards on a periodic basis to react to whatever political position is in vogue. This is a deeply unsettling prospect.

Further, it is unconstitutional, based on U.S. Supreme Court precedent, for the government to impose fines and/or prison terms on retailers or producers who fail to adhere to a system for rating violent content, as this bill would require.

The breadth of the First Amendment in this regard is essential to protect pivotal constitutional tenets. Ask yourself, do we really want the Federal Government to set content standards for its citizens? What will prevent Congress from passing "rating standards" for other form of expression such as art, photography, books or the Internet? Once we start down this slippery slope of government imposed content standards, the line of constitutionally protected freedoms gets blurred.

The fact is that consumers understand movie ratings, which have been in effect for 30 years. Their awareness and understanding of the seven year-old video, PC, and Internet game rating system is building, and they are just getting used to the new TV ratings. The universal ratings legislation would essentially undo years of hard work at building consumer knowledge and cause consumer confusion for years to come.

Mr. Chairman, our industry has demonstrated an exceptional sensitivity to the concerns you and others have expressed about violent video games. We continue to listen to legitimate concerns and, where appropriate, take action. ESRB will continue to regularly evaluate its rating system. We think our overall self-regulatory program is getting the job done, and we're proud of it. Thank you.

Statement of The Media Coalition

Hearing on
Rating Entertainment Ratings: How Well Are They Working for Parents, and What Can Be Done to Improve Them?

Committee on Governmental Affairs
United States Senate

July 25, 2001

Mr. Chairman and distinguished members of the Committee,

The Media Coalition submits this statement for the record of the hearing examining the effectiveness of the rating/labeling systems of the motion pictures, sound recordings and video game industries.

The members of the Media Coalition understand that children today are exposed to a broader range of media than ever before. And we acknowledge the concerns of some parents that their kids may be consuming media that they feel is inappropriate for them. However, we think it is important to remind the members of the Governmental Affairs Committee that both government imposed ratings or government enforcement of existing rating systems would likely be found unconstitutional.

The Media Coalition

Established in 1973, the members of Media Coalition are trade associations representing most of the book and magazine publishers, booksellers, librarians, magazine distributors, movie, recording and video game manufacturers, and recording and video retailers in the United States.

Unconstitutionality of Government Imposed Rating Systems

We are concerned that the effort by elected officials to pressure industries into imposing rating regimes is veering alarmingly close to a government mandated rating system. While voluntary ratings exist to help parents determine what is appropriate for their children, a government enforced rating system or government enforcement of an existing rating system would have a chilling effect on the distribution of constitutionally protected material. Courts in nine different states have ruled it unconstitutional either to enforce the Motion Picture Association of

America's rating system or financially punish a movie that carries specific rating designations. MPAA v. Specter, 315 F.Supp. 824 (E.D. Pa. 1970), enjoined enforcement of Pennsylvania statute that penalized exhibitors showing movies unsuitable for family or children viewing, as determined by CARA ratings. In Eastern Federal Corporation v. Wasson, 316 S.E. 2d 373 (S.C. 1984), the court ruled that a tax of 20% on all admissions to view movies rated either "X" or unrated was an unconstitutional delegation of legislative power to a private trade association. See also, Swope v. Lubbers, 560 F.Supp.1328 (W.B. Mich, S.D. 1983) (use of M.P.A.A. ratings was improper as a criteria for determination of constitutional protection), Drive-In Theater v. Huskey, 435 F.Sd 228 (4th Cir. 1970) (sheriff enjoined from prosecuting exhibitors for obscenity based on "R" or "X" rating).

Unconstitutionality of Restrictions on Speech with Violent Content

When these ratings are applied to violent content the problem created by government ratings is compounded. Violent content in otherwise constitutionally protected material is not a permissible subject of government regulation. Every court that has addressed this issue has held that violent content is constitutionally protected speech. American Amusement Machine Ass'n v. Kendrick, 234 F.3d 572 (7th Cir. 2001) enjoined enforcement of a city ordinance that limited minors' access to violent video games. Davis-Kidd Booksellers, Inc. v. McWherter, 886 S.W. 2d 705 (Tenn. 1993) struck down a restriction on the sale to minors of material containing "excess violence." Video Software Dealers Assn. v. Webster, 773 F. Supp. 1275 (W.D. Mo. 1991) held that "unlike obscenity, violent expression is protected by the First Amendment." State v. Johnson, 343 So. 2d 705, 710 (La. 1977) declared that prohibiting the sale of violent materials to minors exceeded the limits placed on regulation of obscene materials by the U.S. Supreme Court. Sovereign News Co. v. Falke, 448 F. Supp. 306, 400 (N.D. Ohio 1977), while remanded on other grounds, overturned a statute defining as "harmful to minors" material describing or representing "extreme or bizarre violence."

Rights of Minors to Read, See and Listen to First Amendment Protected Material

While parents have great influence on what media their kids read, hear or view, and minors do not enjoy the protection of the First Amendment to the same extent as adults, the U.S. Supreme Court has ruled that "minors are entitled to a significant measure of First Amendment protection, and only in relatively narrow and well-defined circumstances may government bar public dissemination of protected material to them." Erznoznick v. City of Jacksonville, 422 U.S. 212-13 (1975). In the case of Ginsberg v. New York, 390 U.S. 629 (1968), the U.S. Supreme Court established a three-part test for determining whether material is "harmful to minors" and may, therefore, be banned for sale to minors. The mere presence of an "R" rating or a voluntarily affixed label alerting parents that a movie or recording might be inappropriate for minors is no basis for assuming that the material meets the Ginsberg test. It is likely that most rated or labeled material would not meet the Ginsberg test for harmfulness.

Other Resources Available to Educate Parents

If some parents believe the existing industry rating systems are inadequate, other options are

available to help them determine whether material is appropriate for their kids. Many organizations, including religious institutions and advocacy organizations, review and rate media for certain specific types content they consider objectionable. Also, many newspapers note in movie and record reviews material that some might find objectionable.

Conclusion

We recognize the challenges that parents face in raising their children in the information age. But government efforts to force a rating system on the media is the wrong solution. Government should not try to dictate the terms of a "voluntary" rating system that it cannot otherwise mandate.

Thank you for allowing us to share our views with the committee.

The members of Media Coalition are

The American Booksellers Foundation for Free Expression
The Association of American Publishers
The Freedom to Read Foundation
The Interactive Digital Software Association
The International Periodical Distributors Association
The Magazine Publishers of America
The Motion Picture Association of America
The National Association of College Stores
The National Association of Recording Merchandisers
The Publishers Marketing Association
The Recording Industry Association of America
The Video Software Dealers Association.

Statement of the

Directors Guild of America

Before the

Committee on Governmental Affairs

United States Senate

"Rating Entertainment Ratings:

How Well Are They Working for Parents and

What Can Be Done to Improve Them?"

July 25, 2001

The Directors Guild of America ("DGA") and its Task Force on Violence and Social Responsibility appreciate the opportunity to submit this statement in connection with the Committee's review of existing ratings systems for films and other entertainment.

DGA was founded in 1936 by a small group of thirteen film directors that included John Ford, King Vidor, Howard Hawks, William Wellman and others. These filmmakers – then at the height of their careers – recognized the need for a guild to protect both the economic interests and the creative vision of directors in dealings with the powerful producers of that era. Today, DGA represents more than 12,000 members

who work in feature film, taped and live television, commercials, educational films, and documentaries. Our members include directors, unit production managers, assistant directors, associate directors, technical coordinators, stage managers and production assistants.

DGA serves as collective bargaining agent in negotiations with representatives of the motion picture studios over basic terms of employment for its members, collects and distributes residual payments, and serves as advocate before Federal and state policy makers in matters affecting the economic and creative interests of film directors.

As parents and as responsible professionals, DGA's members are concerned about the exposure of children to films with content that might be inappropriate for them. In 1999, DGA's National Board of Directors established a DGA Task Force on Violence and Social Responsibility to address the issue. For more than two years, this panel of leading filmmakers has given close study and critical attention to the motion picture ratings system and the role of motion picture ratings in informing parents and the film-going public.

Following the issuance of the Federal Trade Commission's September 2000 report, "Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording and Electronic Game Industries," the DGA Task Force prepared a statement calling for, among other things, possible modifications in the current rating system administered by the Motion Picture Association of America. DGA continues to endorse the principles outlined in that statement:

- Freedom of speech is a constitutional right and an American social value of the highest order. DGA opposes legislation or other governmental regulation that would limit freedom of speech or chill artistic expression.

- A strengthened motion picture ratings system, achieved and implemented through industry self-regulation, is the best means to ensure that movies are seen only by the audiences for which they are intended.

- Parents are ultimately responsible for determining what film and television entertainment their children see. But the industry can and should do more to support parents in this regard. DGA advocates changes in the motion picture rating system that would empower parents to make more informed decisions about family viewing by providing clearer information about the nature and content of a film.

To advance these principles, we urge the motion picture industry to adopt references that more clearly delineate a film's intended audience. Under the current system, an "R" rating means that children – any child, if fact – under 17 can see the film if accompanied by a parent or adult guardian. In other words the ratings system treats all children under 17 equally. And similarly since most films are designated as "R" there is no clear differentiation among them with respect to content. The DGA believes that the current **R** rating is overbroad and that the industry needs to examine a revision of the **R** rating with a view to the diversity of films that now fall into that category.

A rating of "PG-13" ("parents strongly cautioned") or "PG" ("parental guidance suggested") provides only vague guidance. Nothing in the current system for rating motion pictures tells parents what content has resulted in the rating (language, sexual content, drug use or violence). Parents may find such information useful in determining whether a particular film is appropriate for a child, given his or her age and level of maturity. And nothing tells a parent when a film is inappropriate for younger children, for example children under the age of 8. DGA believes that greater clarity

could be achieved through an industry created adjustment of the existing rating system, or through expanded public education.

DGA also urges the industry to establish and stand behind a viable rating accommodating films intended, owing to their theme or content, solely for adult audiences. DGA believes that parents, film directors and the motion picture industry itself would benefit from a ratings system that does a better job of acknowledging that some films simply are not intended for and should not be seen by children or teens. We are working with other interested parties to *develop, implement and utilize* a rating that will allow a filmmaker to tell an adult story in an adult way, without fear that minors will see the film and without having that film be unfairly stigmatized. The current "NC-17" rating ("no one under 17 admitted") has, in our view, been a failure. It is virtually never used. Instead, many films that *should not* be seen by minors are re-cut to receive a "hard" "R" rating. Such action not only compromises the filmmaker's vision, but also increases the likelihood that adult-oriented films will be seen by viewers for which they were not intended.

Changes in the motion picture ratings system may pose challenges for filmmakers, film producers, and film distributors, but we believe the industry can rise to these challenges. The motion picture industry knows filmmaking and the film medium best. A movie is different from recorded music, or from a computer game. The experience of watching a movie is different from that of listening to music or playing an interactive game. There is nothing "uniform" about these productions and experiences, and their ratings need not and should not be "uniform."

A strengthened industry-developed and -implemented ratings system, in our view, will best accommodate these differences and best serve the needs of parents, their children, and others in the audience for filmed entertainment. Government-mandated, one-size-fits-all ratings are likely to result in apples-to-oranges comparisons that serve neither the affected industries nor their customers well over time.

Finally, while the focus of the Committee's hearing is on entertainment ratings, DGA wishes to emphasize that the Guild and its members remain strongly opposed to any governmental regulation of film or television content and to any legislation that would impose civil or criminal penalties on the makers or distributors of motion pictures for the improper marketing of their films.

Again, we thank the Committee for the opportunity to present this statement on a matter of great importance to America's film directors.

Statement on the Need for a Universal Media Rating System

to the United States Senate Governmental Affairs Committee

In connection with their Hearing

"Rating Entertainment Ratings: How Well Are They Working for Parents,

and What can be Done to Improve Them?"

July 25, 2001

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Senator Lieberman and members of the Committee. My name is Joanne Cantor. I am sorry that I cannot appear before you in person, but long-standing family vacation plans force me to submit my comments in writing only. Since the mid-1970's, I have been a professor at the University of Wisconsin, focusing my teaching and research on the effects of the mass media, especially media violence, on children. In the mid-1990's, I participated in the National Television Violence Study[1], in which I studied the effects of media ratings and advisories on children. At the same time, I also conducted a national survey with the National PTA to explore what parents would find most helpful in a television rating system.[2] I have written a book titled *"Mommy I'm Scared": How TV and Movies Frighten Children and What We Can Do to Protect Them,*[3] that helps parents protect their children from the effects of media violence. I have also written several encyclopedia articles about media violence, about television and movie ratings, and about media ratings of all types.[4] Finally, I am the mother of a 12-year-old son, so I have personal experience with the use of media ratings. All of these experiences, I believe, put me in a position to comment knowledgeably on rating systems.

Evidence of the Harms of Media Violence

The need to protect children from unfettered access to media violence is unquestionable. As you have heard on many previous occasions, there is a large body of research that demonstrates that media violence has detrimental effects on children's psychological well-being, promoting the acceptance of violent solutions to problems, increasing desensitization to the harms of violence, increasing interpersonal hostilities, provoking intense anxieties and nightmares, and sometimes promoting the commission of violent acts. I attach a presentation I gave at last year's American Psychological Association Convention that summarizes what I

consider to be the strongest aspects of this research.[5] (This paper is also available on my web site (www.joannecantor.com). I will not reiterate the research on harms here, but I would like to say a few things in rebuttal of the comments you are likely to hear from media lobbyists. First, these lobbyists will argue that there is no compelling evidence that media violence harms children. They will likely present testimony from the one rare academic social scientist who belittles the significance of the media violence research. Please keep in mind how much in the minority this person's view is. Second, the lobbyists will focus on the flaws or limitations of one study and claim that if this study has limited generalizability, the rest of the research is meaningless. The important thing to remember is the weight of the scientific evidence, not the opinion of any one psychologist or the findings of any one study. This is why the technique of meta-analysis is so important, because it combines in a scientific and statistical fashion the results of all the relevant studies and comes up with a conclusion that is based on the consensus of the evidence.

I call your attention to the latest meta-analysis of media violence research, which was published in *The American Psychologist* in May of this year by Professors Brad Bushman and Craig Anderson of Iowa State University.[6] This study shows once again that the link between viewing violence and aggressive behavior is significant. This relationship is observed in experiments (where participants are randomly assigned to view violence or not and their behavior is subsequently measured) as well as surveys (where individuals' normal viewing habits and aggressive behavior are both measured). This indicates that the relationship is not just a function of aggressive people preferring to view violence. Violence viewing increases viewers' aggressiveness. And, in spite of what the media lobbyists say, the article shows that the relationship is strong – stronger than the link between condom use and the prevention of sexually

transmitted HIV, and stronger than the link between exposure to lead and lower IQ scores in children. No one doubts that condom use can save lives, and no one doubts that getting rid of lead in paint is essential. Yet these effect sizes are smaller than the effect size for media violence. It's high time to acknowledge that media-violence effects are strong and that parents and society need to find ways to reduce them.

More disturbingly still, Bushman and Anderson's study documents that as the evidence linking media violence to aggressive behavior has increased in both quantity and strength, the tendency of the press to downplay the results has also increased. The media have a conflict of interest here, because they make so much money selling media violence to youth[7]. No wonder it's so hard to get the message across to the general public that parents need to be concerned.

I agree that school shootings have been terrible tragedies and that we need to do what we can to prevent more of these horrors from occurring in the future. However, we should not be focusing on criminal violence to the exclusion of other harms that are more common but receive less attention from the media. One problem with focusing on criminal violence is that it is impossible to do the ultimate study that the ardent skeptics and media lobbyists would demand. We can't *randomly assign* children early in their lives to watch different doses of violence on television and then 20 years later see which children committed violent crimes. But the same type of limitation also exists for medical research: We can't randomly assign groups of people to smoke differing amounts of cigarettes for 20 years, and then count the number of people who developed lung cancer.

Media violence researchers do longitudinal studies of children's media exposure and look at the types of behaviors they engage in over time. They also control for other factors, such as

previous aggressiveness, family problems, and the like. They don't look at media violence in a vacuum; they examine whether there is a correlation between television viewing and violent behavior, even controlling for other influences. They also do experiments to make firmer causal connections. Like animal experiments in medical research, these are not necessarily naturally occurring situations, but such experiments fill the gaps we cannot fill otherwise. They are meant to show short-term effects, like increases in hostility or more accepting attitudes toward violence -- changes that we know increase the likelihood of violent actions, both in the short term and in the long run, and that are unhealthy effects in and of themselves.

If we can't prove that a particular crime was "caused" by a particular movie, we do have powerful evidence of the contribution of media violence to serious injuries. Not all of this evidence comes from isolated cases. To give an example, a recent national survey of Israeli middle-schools showed that when World Wrestling Federation was introduced to Israeli TV in 1994, the widespread imitation of the wrestlers' behavior produced an epidemic of serious playground injuries, including broken bones and concussions.[8] Although no one was accused of committing a crime, it would be difficult to argue that no child was harmed. The mayhem continued until the frequency with which the program aired was reduced and educators offered extensive counseling to counteract the show's impact. Research also tells us that children often have repetitive nightmares or develop sleep disturbances as a function of exposure to the wrong television programs or movies.[9] There's nothing criminal here, but such effects can be severely harmful to a child's physical and psychological well-being, and parents need ways of protecting their children from such effects.

The Role of Rating Systems

I agree that the most important influence on a child's development is, and should be parents. However, the media make it harder and harder to parent effectively, by bombarding our children with unhealthy images on TV, in videos, in music, in video games, and on the Internet. It is literally impossible for parents to preview all of this material, so it is essential that they be provided with easily understood information in advance, in order to make wiser choices about which types of content and in what amounts their children should consume.

Rating systems are one tool that can help parents, but the current situation is absurdly incomprehensible and confusing. As you can see from the Table I have attached, a concerned parent now needs to know and apply at least **six** different rating and advisory systems to keep up with the controversial content of television, movies, home video games, arcade games, and the Internet. [In addition, there is a virtually unknown advisory in place for positively indexing educational television programming.]

Let's take a look at these rating systems. The Motion Picture Association of America (MPAA) movie rating system has been in place the longest and is the most well known. This system gives vague age guidelines for viewing, but gives no information about program content. Survey after survey, including the National PTA survey mentioned above, shows that parents prefer content information over age guidelines.[10] Moreover, the National Television Violence Study and other research has shown that the Motion Picture Ratings and other restrictive guidelines actually increase children's interest in viewing controversial programming.[11] MPAA President Jack Valenti is very proud of his own surveys that show that the majority of parents find the system "very useful" or "fairly useful." I would not disagree that *part* of the system is

"fairly useful." The mother of a six-year-old can look at an R-rating and safely guess that the movie is inappropriate for her child. And since two-thirds of movies being made these days are rated R or higher,[12] this is a great time-saver. But how useful are the ratings of G, PG, and PG-13? Recent research has shown that even G-rated animated movies are surprisingly violent[13] and that there is very little difference in the content of movies rating PG and PG-13.[14] I would ask Mr. Valenti two things: First, would you please release the breakdown of your survey responses between "very useful" and "fairly useful"? My guess is that this large category has only a small proportion of "very useful" votes. Second, would you please ask parents how useful the ratings of G, PG, and PG-13 are? My expectation is that these ratings will score very low. It is indeed a step in the right direction that many ads for movies are now including the reasons for a movie's rating. But these reasons should be part of the rating itself and be available everywhere the rating is displayed.

Now, for television. The current system of television ratings was the result of a compromise between the television industry and child advocacy groups. The age-based guidelines, TVY, TVY7, TVG, TVPG, TV14, and TVMA, may be supplemented by the letters V, S, L, D, and FV. Aside from being complicated, the major problem with this system is that the meanings of these letters and icons do not appear with the icons. In fact, they almost never appear anywhere. This system is the only major media rating system that has this unacceptable but easily remedied flaw. No wonder practically no one knows what the icons and letters mean! Research shows that the revised system is poorly understood. For example, in a national survey of parents conducted by the Kaiser Family Foundation in April of 1999, a year and a half after the revised system was put in place, only three percent of parents knew that the content letters,

FV, stood for "fantasy violence" and only two percent knew that D stood for suggestive or sexual dialog.[15] In a national survey conducted in the winter of 2000-2001 and funded by the National Association of Broadcasters, 4% of parents knew that FV stood for fantasy violence and 7% knew what the D stood for.[16] These results show that the public cannot learn a rating system if icons are expressed without comprehensible words that make them meaningful. What we have here is functioning as a "secret code" that few parents can interpret and many don't even know exits. The media's efforts to publicize the rating system have been woefully inadequate. In fact, research shows that in the year 2000, a smaller percentage of parents (50%) were aware that there was a television rating system than knew there was one in 1997 (70%).[17]

There are further problems with the TV rating system. NBC still refuses to go along with the compromise and uses only the age icons but not the content indicators. In addition, some program listing services have not adopted the new system. My local papers still use the original rating system without the content letters. And inexplicably, the ratings given in my local paper are different from the ratings that are readable by the V-chip. My newspaper always says that "The Tonight Show with Jay Leno" is rated "TVM" [sic], but the rating transmitted through the television is TV14. Then there is the issue of whether producers are using consistent criteria to rate their shows. Research suggests that they are not.[18]

Adding even more to parents' difficulties in screening their children's media exposure, rating systems for other forms of media are entirely different. Music has a Parental Advisory sticker for "explicit content." This gives no indication of the type of explicit content or its level of severity. Video games have two different rating systems, one for home games and another for arcade games. The one for home games, the ESRB (Electronic Software Monitoring Board)

system, gives explicit age guidelines, supplemented by a variety of content phrases, such as "comic mischief," or "mature sexual themes." The system for arcade games also has content phrases, with the level of that content indicated by one of three colored stickers: green ("suitable for everyone"), yellow: ("mild"), or red: ("strong"). In addition, there are many different rating systems for Internet content.

The result of this situation is a dizzying array of icons, letters, and numbers, that leaves most parents shaking their heads and wondering where to begin. How can they possibly cope with the overwhelming intrusion of media into their homes (via TV, radio, and computer), and the relentless marketing of other products that children can buy or consume elsewhere?[19] It makes eminent sense to have an easily understood rating system that parents can count on when they make these important decisions.

I urge you to do whatever you can to give parents an easily comprehensible, reliable system for evaluating the appropriateness of their children's media choices. And please ensure that there are adequate resources to promote that system and to disseminate the information parents need in order to understand the severe health consequences of not properly guiding their children's media exposure.

A Guide to the Most Commonly Used Rating Systems in the United States**

Medium/Name	**Evaluative Ratings** (Recommendations & Warnings)	**Content Indicators**	**Assignment** (Who Decides?)
Movies/ Motion Picture Association of America (MPAA) Ratings	**G**: General Audiences **PG**: Parental Guidance Suggested **PG-13**: Parents Strongly Cautioned **R**: Restricted **NC-17**: No One 17 and under admitted	None; reasons for ratings of recent films available at www.mpaa.org; reasons also available in some large newspaper ads and some television ads	Assigned by paid panel of parents; possibility of appeal to Industry Panel
TV/ TV Parental Guidelines (V-chip ratings)	**TV-Y**: [All Children]* **TV-Y7**: [Directed to Older Children] **TV-G**: [General Audience] **TV-PG**: [Parental Guidance Suggested] **TV-14**: [Parents Strongly Cautioned] **TV-MA**: [Mature Audiences Only]	**V**: [Violence]* **S**: [Sex] **L**: [Coarse Language] **D**: [Sexual Dialog or Innuendo] **FV**: [Fantasy Violence]	Self-assigned by producer or distributor; designed to be applied to all programming except news and sports.
TV/ "E/I" Educational/Informational Programming	**E/I** (Various icons and indicators for different stations)	None	Self-assigned by television station
Music Advisories	**"Parental Advisory: Explicit Content"**	None	Self-assigned by producer or distributor
Video Games/ Electronic Software Ratings Board (ESRB) Ratings	**eC**: Early Childhood: Ages 3+ **E**: Everyone: Ages 6+ [formerly K-A: Kids +Adults] **T**: Teen: Ages 13+ **M**: Mature: Ages 17+ **Ao**: Adults Only	Variety of phrases, e.g., "animated violence," "comic mischief," "strong language," "mature sexual themes."	Assigned by Rating Board based on submitted tape and questionnaire
Arcade Games/ Parental Advisory System	None	Animated Violence, Life-like Violence, Sexual Content, Language (three levels of each: green: "suitable for everyone"; yellow: "mild"; red: "strong")	Self-assigned by producer or distributor
Internet/ Recreational Software Advisory Council (RSACi) Ratings; Internet Content Rating Association (ICRA)	None	Violence, Nudity, Sex, Offensive Language (levels for each, or the presence of specific elements and context features)	Computer-generated rating based on self-report questionnaire by producer

*[*Material in brackets is not usually given with the ratings.*] **Reprinted from www.joannecantor.com

For further information on these issues, see Cantor, J. (1998). *"Mommy, I'm Scared": How TV and Movies Frighten Children and What We Can Do to Protect Them.* San Diego: Harvest/Harcourt Publishers.

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Media Violence and Children's Emotions: Beyond the "Smoking Gun"

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Media Violence and Children's Emotions: Beyond the "Smoking Gun"

Abstract

This paper focuses on two reasons why media violence research is often misunderstood. First, it explores the methodological limitations of studying media violence and argues that these limitations are similar to those we accept in medical research. It concludes that viewed in this perspective, the link between media violence and aggressive behavior has been conclusively demonstrated. Second, the paper explores the largely neglected role of emotional responses both in the harms that media violence can produce and in possible techniques for reducing the harmful consequences.

Two areas of emotional research are explored: Media violence's effects on desensitization and hostility, on the one hand, and its contribution to children's fears and anxieties on the other. The paper cites studies indicating that exposure to intense media violence increases hostile feelings in the short-term and can also produce an enduring hostile mental framework that colors even affectively neutral interpersonal interactions. It also cites research demonstrating the widespread contribution of media violence to children's nightmares and long-term anxieties and the usefulness of cognitive development research in predicting what will frighten children of different ages and in helping reduce media-induced fears.

Finally, the paper argues that a knowledge of the emotional impact of media violence can be useful in designing strategies for combating the problem: A newly published study demonstrates that encouraging children to focus on the feelings of the victim of violence can counteract the typical aggression-promoting impact of a violent cartoon.

Media Violence and Children's Emotions: Beyond the "Smoking Gun"

Research on media violence is often misunderstood by the general public. There are two important reasons why. One is a methodological issue: It is impossible to do the type of "smoking gun" research that would please the ardent skeptics. The other is that most public discussions of media violence don't adequately address the emotional consequences of viewing. I will briefly discuss the methodological issues and then focus on the important role of emotional reactions both in the risks of media violence and in potential remedies.

As for the methodological problems: We can't randomly assign children early in their lives to watch different doses of violence on television and then 20 years later see which children committed violent crimes. But the same type of limitation also exists for medical research: We can't randomly assign groups of people to smoke differing amounts of cigarettes for 20 years, and then count the number of people who developed cancer.

Tobacco researchers conduct correlational studies in which they look at the amount people smoked during their lives and then see the rate at which they have succumbed to cancer. They control statistically for other factors, of course — other healthy and unhealthy behaviors that either reduce or promote the tendency to develop cancer. Then they can find out whether smoking contributed to cancer, over and above these other influences. And since they can't do cancer experiments on people, they use animal studies. These are artificial, but they tell us something about the short-term effects of tobacco that can't be found from correlational studies. Putting the two types of research together, we now have powerful data about the effects of smoking on the development of cancer.

Similarly, media violence researchers do longitudinal studies of children's media exposure and look at the types of behaviors they engage in over time. We also control for other factors, such as previous aggressiveness, family problems, and the like. We don't look at media violence in a vacuum; we examine whether there is a correlation between television viewing and violent behavior, even controlling for other influences. We also do experiments. Like the animal experiments for cancer, these are not natural situations, but such experiments fill the gaps we cannot fill otherwise. They are meant to show short-term effects, like increases in hostility or more accepting attitudes toward violence -- changes that we know increase the likelihood of violent actions, both in the short term and in the long run.

As with tobacco, the two types of media research form a powerful picture. Even though there are many studies that can be criticized, there are many more others that are valid. A recent meta-analysis[1] putting all the studies together, makes a compelling case that media violence does contribute to anti-social behaviors, including violence.

It's also misguided to say the effects of media violence on violent behavior are trivial. To give an example, a recent national survey of Israeli middle-schools[2] showed that when World Wrestling Federation was introduced to Israeli TV in 1994, the widespread imitation of the wrestlers' behavior produced an epidemic of serious playground injuries. The mayhem continued until the frequency with which the program aired was reduced and educators offered extensive counseling to counteract the show's impact.

The second reason for misunderstanding media violence -- the failure to address emotional consequences -- is an area I have been investigating for more than 25 years. Two important areas of emotional effects are hostility and desensitization on the one hand, and fears and anxieties on the other.

Desensitization and Hostility

Desensitization is a psychological process by which an emotional response is repeatedly evoked in situations in which the action tendency that arises out of the emotion proves irrelevant. Desensitization is sometimes used to treat phobias, by gradually and repeatedly presenting a frightening stimulus under nonthreatening conditions. Over time, when desensitization works, the phobic response becomes less and less intense. In a somewhat analogous fashion, exposure to media violence, particularly that which entails bitter hostilities or the graphic display of injuries, initially induces an intense emotional reaction in viewers. Over time and with repeated exposure, however, many viewers exhibit decreasing emotional responses to the depiction of violence and injury. Desensitization to violence has been documented in a variety of outcomes. For example, it has been observed as reduced arousal and emotional disturbance while witnessing violence[3]; as greater hesitancy to call an adult to intervene in a witnessed physical altercation[4]; and as less sympathy for the victims of domestic abuse[5]. Few people would argue that any of these are healthy outcomes.

There is also ample evidence that viewing violence increases viewers' hostile feelings. Some people argue that the well-substantiated correlation between chronic hostility and violence viewing simply shows that people who are already hostile are more likely to choose violence. Well, it's true that violent, hostile people are more attracted to media violence[6], but research shows that the relationship is bi-directional. A 1992 field investigation[7] is a good illustration of this fact. Researchers went to a theater and asked moviegoers to fill out the Buss-Durkee hostility inventory either before or after they viewed a film that they themselves had selected. The findings showed that both the male and female viewers who had chosen a violent movie were initially more hostile than the viewers who had selected a nonviolent movie. Moreover, viewers' levels of hostility became even higher after viewing the violent movie, but remained at the same low level after viewing the nonviolent movie.

This study once again disproves the sometimes-popular notion of "catharsis," that violence viewing helps purge people of their hostile inclinations. To the contrary. And this increase in hostility is not necessarily short-lived. A 1999 experiment[8] looked at the emotional and interpersonal consequences of repeated exposure to gratuitous violence. Researchers randomly assigned both male and female college students to view either intensely violent or nonviolent feature films for four days in a row. On the fifth day, in a purportedly unrelated study, the participants were put in a position to help or hinder another person's chances of future employment. The surprising results indicated that both the men and the women who had received the recent daily dose of film violence were more harmful to that person's job prospects, whether she had treated them well or had behaved in an insulting fashion. The repeated violence viewing

apparently provided an *enduring hostile mental framework* that damaged interactions that were affectively neutral as well as those that involved provocation

The research I've presented on the impact of media violence on desensitization and hostility demonstrates that we should not limit ourselves to considering the most obvious, final outcomes of viewing violence, that is, behaving violently, when attempting to understand its harmful consequences.

Fear and Anxieties

There is growing evidence that violence viewing also induces intense fears and anxieties in child viewers. A 1998 survey[9] of more than 2,000 third through eighth graders in Ohio revealed that as the number of hours of television viewing per day increased, so did the prevalence of symptoms of psychological trauma, such as anxiety, depression, and posttraumatic stress. Similarly, a 1999 survey[10] of the parents of almost 500 children in kindergarten through fourth grade in Rhode Island revealed that the amount of children's television viewing (especially television viewing at bedtime) and having a television in their own bedroom, were significantly related to the frequency of sleep disturbances. Indeed, 9% of the parents surveyed reported that their child experienced TV-induced nightmares *at least once a week.* Finally a random national survey[11] conducted in 1999 reported that 62% of parents with children between the ages of two and seventeen said that their child had been frightened by something they saw in a TV program or movie.

Two recent studies of adults' retrospective reports[12],[13] of memories of having been frightened by a television show or movie demonstrate that the presence of vivid, detailed memories of enduring media-induced fear is nearly universal. Of the students reporting fright reactions in the study we conducted at the Universities of Wisconsin and Michigan, 52% reported disturbances in eating or sleeping, 22% reported mental preoccupation with the disturbing material, and 35% reported subsequently avoiding or dreading the situation depicted in the program or movie. Moreover, more than one-fourth of the respondents said that the emotional impact of the program or movie (viewed an average of six years earlier) was still with them at the time of reporting!

Studies like these and many anecdotal reports reveal that it is not at all unusual to give up swimming in the ocean after seeing *Jaws* -- in fact, a surprising number of people report giving up swimming altogether after seeing that movie. Many other people trace their long-term fears of specific animals, such as dogs, cats, or insects to childhood exposure to cartoon features like *Alice in Wonderland* or *Beauty and the Beast* or to horror movies[14]. I would like to note here that the impact of frightening media depictions are not *just* "psychological." As disturbing as unnecessary anxieties are by themselves, they can readily lead to physical ailments (especially when they disrupt sleep for long periods of time).

For the most part, what frightens children in the media involves violence or the perceived threat of violence or harm. It is important to note, however, that parents often find it hard to predict children's fright reactions to television and films because a child's level of cognitive development influences how he or she perceives and responds to media stimuli. My associates and I have conducted a program of research to explore developmental differences in media-induced fright reactions based on theories and findings in cognitive development. I have summarized this research and its implications for parents and others interested in children's mental health in my book *"Mommy, I'm Scared": How TV and Movies Frighten Children and What We Can Do to Protect Them*. This research shows that as children mature cognitively, some things become less likely to disturb them, whereas other things become potentially more upsetting.

As a first generalization, the importance of how things look decreases as a child's age increases. This finding is consistent with research showing that preschool children tend to sort and match stimuli based on perceptible characteristics, but as they mature through the elementary school years, this tendency becomes supplanted by the tendency to attend increasingly to the more conceptual aspects of stimuli. Both our experimental[15] and our survey[16] research supports the generalization that preschool children (approximately 3 to 5 years old) are more likely to be frightened by something that looks scary but is actually harmless than by something that looks attractive but is actually harmful; for older elementary school children (approximately 9 to 11 years), appearance carries much less weight, relative to the behavior or destructive potential of a character, animal, or object.

A second generalization from research is that as children mature, they become more responsive to realistic, and less responsive to fantastic dangers depicted in the media. This prediction is based on developmental trends in children's understanding of the fantasy-reality distinction. Our 1984 survey of parents[17] supported this trend. In general, parents' tendency to mention fantasy offerings, depicting events that could not possibly occur in the real world, as sources of their child's fear, decreased as the child's age increased, and the tendency to mention fictional offerings, depicting events that could possibly occur, increased. Further support for this generalization comes from our 1996 survey[18] of children's fright responses to television news. A random survey of parents of children in kindergarten through sixth grades showed that fear produced by fantasy programs decreased as the child's grade increased, while fear induced by news stories increased with age.

A third generalization is that as children mature, they become frightened by media depictions involving increasingly abstract concepts. Again, research in cognitive development shows that the ability to think abstractly increases throughout elementary school and continues to mature during the teenage years. Data supporting this generalization come from our 1986 survey[19] of children's responses to the made-for-television movie *The Day After*. Although many people were concerned about young children's reactions to this movie, which depicted the devastation of a Kansas community by a nuclear attack, the survey showed that the emotional impact of this movie increased as the viewer's age increased. Similarly, our survey[20] of

children's reactions to television coverage of the war in the Persian Gulf showed that preschool and elementary school children were more likely to be frightened by the concrete, visual aspects of the coverage (such as the missiles exploding), whereas teenagers were more disturbed by the abstract components of the story (such as the possibility of the conflict spreading).

Coping with Media Violence Effects

An understanding of emotional reactions to media is also important in developing ways to prevent or reduce the harm produced by media violence. Research in cognitive development has helped us discover effective ways to reassure children who have been frightened by media threats. These are explained in *Mommy, I'm Scared.* Strategies for coping with media-induced fears need to be tailored to the age of the child[21]. Up to the age of about seven, nonverbal coping strategies work the best[22]. These include removing children from the scary situation, distracting them, giving them attention and warmth, and desensitization[23]. Eight-year-olds and older can benefit from hearing logical explanations about why they are safe. If what they saw is fantasy, it helps children in this age group to be reminded that what they have seen could never happen.[24] If the program depicts frightening events that can possibly occur, however, it may help to give older children information about why what they have seen cannot happen to them[25] or to give them empowering instructions on how to prevent it from occurring.[26]

As for reducing the aggression-promoting effect of media violence, an understanding of emotional responses can be helpful in developing mediation strategies that can be used by parents or teachers. For example, as viewers become increasingly desensitized and more hostile, they become less and less likely to empathize with the victims of violence. One criticism of the way violence is usually portrayed on television is that it minimizes the apparent harmful consequences to the victim[27], both promoting desensitization and increasing the likelihood of the adoption of aggressive attitudes and behaviors.

A genre of media violence that typically trivializes the consequences to the victim is the classic cartoon, Woody Woodpecker, for example. In a study just published[28], we showed not only that watching Woody could increase boys' endorsement of aggressive solutions to problems, but that empathy instructions could intervene in this effect. Second- through sixth-grade boys were randomly assigned one of three groups: (1) a no-mediation group, who watched the cartoon without instructions; (2) a mediation group who were asked, before viewing, to keep in mind the feelings of the man in the cartoon (this was the tree-medic who was the target of Woody's attacks); and (3) a control group, who didn't see a cartoon. As is frequently found in such studies, the kids who had just seen the violent cartoon without instructions scored higher on pro-violence attitudes than the kids in the control condition (showing stronger agreement with statements like, "sometimes fighting is a good way to get what you want"). However, the kids who were asked to think about the victim's feelings showed no such increase in pro-violence attitudes. As a side-effect, this empathy-promoting intervention reduced the degree to which the children found the cartoon funny. An empathy-promoting intervention may have a dual benefit

therefore: intervening in the direct effect of viewing and perhaps reducing future choices of similar fare.

More research is needed to explore other ways to intervene in the negative effects of media violence. Given the fact that media violence is such a profitable business, it is not likely to go away in the near future. However, a greater understanding of the emotional consequences of viewing violence will help policymakers, teachers, parents, and children deal with the problem. To my mind, we need better public education for parents and teachers, including better information about media effects, more useful content labels, and additional mediation strategies based on research findings. We also need media literacy education for children, including helping them place what they see in perspective, and encouraging a critical analysis of their own media choices.

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