S. HRG. 106–1144

MARKETING VIOLENCE TO CHILDREN

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

SEPTEMBER 13, 2000

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

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MARKETING VIOLENCE TO CHILDREN

WEDNESDAY, SEPTEMBER 13, 2000

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 9:30 a.m. in room SH–216, Hart Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR FROM ARIZONA

The CHAIRMAN. Good morning. We have a very full and busy hearing schedule today. For the benefit of my colleagues, I would like to mention a couple of housekeeping items. One, as I understand it we may have one or more votes around 11 o'clock which will then, obviously, cause us some disruption. Also it is my intention, because of the very long day yesterday, that we will break around 12:30 today. Hopefully we will finish before then, but if not, we will break at 12:30 for one hour, and reconvene at 1:30.

We have a large number of witnesses who have great interest in this hearing, so I would also ask my colleagues if they would try to make their opening statements as brief as possible. The purpose of this hearing is to discuss the Federal Trade Commission report entitled, *The Marketing of Violent Entertainment to Children.* The report examines the marketing practices of the motion picture, music, and video game industries.

The report concludes, and I quote, "individual companies in each industry routinely market to children the very products that have the company's own parental warnings, or ratings, with age restrictions due to their violent content." The report exposed, "that extensive marketing, and in many instances explicit targeting of violent R-rated films to children under the age of 17 and violent PG–13 films to children under 13".

Of the 44 R-rated films studied by the Commission, 80 percent were targeted to children under the age of 17. The report documents extensive market research activities, citing examples of studios testing rough cuts of R-rated films on children as young as 12 years old, and revealed that violent PG–13 rated movies were targeted at children 11 and younger.

One particularly disturbing quote from a marketing plan for an R-rated movie sequel states, quote, "it seems to make sense to interview 10- to 11-year-olds. In addition, we will survey African American and Latino movie-goers between the ages of 10 and 24." I find this patently offensive. Studios ran ads heavily during the

television programs such as *The Simpsons, Buffy the Vampire Slayer, Dawson's Creek, Xena: Warrior Princess, Hercules,* and *WWF Smackdown*. These programs have some of the highest under-17 viewership.

Web sites like HappyPuppy.com and MTV.com are used to attract kids. Comic books and the schoolhouse could not even protect our children from the studio hacks. Quoting from the report, "magazines with majority under-17 audiences such as *Teen, D.C. Comics Teens,* or *Marvel Comics,* contained advertisements for numerous R-rated films.

"In addition, six of the studios use print media distributed exclusively in schools, *Planet Report,* and/or *Fast Times,* to advertise R-rated movies."

The report notes that these periodicals are often mandatory reading for high school students. One studio distributed free movie passes to its R-rated movie at high schools, and distributed promotional material to youth groups such as Camp Fire Boys and Girls. We intend to find out which studio that was, and if the movie executives were here today perhaps we could have asked them.

The FTC's mystery shopper survey sent kids 13 to 16 years old to 395 theaters, and 46 percent of the time these kids were able to purchase tickets to R-rated films. This fact is significant, because following a White House Summit on Violence last year, President Clinton and theater operators trumpeted a new zero-tolerance policy to prevent kids from buying tickets to restricted films. This zero tolerance policy claim, like the repeated claims before this Committee by the Motion Picture Industry that the industry is protecting our children with rating systems and codes of conduct, has been nothing but a smokescreen to provide cover for immoral and unconscionable business practices.

I want to cite in detail one example that stands out as particularly despicable. I quote, "At least one studio was thwarted in its attempt to market a PG–13 film to children 6 to 11 on Nickelodeon, when the network concluded that it would not be appropriate to air advertisements for that film because the Nickelodeon audience is mostly children under 12, and the film contains situations not seen on Nickelodeon, including several gun battles, a couple of fight sequences, some devastating gun blasts, in addition to strong language and sexual suggestion."

The studio's advertising agency noted that it advanced several justifications to Nickelodeon showing the ads including, this film needs the audience Nickelodeon provides to be successful. Though the FTC report has been redacted, after some investigation the Committee was able to establish that the motion picture studio involved was Sony, and the film was an extraordinarily violent film named the *Fifth Element*, starring Bruce Willis. The ad agency involved was McCann-Erickson.

There will be much said today, but thundering silence will be heard from motion picture executives. They have all been invited to testify. By some uncanny coincidence, every single studio executive was either out of the country or unavailable. I can only conclude the industry was too ashamed of or unable to defend their marketing practices. Their hubris is stunning, and serves to under-

score the lack of corporate responsibility so strikingly apparent in this report.

We do, however, have witnesses from the recording industry and the video game industry. I hope that all on the Committee will join me in commending their willingness to testify before us today. Their cooperation stands in sharp contrast to the motion picture industry.

As with motion pictures, the music industry is clearly guilty of marketing violence to children. One marketing plan cited by the FTC report states, "the team is promoting heavily at the local high school and colleges, and the colleges and high schools and community centers are the focus of our attack."

Print ads were consistently placed in magazines like *Seventeen, Skateboarding, YM,* and *Vibe.* These magazines have an under 18 readership of between 40 and 80 percent. Television programs like *The Simpsons* and *Buffy the Vampire Slayer* represent some of the highest teen audience members on TV, and were consistently used to market label recording products.

Though the music labeling system is basically useless, as it contains no content information and no age-appropriate recommendations, the FTC did conduct a secret shopper survey. Not surprisingly, 85 percent of the time children were successful in purchasing labeled recordings. Given the lack of information provided, the only thing remarkable about this number is that every child was not able to make a purchase. I understand that the music industry has announced a series of steps designed to address some of these concerns. I will leave it to the witnesses to outline these changes.

To their credit, the video game industry has the most comprehensive and informative labeling system that provides detailed information about content and age appropriateness. Unfortunately, this system did not prevent marketing to kids. Nearly 70 percent of the games reviewed by the Commission were targeted to kids under 17. One particularly shocking marketing report stated that, "though the game has two ratings for teens only, I have asked Nickelodeon sales to help get an approval so that the product can air on the network. Nickelodeon airs 27 of the top 30 cable shows against our target demo for boys 9 to 17."

I want to make clear that neither this report nor this Committee intends to make the case for censorship. We make no threat against the First Amendment. It is not my purpose to pass judgment on the products of your industries. We all have our own views on the quality and value of what will be defended as art, but that is not the question today.

Defending these market practices does not defend art or free expression. It defends the bottom line of your corporations, and while as a defender of the free market I do not begrudge anyone's honest profits: I do not think they need to come at the expense of our children's well-being.

What is in question is not Government censorship but industry responsibility. It is your responsibility to refrain from making more difficult a parent's responsibility to see that their children grow up healthy in mind and body into adults who are capable of judging for themselves the quality or lack thereof of your art.

I could go on, but time is short, and the witness list is long. Chairman Pitofsky will provide us with the details of the FTC report. I want to commend the staff of the Federal Trade Commission on an excellent job. I want to acknowledge the leadership of Senator Brownback in this effort, and many others.

Finally, I want to get back to the motion picture industry and their failure to present even one witness for this panel. The Committee received essentially two excuses for why studio executives saw fit only to send their lobbyists to represent them. First, they were virtually all out of the country. Secondly, they did not have the time to respond to the substance of the report.

On the second count, the contents of this report are based almost entirely upon data provided by the studios themselves, thus I assume they are already familiar with it. In addition, Committee staff have been talking regularly with studio lobbyists for several months about a hearing in September and the need to present studio executives.

Furthermore, the FTC has served a 15-day advance notice to all entities involved in the pending report. Finally, there has been an intense dialogue between the Committee and the industry lobbyists over the past 2 weeks.

Yet here we are, with no direct representation by the motion picture industry. This is a sad commentary on corporate responsibility, and an affront to American families whose children are so clearly in the crosshairs of hundreds of millions of dollars in movie violence advertising. As such, I am announcing today that this Committee will convene another full Committee hearing 2 weeks from today for the sole purpose of hearing motion picture industry testimony in response to the FTC report.

As this hearing proceeds, invitations are being delivered to Gerald Levin, chairman of Time Warner, Incorporated, Michael Eisner, chairman of The Walt Disney Company, Rupert Murdoch, chairman of Newscorp, Sumner Redstone, chairman of Viacom, Incorporated, Edgar Bronfman, chairman of Seagram, Stacey Snider, chairman of Universal Studios, John Calley, chairman of Sony Pictures Entertainment, Jim Gianopulos, president of Twentieth Century Fox, Jeffrey Katzenberg, Dreamworks/SKG, Sherry Lansing, chairman of Paramount Picture/Viacom, Barry Meyer, chairman of Warner Brothers, Michael Nathanson, president of MGM Pictures, and Harvey Weinstein, chairman of Miramax.

By that time, these individuals will have had 2 full weeks to clear their schedules and to study the report. They will have no excuses for failing to appear before this Committee.

Senator Hollings.

[The prepared statement of Senator McCain follows:]

PREPARED STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

The purpose of this hearing is to discuss the Federal Trade Commission report: The Marketing of Violent Entertainment to Children. The report examines the marketing practices of the motion picture, music, and video game industries. The report concludes, and I quote: "individual companies in each industry routinely market to children the very products that have the industries' own parental warnings or ratings with age restrictions due to their violent content."

The report exposed "extensive marketing and, in many instances, explicit targeting of violent R-rated films to children under the age of 17, and violent PG–13

films to children under 13." Of the 44 R-rated films studied by the Commission, 80 percent were targeted to children under 17. The report documents extensive market research activity, citing examples of studios testing rough cuts of R-rated films on children as young as 12 years old, and revealed that violent, PG–13 rated movies were targeted at children 11 and younger. One particularly disturbing quote from a marketing plan for an R-rated movie sequel states: ". . . it seems to make sense to interview 10- to 11-year-olds . . . In addition, we will survey African-American and Latino moviegoers between the ages of 10 and 24." I find this patently offensive.

The studios ran ads heavily during television programming such as *The Simpsons, Buffy the Vampire Slayer, Dawson's Creek, Xena: Warrior Princess, Hercules, and WWF Smackdown*. These programs have some of the highest under-17 viewership. Websites like *happypuppy.com* and *mtv.com* were used to attract kids. The comic books and the school house couldn't even protect our children from the studio hacks. Quoting from the report: "Magazines with majority under-17 audiences, such as *Teen* . . DC *Comics Teen*, or *Marvel Comics*, contained advertisements for numerous R-rated films. In addition, six of the studios used print media distributed exclusively in schools—*Planet Report* and/or *Fast Times*—to advertise R-rated movies." The report notes that these periodicals are often mandatory reading for high school students. One studio distributed free movie passes to its R-rated movie at high schools and distributed promotional material to youth groups such as Camp Fire Boys and Girls.

The FTC's "Mystery Shopper Survey" sent kids 13 to 16 years old to 395 theaters, and 46 percent of the time these kids were able to purchase tickets to R-rated films. This fact is significant because following a White House summit on violence last year, President Clinton and theater operators trumpeted a new "zero tolerance" policy to prevent kids from buying tickets to restricted films. This zero tolerance policy claim—like the repeated claims before this Committee by the motion picture industry that the industry is protecting our children with ratings systems and codes of conduct—has been nothing but a smoke screen to provide cover for immoral, and unconscionable business practices.

I want to cite in detail one example that stands out as particularly despicable. I quote: "At least one studio was thwarted in its attempt to market a PG–13 film to children 6–11 on Nickelodeon, when the network concluded that it would not be appropriate to air advertisements for that film because the Nickelodeon audience was mostly children under 12 and the film contained situations not seen on Nickelodeon, including several gun battles, a couple of fight sequences, and some devastating gun blasts (in addition to strong language and sexual suggestion). The studio's advertising agency noted that it had advanced several justifications (to Nickelodeon) for showing the ads, including: "This film needs the audience Nickelodeon provides to be successful." Though the FTC report has been redacted, after some investigation the Committee was able to establish that the motion picture studio involved was Sony, and the film was an extraordinarily violent film named "The Fifth Element," starring Bruce Willis. The ad agency involved was McCann/Erikson.

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signed to address some of these concerns. I will leave it to their witnesses to outline those changes.

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As such, I am announcing today that this Committee will convene another Full Committee hearing two weeks from today for the sole purpose of hearing motion picture industry testimony in response to the FTC Report. As this hearing proceeds, invitations are being delivered to:

Gerald Levin—Chairman, Time Warner, Inc.

Michael Eisner—Chairman, The Walt Disney Company

Rupert Murdoch—Chairman, Newscorp

Sumner Redstone—Chairman, Viacom, Inc.

Edgar Bronfman—Chairman, Seagram

Stacey Snider—Chairman—Universal Studios

John Calley—Chairman of Sony Pictures Entertainment

Jim Gianopulos—President of Twentieth Century Fox

Jeffrey Katzenberg—Dreamworks/SKG

Sherry Lansing—Chairman, Paramount Picture/Viacom

Barry Meyer—Chairman, Warner Brothers

Michael Nathanson—President, MGM Pictures

Harvey Weinstein—Chairman, Miramax

By that time, these individuals will have had two full weeks to clear their schedules, and to study the report. They will have no excuses for failing to appear before this Committee.

STATEMENT OF HON. ERNEST F. HOLLINGS, U.S. SENATOR FROM SOUTH CAROLINA

Senator HOLLINGS. Thank you very much, Mr. Chairman, and I appreciate the fact that you are going to call that hearing within 2 weeks, and I will file my statement. Let me summarize briefly.

In the words of our famous leader, President Ronald Reagan, ''Here we go again.'' Chairman Hyde back in the House committee back in 1952 concluded that the television broadcast industry was a perpetuator and a deliverer of violence. In 1954, 1964, during that 10-year period the Senate Judiciary Committee held hearings conclusively, and I quote, establishing the relationship between television, crime, and violence, between 1960 and 1999, 30 years, this Committee itself has had 20 hearings, Mr. Chairman, on this particular subject.

In 1969, Senator Pastore had extensive hearings resulting in the request for the Surgeon General's study, and in 1972 the Surgeon General reported that a causal link between viewing violence as a child and subsequent violent aggressive behavior.

Of course, Dr. Leon Elder of the University of Michigan, who published the famous book on this particular subject, after a 20-year study he concluded there was a direct causal link between the childhood viewing of television and violent conduct.

In 1982, the National Institute of Mental Health, after 10 years of research, found the consensus among all of the research communities that violence on television leads to aggressive behavior.

In 1990, we put in an antitrust—you see, the strategy of not appearing was to say, oh, wait a minute, we can do it, and so in 1990 this Committee, Mr. Chairman, gave the industry an antitrust exemption under Senator Paul Simon's bill, and after they had voluntarily done it in 1992 the networks issued this confusing standard thing, but 1993, Dr. Brandon Cantrell's study found the same thing, that the homicide rate doubles 10 years after television is introduced in a country.

And in 1995, we finally got to the safe harbor bill that is, excessive gratuitous violence forbidden during the periods 9:00 in the morning to 9:00 in the evening, when the youth predominate the viewing audience. This is the practice, and proven and tried and true in Europe and Australia and down in New Zealand. They do not go into schools down in Australia, or in the countries in Europe, and shoot up the student body.

We reported that out twice unanimously from this Committee. We have that same bill in this Committee, and I would ask that you consider, Mr. Chairman, for it to be included again on the markup.

I think I conclude here by saying that in 1998 there were other studies, but here were the television people and the movie people. It was actually sponsored by the cable industry, but it included in the study, the National Television Violence Study, amongst other council members Chairman Beals of the Marketing Society, Belva Davis, American Federation of Television and Radio Artists;

Charles B. Fitzsimmons, Producers Guild of America; Ann Marcus, Caucus for the Producers and Writers and Directors, Jean Reynolds, the Directors Guild of America, and they found conclusively that violence on television has been shown to have an influence on aggressive behavior.

It is common sense. We know it, and like Pogo we have met the enemy and it is us, because I hold up—and I will just read three paragraphs from the history of broadcasting. They know violence sells. This is back in 1949, 50 years ago. *Man Against Crime. Man Against Crime* was sponsored by Camel cigarettes. This affected both the writing and the direction. Mimeographed instructions told writers, and I quote, do not have the heavy or disreputable person smoking a cigarette. Do not associate the smoking of cigarettes with undesirable scenes or situations, plot-wise.

Then, moving on, cigarettes had to be smoked gracefully, never puffed nervously. A cigarette was never given to a character to calm his nerves, since this might suggest a narcotic effect. Writers received numerous plot instructions.

But here is a producer's instructions 50 years ago, quote: It has been found that we retain audience interest best when our story is concerned with murder. Therefore, although other crimes may be introduced, somebody must be murdered, preferably early, with the threat of more violence to come. This is a history of broadcasting by the industry itself.

For 50 years, we have known it. It is obvious. We continue to have hearings. We will have another hearing 2 weeks from now, but we have got a solution, tried and true. It is in Europe, down in Australia and New Zealand. It is in this Committee if we only could report it out and vote on it. It would be a privilege. Thank you.

[The prepared statement of Senator Hollings follows:]

PREPARED STATEMENT OF HON. ERNEST F. HOLLINGS,
U.S. SENATOR FROM SOUTH CAROLINA

Mr. Chairman I commend you for holding this hearing today. The issue of the exposure of children to violence in the media has been with us for a long time. I have been involved in addressing the issue of television violence for several Congresses. I believe the best step towards protecting children is to restrict the airing of violent programing to hours when children are least likely to be watching.

In 1952, a House subcommittee first looked at the issue of violence on radio and television. The Senate Judiciary Committee began hearings on this issue in 1954 and the Senate Commerce Committee began hearings in 1960. Since that time there have been studies that link aggression, violent behavior, and a desensitization to violence in children to their exposure to violent programming. In 1972, the Surgeon General's report concluded that there is a causal link between viewing violence as a child and subsequent violent or aggressive behavior. Even a study in 1998 by the National Cable Television Association conceded that "violence in television has been shown in hundreds of studies to have an influence on aggressive behavior."

In order to deal with this issue, the various industry segments have adopted ratings systems and in 1996, Congress enacted V-chip legislation. So far, however, ratings have not proven to be an effective tool. With respect to television, the Kaiser Family Foundation found that 79 percent of shows with violence did not receive a "V" for "violence" rating. A more recent survey by the foundation determined that 9 percent of parents of children ages 2–17 now have a television with a V-chip and only 3 percent of all parents have programmed the chip to block shows they deem unsuitable for their children. With regard to movies, while 90 percent of parents are familiar with movie ratings, children are often able to purchase tickets and attend movies that are not suitable for their viewership. On the music industry side, the "Parents Advisory Label" appears on less than one half of 1 percent of the total in-

ventory of music stores and as significantly, the warnings do not appear in music videos. Finally, as it concerns video games, 15 percent of boys say their parents understand the ratings system and 90 percent say that their parents never check the ratings before allowing them to buy the game.

So during these years of hearings, and studies, and ratings, children continue to be exposed to media violence. A child before completing elementary school will see 8,000 murders and 100,000 other actions of violence on television alone. Now we have another study which tells us that the industry is targeting violent media products at children.

It is now time to take definitive action. Self-regulation is not working. Ratings are not working. Therefore, we should take a strong step to solve this problem by instituting a safe harbor to protect our children. The legislation that I have introduced and that is cosponsored by Senator Dorgan, requires the creation of a safe harbor time period during which broadcasters and other video programmers would not be permitted to transmit violent programming. If the industry will not act responsibly then Congress must act.

Thanks Mr. Chairman for holding this hearing. I welcome the witnesses and look forward to hearing their testimony.

The CHAIRMAN. Thank you, Senator Hollings. At your request we will place it on the markup for next Wednesday. I thank you for your involvement. I would earnestly solicit brief comments from the other Members of the Committee. I would appreciate it. Senator Burns.

STATEMENT OF HON. CONRAD BURNS, U.S. SENATOR FROM MONTANA

Senator BURNS. Thank you very much, Mr. Chairman, and my statement will be very short. It may take all day just to get the statements in here, but I first of all want to thank the FTC, for their work, and the relationship we have had with the FTC and this Committee and this Congress, which has been very, very constructive and very, very good.

And also I noted that, just what the Chairman had noted a while ago, the studios are not here, and I think it is unfair. I think it is unfair. Now, they are sending their representative today, a very able and capable representative. It is unfair to him to make him come up and plead their case when they ought to be here themselves trying to do it.

There are all kinds of pollution, and we deal with all of them here in the Congress, but the deadliest of all of them is noise and mind pollution to a society. It is the deadliest kind, because it tears at the very moral fiber of a Nation and of a society, and yet no one wants to take responsibility.

Marketing to children—where have we heard that before, and not very long ago?—I am wondering if those folks who were as aggressive at that little exercise that happened here in Congress—marketing to children—will be as aggressive this time.

I am not suggesting censorship or anything like that, because there are a lot of us that are at this table that served for this country and protected that First Amendment beyond belief, because we believe in it, but we also fought for this country because we were a responsible country, and that is not being shown here today, and to our Chairman and this Committee, like it should have been.

And so the schedule of another hearing, Mr. Chairman, I applaud you, and I also want to applaud the work of Senator Brownback in this cause, but I think it was something that had to happen because of the kind of pollution that we are dealing with here today.

Thank you very much.

The CHAIRMAN. Thank you. Senator Bryan.

STATEMENT OF HON. RICHARD H. BRYAN, U.S. SENATOR FROM NEVADA

Senator BRYAN. Thank you very much, Mr. Chairman, for convening this hearing, and I would like to preface my comments by commending the Federal Trade Commission, and particularly its very able chairman, Mr. Pitofsky.

No one would deny that the entertainment media has an enormous impact on our youth and helps to shape the youth culture in America. The recent study found that the typical American child spends an average of more than 38 hours a week, nearly the equivalent of a full-time work week, with entertainment media outside of the school.

The findings of the recent FTC report concerning the marketing of violent movies, music, and electronic games to children I find most troublesome. The rising tide of senseless violence in our country has shocked the American public. The circumstances that led to the tragedy that occurred at Littleton, Colorado, nearly 17 months ago has reinvigorated the public debate about the effects of violent entertainment, of the media, on youth, and while it may be impossible to show a causal relationship between the youth's exposure to media violence and violent behavior in a particular case, many researchers have come to the conclusion, as I have, that a child's exposure to violent entertainment media can be a factor contributing to aggression, antisocial attitudes, and violence.

Even more troublesome and disturbing than the abundance of violent movies, music, and video games is the manner in which these games and movies and music are marketed to our youth. It defies rational explanation to understand how a movie studio can on the one hand acknowledge that an R-rated movie that it has produced has inappropriate content for a child under the age of 17 unless accompanied by an adult, and on the other hand employ a marketing strategy for that movie specifically targeted at that audience.

This type of marketing strategy makes a mockery of the movie rating system, and is seemingly based on the presumption that most parents would be willing to take the children to an R-rated movie.

Parents today have a very difficult time in raising their children. My wife and I have been blessed this past year with three little grandchildren and a fourth is on the way. They have responsible parents, good parents. How difficult the challenges are for them, much more difficult than in our generation in raising our own children. The actions by this industry are irresponsible and, indeed, unconscionable in terms of what it does to young people and the difficulty it presents to parents today.

The current marketing techniques employed by the entertainment industry has the perverse effect of complicating a parent's job in choosing which movies, which CD's or video games are appropriate for their children. At a time when the entertainment industry should be looking at new and innovative ways to provide parents with tools to help parents make informed decisions about what

type of media is appropriate for their children, it appears that the industry is working at cross-purposes and, indeed, is part of an effort to market inappropriate material to young people.

Again, I thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Brownback.

STATEMENT OF HON. SAM BROWNBACK, U.S. SENATOR FROM KANSAS

Senator BROWNBACK. Thank you, Mr. Chairman.

Congratulations for holding this hearing, and the one announced in weeks, and the one yesterday, and the one tomorrow. You have got the Committee working hard and doing good work for the people.

This is an important hearing and an important report that is being released on Monday. When several of us introduced legislation last year to authorize this FTC report, we did so because the anecdotal evidence was overwhelming that violent, adult-rated entertainment was being marketed to children.

It has been said that much of modern research is the corroboration of the obvious by obscure methods. The study does corroborate what many of us have long suspected, and it does so unambiguously and conclusively. It shows, as Chairman Pitofsky noted, that the marketing is pervasive and aggressive. It shows that entertainment companies are literally making a killing off of marketing violence to kids.

The problem is not just one industry, but can be found in virtually every form of entertainment—movies, music, video, and PC games. All together, they take up the majority of a child's leisure hours, and the message they get and the images they see often glamorize brutality and trivialize cruelty.

Take, for example, popular music. The FTC report notes that all of the stickered music they surveyed was target-marketed to kids, 100 percent.

Now, in the room we have some easels that show some examples of this music by listing their lyrics. This stuff is not for the faint-hearted, but the music industry has decided it is for children. Nor are these obscure songs. The lyrics from Eminem are from an album that is currently at number 3 on the Billboard chart, after spending 2 months this summer at number 1. He received three awards from MTV last week. The other two featured artists, DMX and Dr. Dre, are currently in the top 30 in the charts, and peaked at number 1 and 2 respectively.

Mr. Chairman, I would just note that as you read through some of the words here—I could not put all of the words up. Of course, I think you can get what Dr. Dre is saying based just on his title—one which I am not going to pronounce. How does it make you feel here, listening to this, looking at it, and knowing that 100 percent of this is targeted, marketed to children.

Now, maybe I am a little more sensitive to this than others because I have five children, but I do not like it, and I think it is wrong for these companies to use millions of dollars to target this to children. It is especially wrong when they themselves say this is inappropriate for those children! I know it makes all of us blush and feel uncomfortable here in this room today, and yet it is okay

for a 14-year-old? Indeed, major billion-dollar companies would spend millions selling this to these children.

Movies are equally blatant in their marketing kits and appalling in their content. Movies have great power, because stories have great power—they can move us, change our minds, our hearts, even our hopes. The movie industry wields enormous influence, and when used responsibly the works can edify, uplift, and inspire—but all too often that power is used to exploit.

The CHAIRMAN. Senator Brownback, you have run out of time.

Senator BROWNBACK. I would like to submit the rest of this for the record if I could, Mr. Chairman. I would also urge that we not stop at this, that we should ask these companies, all of which have issued statements about what they want to do, to just stop putting out some of these products.

[The prepared statement of Senator Brownback follows:]

PREPARED STATEMENT OF HON. SAM BROWNBACK, U.S. SENATOR FROM KANSAS

Mr. Chairman, I appreciate the widespread interest in today's hearing. It's been said that every good idea goes through three stages: first, it is ridiculed. Second, it is bitterly opposed. And last, it is accepted as obvious. Over the past two years, I have chaired three hearings in this Committee on the effectiveness of labels and ratings, the impact of violent interactive entertainment products on kids, and the first hearing on whether violent products were being marketed to children. When we started out, these ideas were ridiculed. Bitter opposition shortly followed. And today, in reviewing the FTC report, the fact that harmful, violent entertainment is being marketed to kids is now being accepted as clear and obvious. We've come a long way.

I appreciate the industry executives who have come here today. I wish that the many other executives who were invited to testify would have seen fit to show up. I have to say, Mr. Chairman, that many in the entertainment industry have shown themselves to be remarkably unresponsive to this Committee. At each of these three hearings on violent entertainment I chaired in this Committee, we invited numerous industry executives—including representatives of Time-Warner, Seagrams, Universal, Sony, Viacom, BMG, Nintendo, Hasbro, ID Software, Midway Games, and Interscope Records. Unfortunately, none of these enormous communications companies could be bothered to communicate with the United States Senate. And today, I see that not one single movie studio representative managed to show up.

Mr. Chairman, this is disgraceful. I appreciate the industry executives who have made it here today; I am deeply troubled by the fact that so few of them choose to do so. Their absence today is a sharp contrast to the presence of so many concerned parents. And their silence on an issue of such importance to so many speaks volumes about their disregard both for concerned parents and vulnerable children.

This is an important hearing, and an important report. When I introduced legislation last year, which was cosponsored by several of my colleagues here today, to authorize this FTC report, I did so because the anecdotal evidence was overwhelming that violent, adult-rated entertainment was being marketed to children. It's been said that much of modern research is the corroboration of the obvious by obscure methods. This study does corroborate what many of us have long suspected—and it does so unambiguously and conclusively. It shows, as Chairman Pitofsky noted, that the marketing is "pervasive and aggressive." It shows that entertainment companies are literally making a killing off of marketing violence to kids.

The problem is not one industry, but can be found in virtually every form of entertainment: movies, music, and video and PC games. Together, they take up the majority of a child's leisure hours. And the messages they get, and images they see, often glamorize brutality, and trivialize cruelty.

Take, for example, popular music. The FTC report notes that all of the stickered music they surveyed was target-marketed to kids. Around the room here on easels are some examples of that music. This stuff is not for the faint-hearted. But the music industry has decided it's for children. Nor are these obscure songs. The lyrics from Eminem (*pronounced M & M*) are from an album that is currently at number 3 on the Billboard chart, after spending two months this summer at number 1. He received 3 awards from MTV last week. The other two featured artists—DMX and

Dr. Dre (*pronounced "Dray"*) are currently in the top 30 on the charts, and peaked at number 1 and 2, respectively.

As I read over this report, I see that *100 percent* ! of the stickered albums that the FTC surveyed were target-marketed to kids. This is both troubling and fairly predictable. Troubling in that the lyrics you see around the room are target-marketed to young kids—mostly young boys—whose characters, attitudes, assumptions, and values are still being formed, and vulnerable to being warped. And predictable in that there are few fans of such music that are over 20.

Movies are equally blatant in their marketing to kids, and appalling in their content. Movies have great power—because stories have great power. They can move us, change our minds, our hearts, even our hopes. The movie industry wields enormous influence, and when used responsibly, their works can edify, uplift, and inspire. But all too often, that power is used to exploit. I've seen some movies that are basically two-hour long commercials for the misuse of guns.

The movie industry has had the chutzpah to target-market teen slasher movies to child audiences—and then insist that the R-rating somehow protects them. From reading this report, it seems clear that the ratings protect the industry from the consumers, not the consumers from the industry.

Or take video games. When kids play violent video games, they do not merely witness slaughter, they engage in virtual murder. Indeed, the point of what are called "first person shooter" games—that is, virtually all M-rated games—is to kill as many characters as possible. The higher the body count, the higher your score. Often, bonus points are given for finishing off your enemies in a particularly grisly way.

Common sense should tell us that positively reinforcing sadistic behavior, as these games do, cannot be good for our children. We cannot expect that the hours spent in school will mold and instruct a child's mind but that hours spent immersed in violent entertainment will not. We cannot hope that children who are entertained by violence will love peace.

This is not only common sense, but a public health consensus. In late July, I convened a public health summit on entertainment violence. At the summit, we released a joint statement signed by the most prominent and prestigious members of the public health community—including the American Medical Association, the American Academy of Pediatrics, the American Psychological Association, the Academy of Family Physicians, the American Psychiatric Association, and the Academy of Child and Adolescent Psychiatrists. I want to read you part of the statement, signed by all of the above organizations:

"Well over 1000 studies . . . point overwhelmingly to a **causal** connection between media violence and aggressive behavior in some children. The conclusion of the public health community, based on over thirty years of research, is that viewing entertainment violence can lead to increases in aggressive attitudes, values and behaviors, particularly in children."

There is no longer a question as to whether exposing children to violent entertainment is a public health risk. It is—just as surely as tobacco or alcohol. The question is: what are we going to do about it? What does it take for the entertainment industry, and its licensees and retailers, to stop exposing children to poison?

There is an additional element that this generally excellent report fails to cover: and that is the cross-marketing of violence to kids. That is, there is ample proof that the entertainment industry not only directly targets children with advertising and other forms of promotion, but also markets to them via toys. Walk into any toy store in America, and you will find dolls, action figures, hand held games, and Halloween costumes based on characters in R-rated movies, musicians noted for their violent lyrics, and M-rated video games. Let me give you just a few examples . . . [Show games]

This is an equally egregious aspect of marketing violence to children, and one that has not yet been adequately investigated. We need to do so. I look forward to working with the FTC to ensure that this is done.

Another immediate step we need to take is to ensure that these industries can enter into a code of conduct. Consumers and parents need to know what their standards are—how high they aim, or how low they will go. I've introduced legislation, S. 2127, that would provide a very limited anti-trust exemption that would enable, not require, but enable companies to do just that.

There are other steps we should consider, but a rush to legislation is not one. Frankly, imposing six-month deadlines on an industry one is actively fleecing for money is unlikely to bring about lasting reform. We need to encourage responsibility and self-regulation. We need a greater corporate regard for the moral, physical and emotional health and well-being of children.

This report is an important step in that direction—because although it concentrates on the tip of the iceberg, it sheds light on the magnitude of the problem. It shows kids are being exploited for profit, and exposes a cultural externality in this market.

Ultimately, we have asked entertainment executives to come here to work with us, and to appeal to your sense of citizenship, and to your corporate conscience. Our appeal is this: please do the right thing. Stop making hyper-violent entertainment which glamorizes cruelty, degrades women, and trivializes abuse. And stop marketing such vile stuff to kids. Just stop it. You don't need to do it, it is morally wrong to do it, and you are hurting kids. So just stop.

The CHAIRMAN. Thank you, Senator Brownback. Senator Kerry.

STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR FROM MASSACHUSETTS

Senator KERRY. Mr. Chairman, thanks for having this hearing. I think the FTC has done a good service and an outstanding job in placing before us a serious problem, which is the problem of potential unfair trade practice, the problem of not adhering to what people have said they will adhere to, which is the standard by which they are going to advertise and protect our children, and to that degree I think it is very appropriate that we are here.

It is more than appropriate that we are talking about the recommendations they have made, specifically that we expand the codes prohibiting marketing to children, that we increase the compliance at the retail level, which is very clearly a problem, and that we increase parental understanding of ratings and try to facilitate the capacity of parents to be able to make choices.

Those are things we can do legitimately, they are things we ought to do, and those are things which I think ought to be in the public dialogue front and center, in the most serious way.

But I react a little bit like Fritz Hollings did. In the 16 years I have been here, I have been here many times on this same subject. It is becoming repetitive, and that is equally disturbing. At the same time, we have found historically that this is not as clear-cut as some would like to make it.

To the degree that there is a false advertising process, or that there is marketing to children, that is egregious. It is unacceptable, and we should all be against it, but on the other hand let us not assume that sort of pontificating role of Washington politicians where we sit here and blame it all on one entity. Art has always reflected life.

I mean, Elvis Presley was unacceptable for a period of time. James Dean in *East of Eden* reflected alienated young people. Alienation among young people is something that is historical. It is part of adolescence, and we ought to be asking ourselves perhaps equally as seriously, as we look at the question of enforcing marketing to kids, I think we ought to ask ourselves a little bit up here why so many kids reflect the kind of life they reflect.

Why are so many kids out of school in so many communities in the afternoon with no parents at home? Why are there no after-school programs? Why is there a lack of structure in kids' lives? Why is it that so many children are growing up at risk in this country at a time when we are the richest nation on the face of the planet?

Those are questions that we also ought to ask here, and we also ought to provide some solutions to them. If you want to empower parents to be able to make some of these choices, parents need to also be able to be home and be with their kids.

The CHAIRMAN. Senator Kerry, your time has expired.

Senator KERRY. I think there are a lot of issues that are on the table here, but I could not agree more that the marketing against an agreed-upon set of principles, specifically to avoid what has been agreed upon, is obviously unfair, it is immoral, it is wrong, and it is appropriate for us to try to hold people accountable, but let us let accountability be passed appropriately to all quarters.

[The prepared statement of Senator Kerry follows:]

PREPARED STATEMENT OF HON. JOHN F. KERRY,
U.S. SENATOR FROM MASSACHUSETTS

Thank you Mr. Chairman, for holding this hearing today. The FTC has done an outstanding job documenting industry practices with regard to marketing violence to children.

Too often lately, when we turn on the news we hear a tragic story of a child engaging in unfathomable acts of violence. The litany is too familiar; Littleton, Colorado; Jonesboro, Arkansas; Edinboro, Pennsylvania; West Paducah, Kentucky; Flint, Michigan to name but a few of the places where tragic shootings have occurred in our schools. I do not believe that the media is solely responsible for these sad events. But I do believe that when our young people are bombarded with shocking, graphic violent images in the movies they watch, the games they play, and the music they listen to, they become inured to abnormal, immoral levels of violence.

We're not going to stop violent images in the media. Our First Amendment wouldn't let us, even if it were possible. But we do have to make every effort to guarantee that violent images are seen and heard only by adults. We have to make sure that parents understand what their children are watching, listening to, and playing. In particular, we need to make sure that the cards are not stacked against parents who are trying to monitor their children's activities.

Mr. Chairman, I was very disappointed to read in the FTC's report that the movie, music and electronic game industries have knowingly and intentionally marketed to children entertainment that *each has deemed appropriate only for mature audiences*. The FTC's finding that of 35 of 44 R-rated movies—80 percent—were *directly* marketed to children under 17 is evidence that not enough is being done. And the problems are not exclusive to the movie industry. The FTC found direct evidence that children were being targeted for music containing parental advisory warnings and for video games deemed appropriate for mature audiences.

Let's be clear here. What most parents most want and need is information about their children's entertainment choices. But if the ads their children are seeing are being surreptitiously placed where the children and *not* the parents will see them, the parents are starting with a distinct disadvantage.

The problem starts when a young child watching *Buffy the Vampire Slayer* sees an advertisement for violent R-rated movies such as *South Park, The General's Daughter* or *The Beach*. The problem starts when a child reading *Teen* magazine or *Marvel Comics* is tempted by an ad for the latest rap or hip hop CD that contains explicit, violent content. The problem starts when a video game that features realistic shootings and violence against women is advertised on a Web site that is frequented by teens.

The problem continues when a fifteen-year-old can buy a ticket to a PG-rated movie and easily slip into an R-rated movie playing at the same multiplex. The problem continues when the seventeen-year-old cashier at the record store sells a CD with a parental advisory to a fourteen-year-old. The problem continues when an overworked temporary clerk hired to handle the Christmas rush at a large department store sell a "mature" video game to a ten-year-old.

It's a hard enough job being a parent in today's world. These kinds of marketing practices, which the FTC has demonstrated are all too common in the entertainment industry, make a parent's job that much more difficult.

The entertainment industry has a responsibility to parents to make their jobs a little easier. The FTC makes some concrete recommendations regarding self-regulation and it is my hope that we will see the industry address some of these issues quickly and stop some of the most egregious acts of targeting young people for vio-

lent entertainment. I believe that the industry is fully equipped to regulate itself and alter its marketing practices to correct these problems. What I am less certain of is whether the industry has the proper motivation to correct its past wrongs. It should make every effort to do so, because if Congress does not see dramatic changes in the way these industries market their products, I have no doubt that we will be back to address some of these issues legislatively.

I hope we don't have to do that. I believe that there are serious First Amendment issues that we would have to consider if we felt the need to legislate in this area. But make no mistake. I will join my colleagues in considering legislation if I don't see the entertainment industry taking steps to correct itself

Whether we ultimately legislate in this area or not, each of us must recognize that this hearing and this issue should not close the book on our discussions of children and violence. As I said earlier, I do not believe that violent entertainment is the sole cause of violence in our schools or elsewhere. No matter how much violence our children are exposed to in the media, they won't go on shooting rampages if they don't have access to guns. I'm not going to get into the entire gun debate here, but I do want to address one legislative effort that I have been working on, along with my good friend Senator DeWine. We introduced legislation that will set minimum standards for gun safety locks. The legislation would not mandate that the locks be used, but would provide yet another tool for parents who want to protect their children and limit their access to firearms.

Mr. Chairman, a gun lock will only keep a gun out of a child's hands if the lock works. There are many cheap, flimsy locks on the market that are easily overcome by a child. The legislation Senator DeWine and I introduced gives authority to the Consumer Product Safety Commission to set minimum regulations for safety locks and to remove unsafe locks from the market. Our legislation empowers consumers by ensuring that they will only purchase high-quality lock boxes and trigger locks. I hope this Committee will hold hearings on this legislation, because I believe that Senators will see that it is a simple way to make sure guns are stored safely.

The gun safety lock legislation won't prevent every tragic shooting. Likewise, limiting the marketing of violent entertainment is not the whole answer. But both are important pieces of the bigger picture, and both can help parents make better decisions for the well being of their children.

Thank you Mr. Chairman. I look forward to hearing from the witnesses.

The CHAIRMAN. Thank you, Senator Kerry.

Senator Frist.

STATEMENT OF HON. BILL FRIST, U.S. SENATOR FROM TENNESSEE

Senator FRIST. Thank you, Mr. Chairman. Mr. Chairman, thanks for convening this important hearing. I say this as a father of a 17-year-old, a 14-year-old, a 13-year-old, who tries to be a good parent, they spend 8 hours in school a day, they all play sports, but in addition they will collectively go to at least 50 movies this year.

They will see, in spite of all their other activities, probably 500 hours of television collectively, and probably listen to over 1,000 hours of music collectively together, in spite of trying to be a good parent, being at all their school functions, and them being very active. Thus, I am very concerned, and I am delighted we are holding this hearing, and delighted with the FTC report and what has come forth.

You know, we are not talking about the slapstick of years past, or the Roadrunner throwing an animal again at the Coyote. Much of what my three boys are exposed to on television, in music, and in the movies is simply vulgar and violent.

It is different than it was in the past, and culture may be a little bit different, but it is totally unacceptable because of the impressions that it leaves that I am absolutely convinced will affect them as individuals, their emotional life, their spiritual life, their happiness, their degree of fulfillment in the future.

Congress has repeatedly gone, as so many people have said, to the entertainment industry in the past threatening Federal regulation, only to be reassured again and again by the industry that voluntary standards can be imposed, that self-regulation is the answer.

If we look back at the history of voluntary standards, which we will hear about, 1950 to 1952 to 1983, that were promulgated by the National Association of Broadcasters, you see things, and I quote, like, "in selecting subjects and themes, great care must be exercised to be sure that treatment and presentation are made in good faith and not for the purpose of sensationalism or to shock or exploit the audience or appeal to prurient interest or morbid curiosity."

Or, in another quotation the standards were, "violence, physical or psychological, may only be projected in responsibly handled contexts, not used exploitatively." Regardless of how culture is changing, standards similar to this, at least as a parent, as a responsible citizen today I would endorse. Regrettably, it is impossible—next to impossible—to find programs that even loosely comply with these standards today.

Are these standards arcane, are they out of date, are they not in touch with the times, are they too traditional? Obviously, I say no, because as a parent, taking my children to the movies and participating with them I see what this world has come to in terms of the presentation.

Research from the Kaiser Foundation finds that more than 75 percent of the programming in the 8:00 to 9:00 p.m. family hour now contain, and I quote, sexually related talk or behavior, period, close quotation, and that is in the family hour. That represents, say, a fourfold increase from 1976.

Mr. Chairman, let me just close by reading the first six sentences of the lead editorial in *The Washington Post* today, which captures, I believe, what this hearing needs to be about, and what our concern as United States Senators should be about. Again, this is from September 13 lead editorial, *The Washington Post.*

"When it comes to children, movies, and violence, it has always been hard to tell whether the H stands for Hollywood or hypocrisy. You have the studios and recording studios piously invoking their cultural integrity and First Amendment rights as they peddle stuff with no discernible redeeming virtues. You have the movie theater chains pretending they cannot control the teens who buy tickets to PG-rated films at the Multiplex, and then stroll in to watch R-rated movies, and you have the politicians like Al Gore, whose sensibilities on the matter seem to depend on whether the day is devoted primarily to soliciting money from the moguls or votes from everyone else."

The last sentence in this first paragraph, and then I will close: "Now, the Federal Trade Commission has added a useful new chapter to its tale of twofacedness." I am delighted that they issued this report, and look forward to exploring it with them further.

The CHAIRMAN. Senator Inouye.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII

Senator INOUYE. Mr. Chairman, listening to my colleagues, I am obviously angered by what I have heard, but we are here to listen and to learn, and I hope that we will not make judgments too early.

The CHAIRMAN. Thank you, Senator Inouye. I hope our colleagues will follow your example.

Senator Abraham.

STATEMENT OF HON. SPENCER ABRAHAM, U.S. SENATOR FROM MICHIGAN

Senator ABRAHAM. Gee, what bad timing for me.

[Laughter.]

Senator ABRAHAM. Mr. Chairman, in deference to your wish to move forward, I will submit my full statement for the record.* I will just make two observations.

First, I, along with several other Members of this Committee, have very young children. Ours are actually twins who are 7, and a 4-year-old, and so to some extent what we are here today to talk about is sort of just over the horizon for our family, but it is close enough to the horizon for us to be just as concerned as every other parent is about what to do, and while certainly I think that what the FTC has done helps us to focus very effectively on one part of the problem, I think we all recognize that as parents we have a responsibility, and as leaders we have a responsibility, to speak out and to become much more engaged.

The problem is, I can do everything possible to address the problem in my own home, but my children want to go visit their friends, and their friends have older siblings who maybe already own some of these recordings, or have been marketed to, and I cannot monitor that, even though I am doing the best job possible. My wife and I are at least trying to do the best job possible, and it concerns me a lot.

One of the things though, that does affect us, and it is a concern not so specifically addressed by the FTC report, is the fact that there has been such a dramatic increase in the violence that is presented in animated television programs and movies. Incredibly enough, the recent study by Harvard School of Public Health indicates there has been about a 50-percent increase in the violence contained and the mayhem contained in cartoons since the release of Snow White in 1937, and that is a pattern that pervades even the kind of programming that we think is designed for children our children's age.

I am concerned about that as well, and I hope that as we move forward we can investigate that a little bit more fully, Mr. Chairman. I certainly intend to speak out against it, and I intend to address it more directly. In fact, I will be sending a letter today to the executives of the companies who are engaged in the presentation of these kinds of programmings and movies, because I think they really do need to hear from us on that level as well.

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*The information referred to was not available at the time this hearing went to press.

Mr. Chairman, thanks for doing this, and I congratulate you for the hearing.

The CHAIRMAN. Thank you, Senator Abraham.

Senator Dorgan.

STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA

Senator DORGAN. Mr. Chairman, thank you very much. First let me say this is not about partisan politics, certainly, and it is not also about censorship. This report, I think, is a constructive piece of evidence that there is targeting of violence and vulgarity to our children, and let me just read a sentence.

The documents show that 35 of 44 R-rated movies studied by the Commission, 80 percent of them, were targeted to children under 17 years of age. That is what this is about.

Now, Senator Kerry mentioned something I think important. It is true that art is on the cutting edge of culture, and it has been very important and will be very important. I also liked Elvis. Of course, Elvis did not sing the lyrics of Limp Bizkit, and probably would not have been allowed to, and probably should not be allowed to today if he is around some place.

[Laughter.]

Senator DORGAN. But the targeting of vulgar material, inappropriate material in CD's and records, the targeting of violence to 12-year-olds, 14- and 15-year-old kids is wrong, just wrong, and this report shows that it is being done systematically.

Now, we ought to be able to entertain adults in America without injuring children. That is the issue. Again, it is not about censorship. I introduced the first V-chip bill in the Congress as a companion to the V-chip bill Congressman Markey offered in the House. I have been concerned about these things for a long time.

I have got a couple of young children, and I am concerned about wanting to be a good parent in the face of all of these influences, but let me just, Mr. Chairman, finally say this. You are inviting people to come here and testify 2 weeks from now. I would encourage you to ask those who are profiting from some of these lyrics Mr. Brownback just discussed to read the lyrics to this Committee and tell us whether they are proud of the product they are profiting from, especially if they are targeting that product to our children. I think it might be an interesting thing to see whether they would want to read those lyrics to the Senate Commerce Committee.

The CHAIRMAN. Excellent idea, Senator Dorgan.

Senator Ashcroft.

STATEMENT OF HON. JOHN ASHCROFT, U.S. SENATOR FROM MISSOURI

Senator ASHCROFT. Thank you, Mr. Chairman. Thank you for holding this hearing.

I particularly want to associate myself with the remarks of Mr. Dorgan. I think those are very well taken, and I want to thank Senator Brownback for his long-time and longstanding interest in these issues, and for having been a catalyst in the achievement of items like today's hearing and the Federal Trade Commission re-

port that confirms something that parents have long feared and suspected.

Many media companies in the entertainment industry are routinely—that is, routinely—marketing to children, and movies, music, and games are being marketed. They are so violent that children are never supposed to be allowed to watch them in the first place. I think the FTC report is an indictment of the entertainment industry for reckless endangerment of children. The report says violent video games are marketed to children as young as age 6, and the fact was just mentioned by Senator Dorgan, advertising for 80 percent of R-rated movies and 70 percent of video games targeted to children under 17.

One marketing plan for a violent R-rated over-17 age film stated, quote, our goal was to find the elusive teen target audience and to make sure everyone between the ages of 12 through 18 was exposed to the film. Hollywood targets young children because of money.

The FTC confirms too many retailers make no real effort to restrict children's access to violent content. According to the FTC, half of all theaters where R-rated movies are shown admit children as young as 13, and 85 percent of children age 13 to 16 who attempt to buy mature rated music and electronic games are able to complete the purchase—85 percent.

It is disgraceful, targeting violent games to 6-year-old kids, selling R-rated movie tickets to 13-year-olds, writing marketing plans to expose violent R-rated films to every teenager under 17. There are leaders in the industry who want America to lose its values, want children to lose their innocence, want to pursue profits at the expense of principle. That is why parents now call Hollywood by its, perhaps rightful name, Hollyweird.

As a culture, we are playing with fire. Entertaining children with graphic mayhem, murder, corrodes children's minds. To those who think otherwise, listen to what the FTC says, and I am quoting. The Commission's literature review reveals that a majority of the investigations into the impact of media violence on children find that, and I am still quoting, there is a high correlation between exposure to media violence and aggressive and at times violent behavior. In addition, a number of research efforts report that—and I am still quoting—exposure to media violence is correlated with increased acceptance of violent behavior in others, as well as an exaggerated perception of the amount of violence in the society, close quote.

In its defense, the entertainment industry wraps itself in a constitutional right of free speech, but responsibilities accompany rights. The FTC calls on the entertainment industry for better self-regulation. That is the first step, the right first step to take, but more could be done.

R-rated products should not be sold or marketed to children. Parents should monitor diligently and control what their children watch. Entertainment leaders should produce products suitable for their own children. Broadcasters should reduce violence aired during early evenings, when children are watching, and if the industry does not police itself and young children continue to be targets of

violent promotional material, then Government should target the industry with false and deceptive——

The CHAIRMAN. Senator Ashcroft, your time has expired. I thank you. Senator Breaux.

STATEMENT OF HON. JOHN B. BREAUX, U.S. SENATOR FROM LOUISIANA

Senator BREAUX. Mr. Chairman, thank you for convening these hearings, and also thank the patience of our colleagues who have been sitting out there listening to us. It seems to me the problem that has been identified by the FTC, which did the study at the request of President Clinton, is really not that complicated.

It seems to me the problem is that the marketing department of the various industries did not get the memo from the executives of the industry that rated their own products, which clearly said that these products are not fit for a certain class of people. If the marketing department got the memo, they did not read it, or if they read it, they did not follow it.

I think the question for this Committee, then, is, what is the appropriate role for Congress to help ensure that the marketing departments follow their own company's recommendations on the products that they have produced. Is there a legitimate role for Congress to be involved to ensure that they follow what their own companies have already previously concluded.

The second concern I think is one that is really a larger concern. We have helped parents have tools to ensure that their own children are protected. V-chips and rating systems were intended to give parents the tools to protect their children.

The real question is, are parents using those tools, and the information I have is that as much as 90 percent of the children tell us that their parents have never discussed the ratings with them, or 3 percent say, well, we have a V-chip and we use it, meaning 97 percent do not. How does Congress address that problem?

So the issues are out there. I hope the hearings will help us resolve the problems. Thank you.

The CHAIRMAN. Senator Rockefeller.

STATEMENT OF HON. JOHN D. ROCKEFELLER, IV, U.S. SENATOR FROM WEST VIRGINIA

Senator ROCKEFELLER. Chairman McCain, I think the points that John Breaux made are very important. I would differ in simply one respect, and that is, you never blame the marketing department. The buck always stops at the chief executive officer and the president, et cetera. Having said that, I understand what the Senator is saying. I find this whole thing really sad and deplorable.

I mentioned we were having this hearing this morning to my 28-year-old daughter. She said, "Have you heard about the video game where they do an electrocution, and you get to turn on the electricity and then get to watch the person die, and make the sounds that the person makes, I guess, when they die in the electric chair?"

But I do think the FTC report is an enormous contribution. I think the behavior of not just the industry but also those who merchandize the product, the theaters and the people who sell it;

85 percent are not denied. Young kids that come in are not denied these products.

It is partly our fault that the Supreme Court has constantly ruled that we cannot get involved in these things, and freedom of speech is sacred in America, but on the other hand, so is what we are teaching our children. We talk about education. We spend money on education. States spend money on education, and this is in many ways more pervasive. Children spend a lot more time watching television and video games than they do in the classroom, so it is extremely serious.

I think if the executives come back in 6 months not having acted and not having cleaned up their act, they will face a Commerce Committee and others that will be looking to do something to clear up this problem once and for all. This cannot happen in America.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Rockefeller. I want to thank our colleagues from both sides of the House and Senate, who have shown a great deal of patience. It is our practice on the Committee to go by seniority on both sides of the aisle. That sometimes matches the age of the witnesses, not always though, but I think it does in this case, and we would begin with the distinguished chairman of the Judiciary Committee, both chairmen, but we will begin with Senator Hatch.

Senator Hatch, welcome back before the Committee.

STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR FROM UTAH

Senator HATCH. Mr. Chairman, I am delighted to be before the Committee. I want to thank the Members of this Committee for the opportunity to testify on the marketing of violent entertainment to children. As the Chairman of the Senate Judiciary Committee and the father of six and the grandfather of 19, and as an occasional song-writer, my interest in this issue is not just professional, but it is personal as well. The Commission should be commended for its work. This is not insignificant amount of work.

Unfortunately, as disturbing as some of the findings may be, they are hardly surprising. It is hard to feign shock at the notion that children, particularly teenagers, are finding ways to see the movies they want to see, listen to the music they want to listen to, or want to hear and play the video games they want to play.

Only someone who has not had the exasperating privilege of raising teenagers might be surprised to find that kids today are still as talented as they have always been in manipulating the loopholes and the gimmicks and the restrictions that are imposed on their behavior.

What is disturbing is the degree to which some commercial enterprises are willing to go to facilitate the manipulation of the few rules that do exist.

Just as disturbing is the fact that much of the violence found in our popular entertainment is directed against women. Despite historic, bipartisan legislation that Senator Joe Biden and I and others authored to help States battle violence against women, it is stunning how much modern music glorifies acts of violence, sexual and otherwise, against women.

While the First Amendment may very well protect hateful content, we must not ignore the fact that violent, misogynistic music may ultimately affect the attitudes many young men have toward women. The recommendations of the Commission are constructive, but Federal regulation and election-year speeches are not the final answer. You cannot regulate decency or legislate taste.

The real issue is far more fundamental. Let us be honest, any society such as ours, where the freedom of expression is guaranteed in the Constitution, must recognize the fact that currently is not in vogue, that with freedom there must be responsibility and accountability, otherwise we will always be downed and confined by those too ready to pander to the lowest common denominator.

It would be so much easier if there were only one culprit, one group that we could blame for our current state of diminished mores and vacuous principles. Some want to blame Hollywood, but what in Hollywood are we targeting?

Are we angry at those who gave us *Saving Private Ryan*, *The Patriot*, and *Schindler's List*, just to mention a few, or who produce television shows like *Touched By An Angel*, or *Providence*? We revel in these shows because they trumpet the very ideals we desperately seek in our own daily lives—the importance of courage, decency, honesty, conviction, and faith.

What about the recording industry? Do we object to the music and lyrics of Gladys Knight or Larry Gatlin or David Foster, or do we only object to the work of those with whom we have no cultural or personal connection?

As one who has written gospel music only to be told that it was unacceptable because of my religious faith, I have seen both sides of this debate on a personal level. Warning labels on CDs and video games do help, but for many teenagers the parental warning code really stands for, "Buy this thing now."

Some want to blame television stations for airing one show after another that portray inordinately beautiful people living in a violent, cynical, vapid society that fortunately is still alien to most of America, and I am not talking about the evening news. The networks counter by asking, how does one provide entertainment for both children and adults in a medium that is always available to both?

What about the role of politicians, who seem to want to have it both ways? What kind of signal is being sent to the creative community when politicians have one hand clutched over their heart in righteous indignation over the prevalence of sex and violence in our nation's entertainment, and yet the other hand is wide open, palm up, in permanent solicitation of money and credibility from Hollywood's most glamorous?

Does anyone believe that the same indignant speeches being made these last few days are also being given in the countless fundraisers in Los Angeles, Nashville, or New York?

Clearly, there is no easy solution or balm that will miraculously solve this problem, but there are constructive steps we can all take to curtail our children's exposure to violence.

It really is threefold. First, the entertainment industry must stop hiding behind the shibboleth of censorship, claiming any form of restraint or self-imposed, even self-imposed, is nothing more than a

capitulation to the puritanical. Too often, the outrageous and shocking are little more than a cover-up for the lack of creativity and originality, but these artists will continue to flourish until the industry stops pretending that the permanent coarsening of entertainment is the only way to pay homage to the First Amendment.

There is one constructive step that Congress can take. It is relatively simple, yet it could have a profound, positive influence by allowing the entertainment industry to begin making changes voluntarily. A very limited amendment to our antitrust laws would clarify that the respective industries can cooperate to develop and enforce responsible guidelines without any fear of liability under current antitrust laws. The Senate has unanimously adopted this amendment, but it has not passed through the Congress. We should pass it before we adjourn.

Other industries in America recognize they have a responsibility for the cumulative consequences of their products that are being used. In Utah, we have reclaimed abandoned coal mines. Why can we not even acknowledge that there has been a mental and moral waste dump created from our overinfatuation with television, movies, and music? We place the entertainment industry on our country's highest pedestal. The time has come for them to exercise responsibility that should come with this honor.

Second, we must recognize the responsibility——

The CHAIRMAN. Senator Hatch, would you speed it up?

Senator HATCH. I will try if I can, Mr. Chairman. I would like to make these few points.

We must recognize the responsibility parents have in the marketing of violence and sex to children. We all know how politically sensitive this subject is, but the simple fact is that parents still enjoy the single most powerful weapon in the battle over how their children are entertained. They still have the power to turn off the television and stop the movies, or unplug the CD player.

It is hard to say no. Anyone who has had to weather the extended grounding of a teenager appreciates the difficulty involved. There are no immediate rewards, little support, and intense disapproval for censoring your own children, and you have to live with those you have offended the most, and then again, there is no reward for a parent other than the beauty of having a well-raised adult.

Third, we have to acknowledge the importance of faith, and Mr. Chairman, if I could just take one more minute, I would appreciate it. A society needs a moral code to survive and flourish. A body of jointly shared principles against which to measure, restrain, and encourage conduct. For many of us, the source of these principles is our religion, which provides a comparable moral compass regardless of whether you attend a synagogue, a church, or a mosque, yet it is not politically correct to be religious or even morally accountable in public.

We live in a time when we have devalued the right to pray, the miracle of birth, and the integrity of the marriage covenant. We live in a time when fame is not a product of achievement as much as it is the expected consequence of notoriety.

I would put the rest of my remarks in the record, and I appreciate having been called to be in front of this august Committee

today. I appreciate what you are doing, Mr. Chairman and other Members of this Committee, to try and elevate these issues to public discourse so we can all do something about them without having the heavy hand of government come in and force things on the creative people in our society.

[The prepared statement of Senator Hatch follows:]

PREPARED STATEMENT OF HON. ORRIN G. HATCH, U.S. SENATOR FROM UTAH

Mr. Chairman, Members of the Committee, thank you for the opportunity to testify on the marketing of violent entertainment to children. As the Chairman of the Senate Judiciary Committee, as the father of six and grandfather of 19, and—as an occasional songwriter—my interest in this issue is not just professional but also personal.

The Commission should be commended for its work. Unfortunately, as disturbing as some of the findings may be, they are hardly surprising. It's hard to feign shock at the notion that children, particularly teenagers, are finding ways to see the movies they want to see, listen to the music they want to hear, and play the video games they want to play. Only someone who has not had the exasperating privilege of raising teenagers might be surprised to find that kids today are still as talented as they have always been in manipulating the loopholes and gimmicks in the restrictions that are imposed on their behavior. What is disturbing is the degree to which some commercial enterprises are willing to go to facilitate the manipulation of the few rules that do exist.

Just as disturbing is the fact that much of the violence found in our popular entertainment is directed against women. Studies show that modern music lyrics, in particular, have become increasingly misogynistic. Hatred and violence against women are widespread and unmistakable in mainstream hip-hop and alternative music. Consider, for example, the singer Marilyn Manson, some of whose less vulgar lyrics include: "Who says date rape isn't kind?"; "Let's just kill everyone and let your god sort them out": and "The housewife I will beat, the pro-life I will kill."

In 1999, I told this Committee about a new up and coming artist. His name? Eminem, the hip-hop artist featured frequently on MTV who wrote "Bonnie and Clyde"—a song in which he described killing his child's mother and dumping her body into the ocean.

Despite historic, bipartisan legislation Sen. Joe Biden and I authored to help states deal with violence against women, it is stunning how much modern music glorifies acts of violence, sexual and otherwise, against women. Many children are listening to this music. This music is marketed to our youth.

It was argued at your 1999 hearing—and will probably be argued again today—that the fame and fortune of today's creators—be they hip-hop artists or movie directors—are the byproduct of a free market where consumers are free to choose. But this argument ignores that fact that these "artists" have been financially and personally embraced by industry. To be frank, these creators would not be as successful in the marketplace were it not for the power and effectiveness of Hollywood's production and marketing capabilities.

If the findings of the FTC report do not convince you of the truth, then ask yourself the following:

- How does industry explain a 1998 Grammy nomination for Nine Inch Nails and a 1999 Grammy nomination for Marilyn Manson?
- How does CBS/Viacom explain MTV's decision to award Eminem "Artist of the Year for 2000?"
- It is one thing for industry to defend the constitutional rights of creators to express themselves. But it's quite another thing to expect society to tolerate the production and marketing of filth to young people for profit. While the First Amendment may very well protect hateful content, we must not ignore the fact that violent, misogynistic music may ultimately affect the behavior and attitudes of many young men toward women.

The recommendations of the Commission are constructive, but federal regulation and election year speeches are not the final answer. You can't regulate decency or legislate taste. The real issue is far more fundamental. Let's be honest. Any society, such as ours, where the freedom of expression is guaranteed in the Constitution, must recognize a fact that currently is not in vogue—that with freedom there must

also be responsibility and accountability. Otherwise, we will always be bound and confined by those too ready to pander to the lowest common denominator.

It would be so much easier if there were only one culprit, one group that we could blame for our current state of diminished mores and vacuous principles. Some want to blame Hollywood, but what in Hollywood are we targeting? Are we angry with those who gave us *Saving Private Ryan*, *The Patriot*, and *Schindler's List*, or produce television shows like *Touched by an Angel* or *Providence*? We revel in these shows, because they trumpet the very ideals that we desperately seek in our own daily lives—the importance of courage, decency, honesty, conviction and faith.

What about the recording industry? Do we object to the music and lyrics of Gladys Knight, Larry Gatlin, or David Foster? Or, do we only object to the work of those with whom we have no cultural or personal connection? As one who has written Gospel music only to be told that it was unacceptable because of my religious faith, I have seen both sides of this debate on a personal level. Warning labels on CDs and video games do help, but for many teenagers, a parental warning code really stands for "Buy this now."

Some want to blame television stations for airing one show after another that portrays inordinately beautiful people living in a violent, cynical, vapid society that fortunately is still alien to most of America—and I'm not talking about the evening news. The networks counter by asking, "How does one provide entertainment for both children and adults on a medium that is always available to both?"

What about the role of politicians, who seem to want to have it both ways? What kind of signal is being sent to the creative community when politicians have one hand clutched in righteous indignation over the prevalence of sex and violence in our nation's entertainment and yet the other hand is wide open, palm up, in permanent solicitation of money and credibility from Hollywood's most glamorous? Does anyone believe that the same indignant speeches being made these last few days are also being given at the countless fundraisers in Los Angeles, Nashville and New York?

Clearly, there is no easy solution—a Gilead's Balm that will miraculously solve this problem. But there are constructive steps that we can all take to curtail our children's exposure to violence. It is really three-fold:

First, the entertainment industry must stop hiding behind the shibboleth of censorship, claiming any form of restraint, even self-imposed, is nothing more than a capitulation to the puritanical. Too often, the outrageous and shocking are little more than a cover for a lack of creativity and originality. But, these artists will continue to flourish until the industry stops pretending that the permanent coarsening of entertainment is the only way to pay homage to the First Amendment.

There *is* one constructive step that Congress can take. It is relatively simple yet it could have a profound, positive influence by allowing the entertainment industry to begin making changes voluntarily.

A very limited amendment to our antitrust laws would clarify that the respective industries can cooperate to develop and enforce responsible guidelines without any fear of liability under current antitrust laws. The Senate has unanimously adopted my amendment to do just that. We should pass it before we adjourn.

Other industries in America recognize they have a responsibility for the cumulative consequences of their products being made and used. In Utah, we reclaim abandoned coal mines. Why can't we even acknowledge that there has been a mental and moral waste dump created from our overinfatuation with television, movies, and music? We place the entertainment industry on our society's highest pedestal. The time has come for them to exercise the responsibility that should come with this honor.

Second, we must recognize the responsibility parents have in the marketing of violence and sex to children. We all know how politically sensitive this subject is. But, the simple fact is that parents still enjoy the single most powerful weapon in the battle over how their children are entertained—the flick of the wrist—the ability to turn off the television, unplug the computer or CD player, and say no to a movie rental. A parent cannot protect their child in every instance, in every activity that occurs in school, but parental supervision can significantly control the content and quantity of what children watch. It is not hard to find out what television shows your teenage children are watching, what movies they are seeing, or what they are doing on the Internet. More often than not, they tend to be the very same shows, films and sites that are being watched by the parents.

But it's hard to say no. Anyone who has had to weather the extended grounding of a teenager appreciates the difficulty involved. There are no immediate rewards, little support, and intense disapproval for censoring our own children. And, you have to live with those you have offended the most. Then again, there is no greater reward for a parent than the beauty of a well-raised adult.

And third, we must acknowledge the importance of faith. A society needs a moral code to survive and flourish, a body of jointly shared principles against which to measure, restrain and encourage conduct. For many of us, the source of these principles is our religion, which provides a comparable moral compass regardless of whether you attend a synagogue, church, or mosque. Yet, it is not politically correct to be religious or even morally accountable in public.

We live at a time when we have devalued the right to pray, the miracle of birth, and the integrity of the marriage covenant. We live at a time when fame is not the product of achievement as much as it is the expected consequence of notoriety. We live at a time when those who defend our cultural institutions, beliefs and values are routinely ridiculed while those who desecrate them are defended and applauded. Well, like politicians, we can't have it both ways.

Reducing the prevalence of violence, vulgarity and obscenity in our children's daily diet will occur only when we collectively decide that our society will benefit more from exercising responsibility than abdicating accountability. There has to be a national conscience, but you cannot have a conscience that is devoid of any values and principles. However it is developed, a moral compass is critical, because we can never truly resolve the problems caused by those who pander in violence, vulgarity and obscenity until we recognize that the responsibility for what our children are watching is not the burden of someone else but our own.

The CHAIRMAN. Thank you, Chairman Hatch. Chairman Hyde.

STATEMENT OF HON. HENRY HYDE, U.S. REPRESENTATIVE FROM ILLINOIS

Mr. HYDE. Thank you, Mr. Chairman, Members of the Committee. I congratulate you for having this hearing, and certainly congratulate the FTC for its excellent report. The issue of media violence and marketing and its connection to youth violence demands public discussion and attention, and I thank you for letting me be a part of the dialogue today.

I am deeply concerned that violence in movies, video games and music, which the FTC found is force-fed to vulnerable and impressionable children, is placing their hearts, their minds, and yes, their souls at risk. Violence in our schools, playgrounds, and neighborhoods results in part from a pervasive culture of violence glorified by some segments of the entertainment industry.

In preparing for today's hearing, I was searching for the most articulate way to describe the crisis we are facing, and after reading a book review I realize I could not do it any better than Senator Joe Lieberman did in his recently published book, *In Praise of Public Life.*

In his book—I hope I am not lifting too much from the statement he is about to make.

The CHAIRMAN. I do not think he minds.

[Laughter.]

Senator LIEBERMAN. Thanks for the promotion.

Mr. HYDE. Senator Lieberman describes, and I quote: "a swelling sense that much of our culture has become toxic, that our standards of decency and civility are being significantly eroded by the entertainment industry, shameless and pervasive promotion of violence, sex, and vulgarity, and that the traditional sources of values in our society such as faith, family, and school, are in a life and death struggle with the darker forces of immorality, inhumanity, and greed", end quote.

I really feel this is something that many of us are sensing today as we come here to discuss the FTC study. Not surprisingly, the study concludes that the entertainment industry in America is

pushing their violent products, movies, games, and music, onto our children. They do this because they know it sells, and heaven forbid that any sense of decency get in the way of making a buck.

Unfortunately, we know from numerous studies that continued exposure to violent entertainment is harmful to our children and leaves some of them more predisposed to violent behavior. This is a complex problem. There are multiple causes.

It would be irresponsible to place all the blame on the entertainment industry, Senator Kerry has it exactly right, but it is clear that part of what is causing youth violence is that children have been overexposed to media violence, and this, coupled with a spiritual vacuum, leaves many youngsters desensitized to violence and unable to fully appreciate the consequences of their sometimes brutal actions.

As popular entertainment becomes more and more violent, and depicts more and more disrespect for life and the rights and well-being of others, some of our kids are starting to believe this is acceptable behavior and this is normal behavior. They do not quite understand that acts of violence may have tragic consequences. Much of the make-believe violence kids are exposed to today is presented not as horror, with devastating human consequence, but simply as entertainment. This is particularly harmful to young people whose values are still under development.

How do we deal with the negative influence of violent entertainment and its marketing to children? It is not easy, and maybe Federal legislation is not the answer. I personally believe, though, we should not dismiss that out of hand. Last year, I offered an amendment to the House juvenile justice legislation that would have created a new Federal statute to protect minors from explicit violent material.

Because the Constitution permits us to restrict the type of sexual materials children can purchase, I believe it makes sense that we can also prohibit the distribution of material to minors that is so graphically violent that it is harmful to minors. In my view, that certain extremely violent movies, games, and music can have just as much or more of a detrimental effect on the mental and moral health of kids than some explicit sexual materials that many States currently prohibit from being sold to children. In other words, violence directed at kids can be obscenity, and this is not protected by the First Amendment.

There was the predictable outcry from Hollywood in response to this, and I was defeated handily on the House floor. Nevertheless, I believe the idea still has merit and should be reconsidered if the industry will not help in our struggle to protect children from certain violent material.

I am not saying Government should prohibit entertainment companies from producing these products, but I am suggesting we recognize there is a sharp difference between what is suitable for adults and what is suitable for children. Congress and the FTC do not have all the answers, but we have to continue to do what we can to help parents shield children from glorification of violence in so much of today's popular entertainment.

Sometimes this means simply bringing attention to the excesses of the industry. Perhaps a strong public expression of revulsion, if

we could ever muster one, will finally persuade the entertainment industry to wake up and take some responsibility. We can hope they will finally do a better job implementing and enforcing their own rating systems. Perhaps they will work more with retailers to ensure that excessively violent products are not sold to children.

We have heard the empty promises before. Hopefully we can get a firm commitment today from the next panel. Is it too much to ask these companies to lend a hand to parents across America who are doing their level best to raise their children?

I am nearly through, Mr. Chairman.

I do not wish to sound hopelessly negative. Some progress is being made, in particular with video games as the industry is aggressively working with producers and retailers to enforce its comprehensive rating system and marketing code of conduct. We should closely monitor these efforts to encourage them.

Additionally, the diligent work of Attorney General Jim Ryan in Illinois has led retail giants Wal-Mart, KMart, and Target to take steps to prevent kids from buying mature-rated games, and Sears and Wards have stopped selling them altogether. Still more, much more can and must be done.

The bottom line is, we must do something to halt the flow of violent images threatening our children. Even the most caring and responsible parents cannot prevent all harmful violent influence from reaching their children. Parents need help. Congress and the industry should stand with them, not against them, because there is nothing we do in life more important than how we raise our children.

Thank you for indulging me, Mr. Chairman.

The CHAIRMAN. Thank you, Chairman Hyde.

Senator Lieberman, before you came in I mentioned that we go by seniority in both the House and the Senate in order of our witnesses testifying, and we warmly welcome you back to the Committee, and we appreciate the fact that you came to discuss with us today this very important issue.

Senator Lieberman.

STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM CONNECTICUT

Senator LIEBERMAN. Thanks very much, Mr. Chairman and Senator Hollings for giving me this opportunity. I was laughing to myself. In this remarkable last 5 weeks of honor and excitement, and opportunity and gratitude and joy, there is always the danger that you will take yourself too seriously. I count on my wife to keep me humble, but the Senate seniority system does that as well.

[Laughter.]

Senator LIEBERMAN. I appreciate that very much. I have benefited from the testimony I have just heard from Senator Hatch and Congressman Hyde, and I must say, as full of excitement as the last 5 weeks have been, Mr. Chairman, I miss the Senate, and I miss my colleagues on both sides of the aisle in the Senate, even you, John.

[Laughter.]

Senator LIEBERMAN. Actually, particularly you, John.

[Laughter.]

The CHAIRMAN. We miss you too.

[Laughter.]

Senator LIEBERMAN. It is great to see you feeling well and, based upon your opening statement, as shy and retiring as ever.

[Laughter.]

Senator LIEBERMAN. I thank you for that. I think all of the country feels secure and encouraged when your steadfast and principled advocacy is at work.

Mr. Chairman, we are here today to talk about the threat of violence to our country, and in particular the troubling way the entertainment media are promoting and selling adult-rated products to our children. But we are also talking, as the two distinguished speakers before me have made clear and Members of the Committee did as well, about a broader theme, the thread of values that connect us as a Nation, and the growing concern about the impact that the popular culture is having on our moral fabric.

That connection I think is critical to understanding what is at stake here, and I just want to take a moment to discuss it.

Mr. Chairman, Senator Hollings, as you know this conversation has been reverberating around the country for the last several years. It is not new. There is widespread anxiety that so many of our common values are deteriorating, that our standards of decency and civility and safety are eroding, that families are weakening, and as a result that the quality of our lives, no matter how prosperous we are, is suffering.

Many of us in public office, particularly Members of this Committee on both sides of the aisle, under your leadership and Senator Hollings, have tried to give voice to these concerns and, in particular, to the complaints of parents who feel locked in a losing competition with the culture to raise their children, our children.

Then came Columbine, which I think was a psychic breaking point for our country. It was a warning that the culture of carnage surrounding our children may have gone too far, and that the romanticized and sanitized visions of violence that our children are being bombarded with by the media has become part of a toxic mix that has actually now turned some of them into killers.

So we pleaded after Columbine with the leaders of the entertainment industry to join us at the table, along with parents, the gun industry, and many other groups involved in this problem, and work with us to reduce the risk of another student rampage and help us fight the larger problem of youth violence. That is what led to the call to the FTC to conduct an investigation of the entertainment industry's marketing practices, which concluded this week in a report that indicates just how far we still have to go.

Rather than helping to shoulder the growing burden on parents, according to the FTC report, the entertainment industry too often has chosen to go behind parents' backs, targeting the sale of violent, adult-rated products directly to children. In fact, the FTC found dozens of what might be called smoking guns about smoking guns, internal marketing plans which show conclusively that the movie, music, and video game industries were intentionally cutting out what might be called the middle mom and dad and routinely, aggressively, and intentionally marketing violent, harmful products to our children.

This practice is deceptive, I believe it is outrageous, and I hope it will stop. These industries have to realize they cannot tell parents that these products are inappropriate for their children in the ratings and then turn around and market them to those same kids. That makes a mockery of the ratings system that parents depend on to make the right decisions for their children. That greatly decreases the effectiveness of the warnings. And it greatly increases the odds that children will be exposed to materials that hundreds of studies have conclusively shown can be harmful to them.

That is why, in response to the FTC report, Vice President Gore and I have demanded an immediate cease-fire in the marketing of adult-rated products to children. And it is why we have challenged the entertainment industry to develop their own uniform codes of responsibility to enforce this policy, just as the FTC has recommended, with real, self-enforced sanctions for offending companies.

The video game industry actually has such a code, and last year the game-makers agreed to strengthen it and step up its enforcement. While I suppose you could say it has not worked as well as it should have, it is a step, a significant step in the right direction, and I think the game-makers deserve credit for taking it. We should expect no less of the music industry, which recently announced some encouraging changes in its parental advisory program, and of the movie industry.

I am hopeful that these entertainment industries will now respond responsibly to the FTC's findings, but I must say this morning I am disappointed by the failure of the movie studios to produce witnesses here before your distinguished Committee. The FTC report raises serious questions, and this Committee, not to mention America's parents, deserve serious answers, not distant excuses.

The Vice President and I believe that vigorous self-regulation is the best solution to this problem, and we hope these entertainment industries will step up to the plate to do just that in the next 6 months. The Walt Disney Company did just that yesterday, issuing a strong statement that it would incorporate the FTC's major recommendations into its marketing policies, and I want to thank and commend them for that step.

But if the entertainment industry fails to act, and if they market adult-rated products to kids in violation of their own standards, then I believe they must be held accountable. Specifically, if the FTC has the proper authority it should move swiftly to bring actions under its false and deceptive advertising rules. If the FTC finds those rules do not apply to this unique circumstance, then we should introduce new, narrowly-tailored legislation to augment the FTC's authority, with the understanding, of course, that it has to be fully consistent with the First Amendment and in no way regulate or restrict the underlying content of the movies, music, or video games. We are focusing on how they market, not what they make.

The FTC report also talks about where they sell, and the critical role retailers must play in protecting children from harm. The investigation found that movie theaters and retail outlets at best haphazardly enforce the age-based ratings, and often do nothing at

all. An undercover sting revealed that kids aged 13 to 16 were successful in buying M-rated games and records with the explicit lyrics label 85 percent of the time.

Now, that kind of laxity is just unacceptable. Just as the FTC has done, we must challenge the retailers to adopt a tough, enforceable, voluntary code of responsibility prohibiting the sale of adult-rated products to children, complete with real, self-enforced sanctions for offending businesses.

Again, as has been said, KMart, Wal-Mart, and Target just recently made a commitment to enforce exactly this kind of policy for violent M-rated video games, as had Toys "R" Us previously. I applaud those companies for lending parents a helping hand and setting a high standard of corporate citizenship, and I would urge the rest of the industry to follow their principled leads.

Mr. Chairman, all of these constructive steps will not ultimately be effective if parents are also not engaged. This is a critical point that many in the entertainment industry emphasize, and on this one they are absolutely right. We have been working to give parents empowering tools to help them fulfill what we all agree is their primary responsibility to protect their children from harm—the V-chip rating systems, a wide array of internet blocking and filtering technologies.

This FTC report recommends several additional worthwhile ways to make these rules more useful, from investing ways to better educate parents, providing better ratings with more information, and fully disclosing the reasons for those ratings in the ads and on the packaging. But they are not going to be useful if they are not used, which is why we have to challenge America's parents to do more to monitor their children's media diets.

In the end, Mr. Chairman, what we are asking for today again is not censorship, but simply better citizenship. The same entertainment companies that we are calling on today contribute so much to our culture, to our economy, and to the American experience. They make some wonderful products that entertain, educate, and elevate us as a people. But they are also contributing to some serious national problems, and we need their help, cooperation and support if we are going to make things better.

The FTC report and we here today, I think all of us across party lines, are saying to Hollywood quite simply, work with us and with America's parents, provide them good information to make good judgments, and help us meet our shared obligation to protect our children and our country from harm.

Thank you very much.

The CHAIRMAN. Thank you, Senator Lieberman. On behalf of the entire Committee we thank you for this important testimony and your continued involvement on this very important issue, and it is very good to see you again.

Senator LIEBERMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Kohl.

STATEMENT OF HON. HERB KOHL,
U.S. SENATOR FROM WISCONSIN

Senator KOHL. Thank you, Chairman McCain, Senator Hollings, and Members of this Committee for convening this hearing. The

FTC report appropriately criticizes the entire entertainment industry for marketing violent content to children. I want to focus my remarks today on the part of the industry that I know best: video game producers and retailers.

To be sure, the best of the video and computer games on the market are appropriate for children, and some are even educational. But the FTC report confirms our worst suspicions: too many video game companies flagrantly flout their own ratings systems, too many game-makers peddle violent products to young children, and too many retailers look the other way. These companies are irresponsible corporate citizens, their executives should be embarrassed by their actions, and the American people should think twice about buying their products until they start behaving.

Let me give you an example of what we are talking about. This past weekend, I sent a member of my staff out with two 12-year-olds to do a spot check of area stores. Our seventh-graders walked out of Best Buy, Toys "R" Us, and KayBee Toys, three of the largest video and computer game retailers in the Nation, with the most violent and vulgar interactive entertainment that $50 can buy.

In fact, at Toys "R" Us, which to its credit has a system in place to remind employees to check identification whenever an M-rated game is sold, our seventh-graders watched as the cashier dismissively overrode the store's own warning system not once, but twice. Our experience is consistent with the FTC's findings that 85 percent of underage children can buy adult games.

Mr. Chairman, since the beginning, manufacturers have been equally complicit. Seven years ago, when Senator Lieberman and I began to investigate the interactive gaming industry, there was no rating system at all for video games. Parents had no way to know what their children were playing. But after a series of congressional hearings, meetings with company executives and, most importantly, pressure from parents, we did finally get manufacturers to agree to create and implement a rating system. It was and remains a significant accomplishment.

Today, nearly every game sold is rated, and that rating is prominently displayed on the video game itself. But even as some in the industry take these laudable steps to prevent the wrong games from ending up in the wrong hands, other bad actors are peddling the same virtual carnage and smut specifically to minors. Of the three industries studied by the FTC, the video game industry is the only one with a legally binding code of conduct. Manufacturers sign a document that explicitly states, and I quote, companies should not specifically target advertising to underage consumers.

Unfortunately, some of these very same manufacturers flagrantly and repeatedly ignore their own code. They advertise mature-rated games in magazines whose readers are predominantly under 17. In fact, the FTC found that 91 percent of the video game companies surveyed have targeted males under 17 in advertising campaigns for violent and M-rated games. So we are not talking about accidental leakage to a younger demographic, Mr. Chairman. We are talking about a highly sophisticated marketing strategy designed to make an extra buck by deliberately luring young kids into buying these games.

Of course, Mr. Chairman, finding solutions is always much harder than identifying problems. Not all of us agree about how to shield our children from video game violence while protecting our freedom of speech and expression. But all of us do agree that some of these games are clearly wrong for our children. Do not take my word for it. Ask the industry itself. An executive of Nintendo actually said of a Sega game, Night Trap, and I quote, "it simply has no place in American society."

Mr. Chairman, that statement was made at a hearing we held 7 years ago. Since then, the industry has developed a more than adequate rating system. Unfortunately, it now appears that we cannot trust their executives to live up to their word. The video game industry has no right to play dangerous games with our children. Its executives have at the very least a moral and an ethical responsibility to treat America's families with the respect that they deserve.

We ought to ask them why they have not. If we are not satisfied with their answers we need to bring them back again and again, hold them up to public scrutiny, and do everything in our constitutional power to improve their behavior.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Kohl.

Senator Boxer, welcome, and I appreciate your patience.

STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

Senator BOXER. I really learned a lot, and Mr. Chairman, I, too, am so glad that you are well and back, and feisty, and I hope you will tell me when I have used up 4 minutes and I will complete in the 5 minutes if you could do that.

The CHAIRMAN. Thank you very much.

Senator BOXER. I speak to you as your colleague, as a mother, a grandmother, and Senator from California, where the entertainment industry is sometimes getting great praise, for example, *Saving Private Ryan*, and sometimes getting great condemnation, as we have seen in many of your words today, and certainly the lyrics that were posted by Senator Brownback. My personal opinion is they are distressing and they are vile. I wish I could have had next to that the lyrics of a wonderful song from Sesame Street called, "It's Not Easy Being Green," which I can attest to, and other wonderful music, the lyrics by the Bergmans or Senator Hatch.

So as in most things in life there is good and bad, and nothing is perfect. Certainly the FTC did a sensational job, I think, of using documentation to show that the entertainment industry is not paying attention to its own rating system and its own warning labels, and this is wrong.

The good news about this report is that it is very clear. It is very unequivocal. I have spoken to many in the industry and they are very ready to take steps. As Senator Lieberman said, the Walt Disney Company has made available to the Committee, in case you have not seen it, their press release. They are making some tremendous strides—the Touchstone Hollywood Pictures, Miramax Films—they are putting into place I think a very good system, and so I am very happy.

Now, the entertainment industry has received criticism because the studio heads are not here. They decided to have Mr. Valenti speak for them today, and I think he will have a lot to offer in his testimony, so first——

The CHAIRMAN. So you agree the studio heads should not have come?

Senator BOXER. I did not say that. I just said that they have given Mr. Valenti the authority to speak for them, because I spoke to them, and they decided rather than have all the different voices, that is their decision, and you have every right not to appreciate it, and I just wanted to mention that they themselves——

The CHAIRMAN. I have only been on this Committee 14 years. I have never seen such a thing before.

Senator BOXER. I am sorry.

The CHAIRMAN. Please go ahead.

Senator BOXER. I was saying that Mr. Valenti will speak for them, and they, it seems to me, are taking some steps which are important, and I hope in 6 months' time we will see even more steps being taken.

So the good news from my standpoint is, I spoke to many of them, and they are not defensive about this report. They want to take steps—do I have one minute left, Mr. Chairman?

The CHAIRMAN. Take a couple more minutes if you like, Senator Boxer. You have been very patient this morning, and I think we should allow you to complete.

Senator BOXER. Thank you. So the FTC report is very important. The marketing practices should reflect the rating system and the warning system, I think that is obvious, and it must be done. But I guess I want to ask the question, if everything worked out perfectly, and tomorrow all the marketing policies were changed, would that cure the violence problem in our society? The answer is clearly no.

As H.L. Mencken said, for every problem there is a solution which is simple, neat, and wrong, and I think if we just look at the entertainment industry alone, while it is very important to do so, I hope we will give equal attention to other factors.

I would call your attention to the FBI report. They just did a report called, *The School Shooter: A Threat Assessment Perspective,* and they tried to determine whether it is possible to predict and prevent school violence. The report recognizes that the causes of violent behavior are complex, to quote them, multiple, intricate, intertwined.

They mention entertainment. They also mention weapons in the home, and when we took up this issue of the FTC investigation the last time in the Senate we, in a very bipartisan way, also suggested that the FTC look at the marketing practices of the gun companies to our children.

Attached to my statement you will see some advertising by the gun companies. For example, they are advertising a handgun in a children's magazine when kids cannot buy handguns. They have statements like, "Start 'em young," that shows a young child holding a look-alike of a handgun.

There is a report by a very important community group that says Eddie Eagle, their mascot, is very much like Joe Camel, so I would just ask us to look at that as well.

Two more quick points, and then I will be done. If you look at Detroit, Michigan, and Windsor, Canada, they are right—separated by just a river. They get the same exact music, videos, everything, television. In 1997, which is the last time we had numbers, Detroit had 354 firearm murders. In Windsor, Canada, there were four, so they have the same entertainment, but yet this difference in murder rate, and so therefore we need to look at everything. We need to look at everything.

The last point I would make would echo what Senator Hatch said, and I wanted to compliment him on the tone of his presentation. We know there is one proven fact, that the strongest risk factor for transmitting violent behavior from one generation to the next is if a child sees his father abusing his mother, and we have specific statistics.

According to the National Institute of Justice an abused child is 53 percent more likely to be arrested as a juvenile, and 38 percent more likely to be arrested as an adult than a child who is not abused, so I think we need to look at entertainment, we need to look at guns, we need to look at the way kids are treated, and I want to just say, if we can help Senators Hatch and Biden pass the Violence Against Women Act it would be a big help, as well as the work your Committee is doing.

So again, my deepest thanks to you for your patience with me, and we all want to ensure that our children's world is peaceful, that it is loving, and is not violent and full of hatred, and I think we all come to this with that attitude.

Thank you very much.

The CHAIRMAN. Thank you, Senator Boxer.

Senator DeWine.

STATEMENT OF HON. MIKE DEWINE, U.S. SENATOR FROM OHIO

Senator DEWINE. Mr. Chairman, thank you very much. As the father of 8, whose ages range from 8 to 32, not only do I have a personal interest, but I also think I have a little institutional memory, and maybe some historical perspective about these issues. I have examined, as we all have, the findings of the FTC report, and I am convinced, Mr. Chairman, that this industry is at war with parents. They are trying to get between parents and their children, and it is our children, Mr. Chairman, who are being harmed.

The entertainment industry must stop its advertising and marketing tactics that undermine parental authority. According to the FTC, the entertainment industry has been engaged in a, quote, "pervasive and aggressive marketing of violent movies, music, and electronic games to children", end of quote.

Now, the industry will try to tell us the voluntary rating system is in place to help parents make informed choices about the kinds of television programs, movies, and video games that are suitable for children, depending on their age. The industry will say that it is up to parents to monitor what their children do. It is up to parents to use these ratings as a guideline, but Mr. Chairman, the

value of these voluntary rating systems is destroyed when individual entertainment producers go out of their way to undermine parental decisions by enticing children to seek out the very entertainment that the industry's ratings indicate is not suitable for them.

Mr. Chairman, this is just plain wrong. Like the tobacco companies before them, the entertainment industry is encouraging children to defy and deceive their parents. That is something that we, as a people and as a society, simply should not tolerate. We cannot tolerate a widespread and aggressive campaign to weaken parental authority.

So Mr. Chairman, where do we go from here? One thing the Federal Trade Commission can and I believe should do is provide Congress with an annual report on these marketing practices so the American people can determine if the industry is doing a better job.

Now, Mr. Chairman, no doubt the entertainment industry can only get better at marketing. We know they will. So, today I challenge the entertainment industry to follow the recommendations of the FTC report and act less like shameless salesmen and more like concerned parents.

The entertainment industry needs to regulate itself much more carefully and much more effectively. They need to develop reasonable guidelines and then actually enforce them.

But, Mr. Chairman, we have all been down this road before, how many times, and I know that some in the entertainment industry have raised antitrust concerns as an excuse—as an excuse for why they cannot get together, why they cannot as an industry agree to more sensible rules and then actually police themselves.

However, Mr. Chairman, the FTC report indicates that such guidelines, if carefully drafted and reinforced, will not pose any antitrust problem, and I must say, as Chairman of the Antitrust Subcommittee, I agree with that assessment. So, I pose this question to the industry, and to their representatives who are here today: Mr. Goldberg, Mr. Zelnick, Mr. Moore, Mr. Fischback, Ms. Rosen, Mr. Lowenstein, and Mr. Valenti, do you believe that individual antitrust protection is needed for you to implement the recommendations of the FTC report? Mr. Chairman, although I will not be here to ask them those questions, I would ask that each one of them address that.

Do you have the authority today to implement those recommendations? If you do not, I will guarantee you, gentlemen and ladies, that this Congress will act very swiftly to give you that authority. If you believe additional protection is necessary, as Chairman of the Antitrust Subcommittee, I will work with Ranking Member Kohl; and I will work with this Committee; and I will work with Senator Brownback, who has been a leader in this area, to make sure this legislation is passed.

Several years ago, I worked with Senator Brownback, Senator Kohl, Senator Lieberman, and Senator Simon on legislation designed to give the television industry, specifically, antitrust protection because some in the industry believed or said it might be necessary. We can do this again if you feel that is what is needed to enforce the FTC recommendation.

Mr. Chairman, however, I would again address this to the representatives who are here: If you believe that current antitrust protection is sufficient to implement and enforce new guidelines, then just do it. Develop tough standards, implement them, and by all means enforce them. To borrow a well-known marketing phrase, just do it. There are no reasons, no excuses for this industry to ignore its moral responsibility to parents and especially to children.

Mr. Chairman, I appreciate the indulgence of the chair. If I could just make one final comment, the thing that candidly puzzles me more than anything else, and I just do not understand it, is why some of these companies that are multimillion-dollar companies, who make a great deal of money, cannot just look up and say, there are just certain things we are not going to do. There are just certain things we are not going to publish. There are just certain things we are not going to promote. It is not a question of freedom of speech.

But, when Senator Brownback put those words up there, how can anybody defend that? People should just say no—we are not going to do it—we have higher standards than that. It is not a violation of the First Amendment. It is just the right thing to do.

I appreciate the indulgence of the chair.

The CHAIRMAN. Thank you very much, Senator DeWine.

I am pleased to welcome back an old friend from our days on the Interior Committee, and a person who has been involved in these issues for many years. We appreciate your being here, Congressman Markey, and appreciate your patience.

STATEMENT OF HON. EDWARD J. MARKEY, U.S. REPRESENTATIVE FROM MASSACHUSETTS

Mr. MARKEY. Thank you, Senator, very much, and you, Senator Hollings, and all the Members of this Committee. After all, you have been the leaders on this issue. Almost every one of you has taken a role in dealing with these issues over the past decade, and notwithstanding some of the comments made by this panel already by one of my former colleagues, Al Gore and his wife, going all the way back to the first day I was in Congress, sitting next to them on the Telecommunications Committee in 1977, as a couple they were working on children's television, and the role of violence in the media. And Joe Lieberman, of course, who has become the conscience of communications over the last 10 years, working with all parts of the ideological spectrum to deal with that issue.

I want to begin first by praising each of the industries invited this morning for the work they have done to set up a self-regulatory structure designed to increase the awareness to parents, advertisers, executives, and consumers generally of product material that may be inappropriate for children.

Today's hearing should be focused rather narrowly on commercial, not creative processes. That, after all, is what the Federal Trade Commission report is all about. It deals with methods of marketing, not movie-making, not music-making, but marketing, and with respect to marketing the issue is even narrower.

The FTC report deals only with marketing to audiences that are predominantly underage for the material being sold. This practice, found to be pervasive and routine by the Federal Trade Commis-

sion, drives parents crazy. The Federal Trade Commission report describes an example that parents in my district can relate to.

A child asks a parent to take her to see *Star Wars*. She knows it is rated PG. The parents remember from their own childhood experience that this is an extraordinarily visual experience. They go to the movie, and while waiting for the feature presentation to begin they are shocked to discover that they have become a captive audience for a trailer for an R-rated movie that includes graphic sexual images and other material. Parents feel entrapped. They pay attention to the rating, act reasonably, but get treated as unwitting abettors in the commercial scheme of others.

That is what this hearing should be about, the detrimental reliance of parents on a system of warnings that is sometimes flaunted by some companies that adopted it. I hope we can deal with this problem through voluntary codes and through the judicious application of existing law. After all, the trade associations for both the recording industry and the electronic games industry have already taken steps to prevent advertising adult-content products on child-frequented media outlets, and also the Walt Disney Company just announced an initiative to prevent such marketing.

In my own view, the Federal Trade Commission already has sufficient authority in the Federal Trade Commission Act to bring an action against a company that repeatedly flaunts such guidelines. Section 5 makes it unlawful to engage in deceptive or unfair acts or practices in or affecting commerce. I believe that the Commission would be upheld if it acted to rein in a renegade company that continues to target children with adult-rated products even while the majority of its competitors were steering away from such practices. It would be deceptive because the target audience could not legally purchase the product without parental consent. It would be unfair because it would be the cynical exploitation of a market that other competitors were no longer targeting.

The Federal Trade Commission report is silent on the scope of its existing authority to rein in the renegades. I sent a letter to the chairman asking him to provide guidance on this subject. I know that he has already charged his general counsel with reviewing the law in this area, and I look forward to his reply.

But despite the common sense reaction of some industry players to the need to curtail the practices outlined by the FTC, others have leapt to the conclusion that Congress cannot involve itself in the area of violent entertainment without engaging in censorship.

Now, censorship is a strong word, usually reserved for those occasions when the government tries to influence the content of ideas, particularly unpopular ideas. Can that word be applied here, assuming, we, the government, engage in reasonable efforts to restrain the practice of marketing to children entertainment products containing violence and intended for adults?

It has never been the law of the land, nor will it ever be, that those engaged in the sale of a product that harms children will have an unfettered right to cause that harm. Commercial speech is protected by the Constitution, but not absolutely, as though there were no competing public good. Children in particular, vulnerable as they are to the inducements and messages of the free market, have always been viewed as a special class deserving of

special protection from the excesses of the free market. Certainly they are no less a protected interest than the purveyors of the products. Congress has made this clear over and over again.

The critics of this congressional hearing today say that we are using the Constitution against commerce, and that is wrong. In fact, what this hearing is about is commerce against children, and we are saying that there are constitutional limits upon their ability as commerce to target the child's audience.

This Committee has regulated the sale of cigarettes to minors, alcohol to minors, guns to minors. This Committee has regulated commercial speech in the Children's Television Act of 1990, Senator Hollings, and the Child Online Privacy Protection Act of 1998, Senator Bryan, and we have enacted to enable parents to cope with the tsunami of violent and sexual media images through the V-chip software filters and ratings, Senator Dorgan and you, Mr. Chairman, and many of the other Members of this Committee.

The Children's Television Act of 1990 is particularly instructive for this Committee. In that act this Committee specifically limited the marketing practices of broadcasters on children's programming, right down to the number of minutes that a station can devote to marketing products on that programming.

How is that constitutional? Because as the Committee stated at the time, even where commercial speech is entirely lawful and not misleading, children are a substantial government interest. Who made that decision? Judge Starr made that decision in *Action for Children's Television* v. *The FTC* in 1987. Young children cannot distinguish conceptually between programming and advertising, and guidelines on the permissible level of commercialization is a recognition of the vulnerability of children to commercial exploitation.

Unlike the Children's Television Act, where the images regulated were not violent, the FTC report deals with violent entertainment, which has been correlated with psychological and occasionally physical harm when beamed into the brains of children in massive overdoses.

The harm does not have to rise to the level of a Columbine massacre to justify concern. It is beyond argument that while violence in the media has been found to contribute to a climate that makes a society less sensitive to real violence, it is never the sole nor even the most important contributing element to pathological acts that occur so frequently on America's streets.

The fact that this Congress has failed to act on the gun show loophole, for example, is surely more directly related to the death toll from guns in America than any movie or song or video game ever written, and the fact is that real violence is so common today that it appears on the nightly news even in homes that use the V-chip.

We are not talking about a cure-all here. We are talking about giving parents tools which they can use—a safety cap on medicine, a seat belt in a car, labeling on food. We are trying to help parents in a very tough world to do the best job they can.

When parents are told that they have ratings that they can rely upon, and yet there is a marketing strategy to go right around

those marketing promises, then deceptive and unfair trade practices are being engaged in.

Does this mean the entertainment industry should continue to market adult fare to children? Surely not, and the sooner the leaders of these great industries concede that obvious fact, the sooner we will remedy the problem. Parents are simply saying, do not trick us, do not disrespect us, do not market behind our backs, just do what it is that you have been promising that you will do, when you say you will keep it away from the children of our country.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Markey follows:]

PREPARED STATEMENT OF HON. EDWARD J. MARKEY,
U.S. REPRESENTATIVE FROM MASSACHUSETTS

Thank you for this opportunity to testify regarding the practice of marketing violent adult entertainment to children.

I want to begin by praising each of the industries invited this morning for the work they have done to set up a self-regulatory structure designed to increase the awareness of parents, advertisers, executives and consumers generally of product material that may be inappropriate for children.

In setting up the ratings and labeling systems that are now routinely implemented in the movie, music, video game and television industries, the associations and members of these industries have demonstrated their concern for the unintended effects of some of their products on children, and have acknowledged the changing competitive and technological landscape that now drives American popular culture.

This means that today's hearing can and should be focused rather narrowly on commercial, not creative, processes. That, after all, is what the FTC report is about. It deals with methods of *marketing*—not moviemaking, not musicmaking—but *marketing*.

And with respect to marketing, the issue is even narrower—the FTC report deals only with marketing to audiences that are predominantly underage for the material being sold. This practice—found to be pervasive and routine by the FTC—drives parents crazy.

The FTC report describes an example that parents in my district can relate to. A child asks a parent to take her to see *Star Wars*, she knows it's rated "PG", the parent remembers from his own childhood experience that this is an extraordinary visual experience. They go to the movie and, while waiting for the feature presentation to begin, are shocked to discover that they have become a captive audience for a trailer for an R-rated movie that includes graphic sexual images, rape and vulgar language.

Parents feel entrapped. They pay attention to the rating, act reasonably, but get treated as unwitting abettors in the commercial schemes of others.

In another example mentioned in the report, an action figure from a video game so violent that it is rated as unsuitable for 16-year-olds is sold in toy stores carrying the label "Ages 4 and up." Again, parents facing this kind of cynical manipulation of an industry's own rating system feel betrayed.

That is what this hearing should be about—the detrimental reliance of parents on a system of warnings that is sometimes flaunted by the companies that adopted it. I hope we can deal with this problem through voluntary codes and through the judicious application of existing law. After all, the trade associations for both the recording industry and the electronic games industry have already taken steps to prevent advertising adult-content products on child-frequented media outlets.

It is my own view that the FTC already has sufficient authority in the Federal Trade Act to bring an action against a company that repeatedly flaunts such guidelines. Section 5 makes it unlawful to engage in "deceptive or unfair acts or practices in or affecting commerce." I believe that the Commission would be upheld if it acted to rein in a renegade company that continues to target children with adult-rated products even while the majority of it competitors were steering away from such practices. It would be "deceptive", because the target audience cannot legally purchase the product without parental consent. It would be "unfair", because it would be the cynical exploitation of a market that other competitors were no longer targeting.

Unfortunately, the FTC report is silent on the scope of its existing authority to rein in the renegades, so I have sent a letter to Chairman Pitofsky asking him to provide guidance on this subject. I know he has already charged his general counsel with reviewing the law in this area, and I look forward to his reply.

But despite the common sense reaction of some industry players to the need to curtail the practices outlined by the FTC, others have leapt hysterically to the conclusion that Congress cannot involve itself in the area of violent entertainment without engaging in "censorship."

"Censorship" is a strong word, usually reserved for those occasions when the government tries to influence the content of ideas, particularly unpopular ideas.

Can that word be applied here, assuming we, the government, engage in reasonable efforts to restrain the practice of marketing to children entertainment products containing violence and intended for adults?

As long as the industry, not the government, decides which material is unsuitable for children, the answer is clearly "NO."

It has never been the Law of the Land, nor will it ever be, that those engaged in the sale of a product that harms children will have an unfettered right to cause that harm.

Commercial speech is protected by the Constitution, but not absolutely, as though there were no competing public good. Children, in particular, vulnerable as they are to the inducements and messages of the free market, have always been viewed as a special class deserving of special protection from the excesses of the free market. Certainly they are *no less* a protected interest than the purveyors of products. Congress has made this clear over and over again.

We have regulated the sale of cigarettes to minors, alcohol to minors, guns to minors.

We have regulated commercial speech in the Children's Television Act of 1990 and the Child Online Privacy Protection Act of 1998.

And we have acted to enable parents to cope with the tsunami of violent and sexual media images through the V-chip, software filters and ratings.

The Children's Television Act is particularly instructive. In that Act, we specifically limit the marketing practices of broadcasters on children's programming, right down to the number of minutes that a station can devote to marketing products on that programming. How is that "constitutional?" Because as the Committee stated at the time, even where commercial speech is entirely lawful and not misleading, children are a "substantial government interest." As pointed out by Judge Starr in *Action for Children's Television v. FCC* (D.C. Cir. 1987), young children often cannot distinguish conceptually between programming and advertising, and guidelines on the permissible level of commercialization is a recognition of the vulnerability of children to commercial exploitation.

Unlike the Children's Television Act, where the images regulated were not violent, the FTC report deals with violent entertainment which has been correlated with psychological and, occasionally, physical harm when beamed into the brains of children in massive doses. The harm does not have to rise to the level of a Columbine massacre to justify concern. Any parent will tell you that efforts to raise a healthy child in America are hurt, not helped, by the flood of violent messages delivered routinely, daily, to America's children. It is beyond argument.

It is also beyond argument that while violence in the media has been found to contribute to a climate that makes society less sensitive to real violence, it is never the sole nor even the most important contributing element to pathological acts that occur so frequently on America's streets. The fact that this Congress has failed to act on the gun show loophole, for example, is surely more directly related to the death toll from guns in America than any movie, or song, or video game ever written. And the fact is that real violence is so common today that it appears on the nightly news even in homes that use the V-chip.

Does this mean that the entertainment industry should continue to market adult fare to children? Surely not, and the sooner the leaders of these great industries concede this obvious fact, the sooner we will remedy this problem.

Thank you.

The CHAIRMAN. Thank you, Congressman Markey. We look forward to continuing to work with you and appreciate all the great work you have done.

Last but certainly not least, Senator Hagel.

STATEMENT OF HON. CHUCK HAGEL,
U.S. SENATOR FROM NEBRASKA

Senator HAGEL. Mr. Chairman, thank you, and Committee Members, thank you for the opportunity to testify.

Mr. Chairman, as has been noted this morning, the FTC was requested to conduct this investigation following the tragic killings last year at Columbine High School. Obviously, the concern over our children and the increasingly violent nature in their dealings with each other is the far larger issue that draws us here this morning.

These issues are broad, deep, and very complicated. Are we creating a culture where children see violence as an acceptable option in dealing with others? Are our children becoming desensitized to violence?

In seeking answers to these questions we should not look for the easy, glib, sound bite political answers. There are no easy answers.

It is important that we bring some perspective to this matter, however, and not understate the fact that most all of America's young people turn out to be productive, responsible, contributing young adults.

All of us in society have responsibility for our culture and the kind of culture our children are raised in and inherit. We all must do our part, parents, teachers, counselors, voluntary organizations, religious institutions, lawmakers, and yes, the entertainment industry.

The entertainment industry cannot excuse its conduct by citing the constitutionally guaranteed freedoms of expression in the First Amendment. Yes, freedom of expression is part of the greatness and the goodness of America. It set our Nation apart at its founding, and has continued to represent the foundation of freedom throughout our history.

But with freedom comes responsibility. Freedom of expression is not freedom from accountability. Each of us is accountable for our actions, our own actions, everything we say and do, and yes, we are also accountable for what we create.

Some in the entertainment industry have been completely irresponsible for what they created, and for deliberately marketing this trash to our children, gratuitous violence, indiscriminate sex, glorification of killing, the debasement of virtue. What is instructive, meaningful, uplifting or, indeed, entertaining in this garbage?

What message does this send not just to our children, but to the world? Young children and teens are impressionable, we know that. When they are repeatedly exposed to violence and to mean behavior they process it as acceptable behavior. Are we really surprised, then, to find that teens see violence in some cases, maybe many cases, an acceptable way to settle their differences with others? I do not think so. We are kidding ourselves.

My children, like all children and adolescents, need boundaries. Every day, I see how they and their friends are exposed to things they are unprepared to deal with. They need positive role models from whom they can learn the difference between right and wrong. Children need to be grounded with a strong sense of right and wrong so that they will know what to do when parents are not around. We must help them build a strong foundation that will last

a lifetime, but not all children are fortunate enough to grow up in homes with two parents who have the time and resources to help guide them through the dangerous influences in our society. These children are especially vulnerable. Children and adolescents who have dropped through the cracks of life through no fault of their own are the most susceptible to this mindless violence.

Young people have always been intrigued by violence and sex. This is not new. Our culture was once served by an unwritten social code, Mr. Chairman. There is no one in this room who does not understand that, nor was raised by that unwritten social code, a public morality. Together we shielded our children from exposure to violence and graphic acts. That is how we protect children in a democracy, without resorting to Government interference or censorship. Today, much of that social code has been belittled and discarded, and the social fabric of our Nation is showing signs of serious fraying.

It is not that children are sneaking in to see these movies, or stealing the music and computer games. The FTC has found that the entertainment industry is just deliberately marketing these products to young people, some as young as 10 years old. At the same time, the industry pays lip service to ratings, labels, and parental warnings. It is deliberately marketing violence to our children at the same time.

This must end, Mr. Chairman. I am not here today to advocate Government regulation of our entertainment industry. However, let me say this. The day is fast approaching when the American people may be willing to accept some restriction of freedom of expression in order to protect their children. The entertainment industry must understand that we are closer to that day than they may realize. America's parents will rise up to protect their children.

Mr. Chairman, I look forward to hearing the testimony from representatives of the entertainment industry. I, too, share your dismay that the leaders of our movie industry are not here today. I applaud you and the Committee's efforts to bring them in here in 2 weeks. I hope that is done. I hope they will have some explanation.

As I stated earlier, Mr. Chairman, the cultural problems affecting our children and our Nation are complex and we all are responsible, and we all must take part in changing it.

Thank you.

The CHAIRMAN. Thank you, Senator Hagel.

We now will hear from Hon. Robert Pitofsky, who is the chairman of the Federal Trade Commission.

And Mr. Pitofsky, as you probably know, there is a vote on, so the Members will be returning, but since we have two additional panels after you, or three additional panels, actually, we would like for you to begin your statement, and I thank you for being here. I congratulate you and the other members of the Commission for giving us a report that I think is very important to families all across America.

Thank you.

STATEMENT OF ROBERT PITOFSKY, CHAIRMAN, FEDERAL TRADE COMMISSION

Mr. PITOFSKY. It's a pleasure for me to appear here before you and this Committee, which has been so supportive of the work of the Commission over the years, and in particular, has had a keen interest in this particular project.

As you know from our report, each of the three—movies, music and video games—industry segments target marketing to children of entertainment products with violent content that is pervasive and aggressive. Each industry publishes a rating warning, indicating material that isn't appropriate or warranting parental control, and then they market these very products to children.

Of the movies we looked at, 80 percent were marketed to kids under 17; of the music recordings that we looked at, all of them were marketed to young people under 17. Of the electronic games we looked at, 70 percent were marketed to kids.

I also am concerned as you are, Mr. Chairman, about some of these documents. Our report is essentially a summary of the documents that we received from the industry's own files, and some of the documents are very disturbing.

You mentioned the one about movie marketers getting together and thinking through how they could market a sequel to a picture that had been R-rated, and they knew that a large part of the audience of the first movie had been 10-year-olds, and they've organized a focus group to think through—of 10- and 11-year-olds, to think through how they could market the R-rated sequel.

The CHAIRMAN. A focus group of 10- and 11-year-olds?

Mr. PITOFSKY. Exactly.

The CHAIRMAN. Had you ever heard of such a thing?

Mr. PITOFSKY. I had not, and I confess I was very surprised to see that document.

A second document had to do with video games. It referred to target marketing as males 17 to 34 due to the M rating, and then it went on to say, in parentheses, the true target market is males 12 to 34. Other documents talk about marketing these products to Boy Scout groups, Girl Scout groups, 4-H clubs, and other places where young people congregate. And they're not isolated statements.

To the contrary, the extent and in some instances the brazenness of marketing to children reflected in these documents is striking, and obviously our concern is increased when we know that at the retail level, these young people can easily buy these products or gain access to these movies.

We cannot help but be concerned about marketing products with violent material to young people. Scholars do indicate rather strongly that being exposed to violent material alone is not likely to lead someone to go out and commit a violent act.

But we are mindful of the question that Sesella Bok raised in her book "Mayhem." She was talking about television but I think it applies here, she asked: "Is it alarmist or merely sensible to ask what happens to the souls of children nurtured as in no past society on images of rape, torture, bombings and massacre that are channeled into their homes from infancy?"

Studies do indicate that this should be a matter of concern because there is a correlation, maybe not a causal connection but a correlation, between exposure to these materials and an insensitivity to violence, aggressive behavior and attitudes, and an exaggeration of the extent to which violence is present in our society.

It seems to me unacceptable to continue a process in which advertisers and marketers seek new and more efficient ways to market materials they and their industry regard as violent to an underage audience. These practices undermine the parental warnings and bring into question the fundamental credibility of the rating and labeling system.

The question that needs to be addressed is: What is to be done? The Commission report stresses that policy decisions must be carefully considered to avoid regulating in a way that is inconsistent with First Amendment protections for speech. That's why we have emphasized from the very beginning of our project a preference for self-regulation and indicated a willingness to work with these industry sectors to try to improve their self-regulatory processes.

We've been encouraged by constructive things that have happened since this project was announced over a year ago. As several have mentioned, the Walt Disney Company announced new policies yesterday that appear to be constructive steps in the right direction.

I believe these industries should be given a reasonable period of time to consider whether they are ready to commit to effective self-regulation. Industry codes that are not worth the paper they are written on will not be acceptable. Also, self-regulatory arrangements must extend not just to the creators of these products but to the retailers and distributors as well.

If self-regulation does not provide an adequate answer—and I heard with dismay Senator Hollings' description of the history in this area, much of which I was not aware of myself—if it doesn't work, I see no choice but to explore law enforcement under present statutes, like the statute of my own agency that declares illegal deceptive and unfair acts and practices in Commerce.

Now a legal challenge under our statute would be a departure from the sort of things that we typically do. On the other hand, I'm not sure we can't do it, and I have asked our staff promptly to give us a report on the pros and cons of such an approach.

The CHAIRMAN. We'd be very interested if you would share that with us at the appropriate time.

Mr. PITOFSKY. We certainly will, Senator.

If it turns out self-regulation doesn't solve the problem and current law is inadequate, legislation, respectful of the First Amendment, should be considered.

By adopting rating codes, these——

The CHAIRMAN. Very strong words.

Mr. PITOFSKY. Well, I've thought about it for a long time. I hope we don't go to that. I think it would serve everyone's interest if the industry will come to the table and devise adequate self-regulation. If they don't——

The CHAIRMAN. Is it indicative that the movie industry people decided not even to show up here?

Mr. PITOFSKY. It is certainly disappointing that they're not here, and I commend you and the Committee for setting up a hearing two weeks from now.

The CHAIRMAN. Thank you, Chairman Pitofsky. I don't mean to interrupt, but your statement today is a very important one because your report is so compelling, your recommendations are equally as compelling.

Please continue.

Mr. PITOFSKY. Thank you, Senator.

Well, just very briefly, by adopting rating codes, these three industries recognize their responsibility to give parents the information they need to monitor children's exposure to violent entertainment materials. The challenge now is to make that rating process effective.

Thank you.

[The prepared statement of Mr. Pitofsky follows:]

PREPARED STATEMENT OF ROBERT PITOFSKY, CHAIRMAN, FEDERAL TRADE COMMISSION

I. Introduction

Mr. Chairman, I am Robert Pitofsky, Chairman of the Federal Trade Commission. I appreciate this opportunity to discuss the Commission's report on the marketing of violent entertainment products to children by the motion picture, music recording and electronic games industries.[1] The report answers two questions raised by President Clinton when he requested this study: Do the motion picture, music recording and electronic game industries promote products they themselves acknowledge warrant parental caution in venues where children make up a substantial percentage of the audience? And, are these advertisements intended to attract children and teenagers? After a comprehensive 15-month study, the Commission has found that the answers to both questions are plainly "yes."

Although all three industries studied have self-regulatory systems that purport to rate or label their products to help parents make choices about their children's entertainment, the Commission found that members of all three industries routinely target advertising and marketing for violent entertainment products directly to children. The Commission believes that these advertising and marketing efforts undermine each industry's parental advisories and frustrate parents' attempts to protect their children from inappropriate material.

II. Background

The FTC is the federal government's primary consumer protection agency. Congress has directed the FTC, under the FTC Act, to take action against "unfair or deceptive acts or practices" in almost all sectors of the economy and to promote vigorous competition in the marketplace.[2] With the exception of certain industries and activities, the FTC Act provides the Commission with broad investigative and law enforcement authority over entities engaged in or whose business affects commerce.[3] The FTC Act also authorizes the Commission to conduct studies and collect

[1] The Commission vote to issue this testimony was 5–0. My oral testimony and any responses to questions you may have reflect my own views and are not necessarily those of the Commission or any other Commissioner.

[2] 15 U.S.C. § 45(a).

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

The Commission does not, however, have criminal law enforcement authority. Further, under the FTCA, certain entities, such as banks, savings and loan associations, and common carriers,

Continued

information, and, in the public interest, to publish reports on the information it obtains.[4]

On June 1, 1999, following the horrifying school shooting in Littleton, Colorado, the President requested that the Federal Trade Commission and the Department of Justice conduct a study of whether violent entertainment material was being advertised and promoted to children and teenagers.[5] President Clinton's request paralleled congressional proposals for such a study.[6] Revelations that the teen-aged shooters at Columbine High School in Littleton had been infatuated with extremely violent movies, music, and video games reinvigorated public debate about the effects of violent entertainment media on youth. While opinions vary, many studies have led experts and public health organizations to believe that viewing entertainment media violence can lead to increases in aggressive attitudes and behavior in children. Although scholars and observers generally have agreed that exposure to violence in entertainment media alone does not cause a child to commit a violent act, there is widespread agreement that it is, nonetheless, a cause for concern.

III. The Commission's Study

A. Scope of the Study

In response to the President's request, the Commission, with financial assistance from the Justice Department, collected information from the motion picture, music recording, and electronic game industries regarding their self-regulatory systems and marketing practices.[7] The Commission requested information from the principal industry trade associations, as well as the major motion picture studios, the music recording companies, and electronic game companies.[8] In addition, the Commission contacted interested government agencies, medical associations, academics, and parent and consumer advocacy groups.[9] We reviewed a substantial amount of information collected from consumers through various surveys and polls, and also designed and conducted our own surveys for this study.[10] Specifically, we conducted a survey of parents and children regarding their understanding and use of the rat-

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as well as the business of insurance, are wholly or partially exempt from Commission jurisdiction. *See* Section 5(a)(2) and (6)a of the FTC Act, 15 U.S.C. § 45(a)(2) and 46(a). *See also* The McCarran-Ferguson Act, 15 U.S.C. § 1012(b).

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

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

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

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

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

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

[10] *See* Appendix E (*Entertainment Industry Information Requests*) of the Commission's report.

ing and labeling systems, and how they made purchase decisions for these entertainment products.[11] We also conducted an undercover survey of retail stores and movie theaters to see if unaccompanied children under 17 could purchase or gain access to products labeled as inappropriate or warranting parental guidance.[12] Finally, we reviewed Internet sites to study how they are used to market and directly access these products.

B. The Entertainment Media Industry Self-Regulatory Systems

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

The motion picture industry uses a rating board to rate virtually all movies released in the United States, requires the age-related rating to appear in advertising, and makes some effort to review ads foR-rated movies to ensure that their content is suitable for general audiences. The music recording industry recommends the use of a general parental advisory label on music with "explicit content." The decision to place a parental advisory label on a recording is made by the artist and the music publishing company and involves no independent third-party review; nor does the industry provide for any review of marketing and advertising. In late August 2000, the recording industry trade association issued a recommendation that recording companies not advertise explicit-content labeled recordings in media outlets with a majority under-17 audience. The electronic game industry requires games to be labeled with age- and content-based rating information and requires that the rating information appear in advertising. It also is the only industry that has adopted a rule prohibiting its marketers from targeting advertising for games to children below the age designations indicated by the rating.

IV. The Commission's Findings

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

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

Movies. Of the 44 movies rated R for violence the Commission selected for its study, the Commission found that 35, or 80 percent, were targeted to children under 17. Marketing plans for 28 of those 44, or 64 percent, contained express statements that the film's target audience included children under 17. For example, one plan for a violent R-rated film stated, "Our goal was to find the elusive teen target audience and make sure everyone between the ages of 12–18 was exposed to the film." Though the marketing plans for the remaining seven R-rated films did not expressly identify an under-17 target audience, they led the Commission to conclude that children under-17 were targeted nonetheless. That is, the plans were either extremely similar to the plans of the films that did identify an under-17 target audience, or they detailed actions synonymous with targeting that age group, such as promoting the film in high schools or in publications with majority under-17 audiences.

Music. Of the 55 music recordings with explicit content labels the Commission selected for its study, marketing plans for 15, or 27 percent, expressly identified teenagers as part of their target audience. One such plan, for instance, stated that

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

[12] *Id.*

its "Target audience" was "Alternative/urban, rock, pop, hardcore—12–34." The marketing documents for the remaining 40 explicit-content labeled recordings examined did not expressly state the age of the target audience, but they detailed the same methods of marketing as the plans that specifically identified teens as part of their target audience, including placing advertising in media that would reach a majority or substantial percentage of children under 17.

Games. Of the 118 electronic games with a Mature rating for violence the Commission selected for its study, 83, or 70 percent, targeted children under 17. The marketing plans for 60 of these, or 51 percent, expressly included children under 17 in their target audience. For example, one plan for a game rated Mature for its violent content described its "target audience" as "Males 12–17—Primary Males 18–34—Secondary." Another plan referred to the target market as "Males 17–34 due to M rating (the true target is males 12–34)." Documents for the remaining 23 games showed plans to advertise in magazines or on television shows with a majority or substantial under–17 audience. Most of the plans that targeted an under–17 audience set age 12 as the younger end of the spectrum, but a few plans for violent Mature-rated games targeted children as young as six.

Further, most retailers make little effort to restrict children's access to violent products. Surveys conducted for the Commission in May through July 2000 found that just over half the movie theaters admitted children ages 13 to 16 to R-rated films even when not accompanied by an adult. The Commission's surveys of young people indicate that, even when theaters refuse to sell tickets to unaccompanied children, they have various strategies to see R-rated movies. The Commission's surveys also showed that unaccompanied children ages 13 to 16 were able to buy both explicit content recordings and Mature-rated electronic games 85 percent of the time.

Although consumer surveys show that parents value the existing rating and labeling systems, they also show that parents' use and understanding of the systems vary. The surveys also consistently reveal high levels of parental concern about violence in the movies, music and video games their children see, listen to and play. These concerns can only be heightened by the extraordinary degree to which young people today are immersed in entertainment media, as well as by recent technological advances such as realistic and interactive video games. The survey responses indicate that parents want and welcome help in identifying which entertainment products might not be suitable for their children.

V. Conclusions

Since the President requested this study over a year ago, each of the industries reviewed has taken positive steps to address these concerns. Nevertheless, the Commission believes that all three industries should take additional action to enhance their self-regulatory efforts.[13] The industries should:

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

2. *Increase compliance at the retail level.* Restricting children's retail access to entertainment containing violent content is an essential complement to restricting the placement of advertising. This can be done by checking identification or requiring parental permission before selling tickets to R movies, and by not selling or renting products labeled "Explicit" oR-rated R or M, to children.

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

[13] The Commission's support for enhanced industry self-regulation in the advertising context is motivated in part by our strong belief in the benefits of self-regulation, and in part by our concern that government regulation of advertising and marketing—especially if it involves content-based restrictions—may raise First Amendment issues. The First Amendment issues that have been raised in the context of restricting or limiting advertisements for media products are identified in Appendix C of the Commission's Report (*First Amendment Issues in Public Debate Over Governmental Regulation of Entertainment Media Products with Violent Content*).

dren—about the meanings of the ratings and descriptors. Industry should also take steps to better educate parents about the ratings and labels.

The Commission emphasizes that its review and publication of its Report, and its proposals to improve self-regulation, are not designed to regulate or even influence the content of movies, music lyrics or electronic games. The First Amendment generally requires that creative decisions about content be left to artists and their distributors. Rather, the Commission believes the industries can do a better job of helping parents choose appropriate entertainment for their children by providing clear and conspicuous notification of violent content. Industry self-regulation also should support parents' decisions by prohibiting the direct sale and marketing to children of products labeled as inappropriate or warranting parental guidance due to their violent content.

Implementation of the specific suggestions outlined above would significantly improve the present self-regulatory regimes. The Report demonstrates, however, that mere publication of codes is not sufficient. Self-regulatory programs can work only if the concerned industry associations actively monitor compliance and ensure that violations have consequences. The Commission believes that continuous public oversight is also required and that Congress should continue to monitor the progress of self-regulation in this area.

The CHAIRMAN. Thank you, Chairman Pitofsky.

I want to say again that your Commission is highly regarded both in and out of Congress, and your report is a very important one, in a way courageous. So I thank you again, and obviously, we are going to want to work as closely together as possible.

I share your reluctance to enact legislation, but I also share—I think I share—your view that unless there is some response, then Congress representing American families would have to examine every option.

Many analogies have been made between the tobacco companies' advertising to kids and entertainment industry practices. Obviously, there's a huge difference in the product. The distinct health impact of smoking is clearly more significant, at least as far as physical health is concerned.

Are the actual advertising practices employed by the entertainment industries to target children similar to those used by the tobacco industry?

Mr. PITOFSKY. It's an interesting analogy. There are some things that are the same and some that are different.

You mentioned, one, the harm from smoking is more documented. Also, selling tobacco to kids is illegal, selling violent movies and rap lyrics to kids is not illegal. Finally, there is the First Amendment. There is no First Amendment protection to manufacture a cigarette. But there is——

The CHAIRMAN. Frankly, I never heard of Joe Camel or the tobacco companies doing focus groups of 10- and 11-year-olds.

Mr. PITOFSKY. I did not either, and we looked at many tobacco industry documents as well.

In that sense, and I think that's what you're driving at, there is a similarity. In some tobacco marketing and certainly in marketing these materials, there appears to be a seeking out of an audience that's inappropriate because of their age.

The CHAIRMAN. I believe we'll hear later from the movie industry's lobbyist, Mr. Valenti, that not all "R"s are really "R"s. More specifically, and I quote from Mr. Valenti's written testimony: "Some R-rated are hard "R"s and others are soft "R"s."

I have here a copy of the MPAA rating system. I don't see a hard R or soft R rating system. Would you comment on this rationale

for marketing R-rated films to children and how this distinction without a difference might prove confusing to parents?

Mr. PITOFSKY. I don't think that—I'm not sure that comment was made as a justification rather than elaboration of the rating system. But the point is, when the industry calls it "R" they're saying something about their own product.

When they then go around their own rating system and end run it, essentially deny their own rating system and market to such young kids, I don't see how one can defend the marketing.

It's not the rating system. Our report points out that most people think the rating systems are fairly good. It's not the rating system, it's the marketing that is a matter of concern.

The CHAIRMAN. Finally, and I think I get the impression from your testimony that the advertising practices outlined in your report are deceptive or unfair?

Mr. PITOFSKY. I'm not sure about that. I'd like a little time to think that one through.

Let me make one point about all of this. If we were to bring a case calling their marketing practices deceptive or unfair, given the fact that it's somewhat unprecedented, and there's this First Amendment background here, we'd be in the courts for several years.

That's one of the reasons why I think self-regulation is the way to go. We're not going to sit around forever and wait for self-regulation, but given a period of time let's see if we can find some progress there. If we don't, then I think we ought to go to law enforcement and possibly legislation.

The CHAIRMAN. I thank you, Chairman Pitofsky, and the other members of the Commission for doing an outstanding job.

Senator Brownback.

Senator BROWNBACK. Thank you, Mr. Chairman.

I, too, want to thank you, Chairman Pitofsky, for the work that you've done and the work that's been done by the Commission. I think it's outstanding and I think it's a testament that so many people are interested in this hearing and this focus that's here today.

I do want to draw your attention to one thing: We will have up after you the public health industry, that is representatives from places like the American Academy of Pediatricians and the Psychiatric Association. They have all signed a document, and there is a page in that document that I believe you and your staff have seen, which points to well over a thousand studies that point overwhelmingly to a "causal connection between media violence and aggressive behavior in some children." I'm reading directly from the statement that they signed.

"The conclusion of the public health community, based on over 30 years research, is that viewing entertainment violence can lead to increases in aggressive attitudes, values and behaviors, particularly in children." That's the end of quote of what six major public health organizations agreed on, so it's no longer a correlation issue. There's causation.

One of the groups that was at this public health summit went so far as to say that the causation link is even higher than that

between the exposure to lead and lowering IQ, and the exposure to passive smoke and lung cancer.

So these groups don't have any question about a causation link taking place between viewing violence and behavior.

Today though, I have the chance to talk to you. You've heard some discussion here today about a code of conduct for each of these industry groups, in the video games, music, and movie industry.

You, the Commission, would support the industries, of course, entering into a voluntary code of conduct and would even urge them to do so. Is that correct?

Mr. PITOFSKY. Yes.

Senator BROWNBACK. What about the concept that they used to have in television—a code of conduct where they set a floor below which they won't go. Do you think that would be helpful to the industry and to the American people?

Mr. PITOFSKY. I think a self-regulatory code by these three industries, perhaps one that was similar, so parents are not confused about what the different ratings mean, would be very useful.

Senator BROWNBACK. Did your study look much at the issue of cross-marketing of products? In the many hearings I've been a part of on this, one of the things that's continued to come up is an R-rated movie that then follows with a toy action figure for a 5-year-old. Did you look at the issues of cross marketing?

Mr. PITOFSKY. We did. We did. It's not a major element of our report, but we just sort of came across it because we were looking at marketing generally. And certainly in the video games industries in particular, you'll find a video game that's rated for a mature audience, but the characters in the game are then converted into a toy, and those are sold quite widely. I think I saw a document that indicated these toys are appropriate for sale to children 6 years old, something like that.

Senator BROWNBACK. In fact, I even have an example here of *ECW Hard Core Revelation*. It's a mature-rated game. So that's supposed to be for people over the age of 18, as I understand, and then here is the cross-marketed toy, *ECW Extreme Championship Wrestling*. He's got a noose around his neck. No limit soldiers. And it says for ages 4 and up.

On the back, then, you have the ultimate ring in cage with two breakaway tables and ladder, steel cage wrestling ring gift set; collect them all.

It does have one warning label on here, "Small Parts. Not for children under age 3." So I guess there is some warning on this.

But these are the sort of things that seem to illustrate cases of clear cross marketing, where they're going for a very young audience with this, using this as the driver that's supposed to be for an age 18 audience.

Did you look at these, and what were your conclusions in cross marketing?

Mr. PITOFSKY. We saw it, and we thought it was an example of going around their own label and marketing to a young audience. I can't say we found a great deal of that, but we saw some of it, and I think we saw, actually, the illustration that you're using. And it's mentioned in our report.

Senator BROWNBACK. Good. Have you had a preliminary review by your lawyers of the possibilities of success in bringing the actions under false and deceptive advertising that's been spoken of this morning?

Mr. PITOFSKY. I just put the question to them about 3 or 4 days ago, so it's too early for me, yes, but they are working on this, and I do want to get back to the Committee with our conclusions on whether we have the authority now.

Senator BROWNBACK. I, just in conclusion, again want to state my appreciation for your good, clear work on this topic.

Mr. Chairman, I am one that does not want to rush to legislate on this topic. I've been pushing on this for some period of time and have always felt the best way for us to go at this is to shine light on what's taking place. I think we're getting a lot of that here today.

I would hope that the industry would step up. One of the things——

The CHAIRMAN. They haven't even bothered to appear.

Senator BROWNBACK. Well, that's one of the points I wanted to make, is one of the things I would point out is that the industry has not even bothered to appear, not only at this hearing, Mr. Chairman, but at the prior 3 years of hearings that we've had.

And the second point is, in any of the proposals that have been put forward, nobody is saying, we ought to just stop doing this. It's all just a, "Well, okay, we'll change our target; we won't advertise in publications where 50 percent of the audience is teenagers."

What about just saying, you know, "some of this stuff is just bad. We don't have to make this much more money this badly, we're just not going to do it."

Have you heard of any of the companies saying, "We just don't need to do this, and we're going to stop"?

Mr. PITOFSKY. Just not do the marketing or just not create the materials?

Senator BROWNBACK. Just not produce the product that is hyperviolent, sexualized violence, doing that themselves?

Mr. PITOFSKY. No, I haven't, and I think that it's a tricky road to go down. The companies could, of course, on a voluntary basis.

Senator BROWNBACK. That's what I'm speaking of, on a voluntary basis.

Mr. PITOFSKY. Yes. I haven't heard much of that. And, of course, I think we all agree that it would be very tricky to have the government defining gratuitous violence. That's something we want to stay away from. We want to solve this problem but not in that way.

Senator BROWNBACK. Mr. Chairman, thank you, and thank you, Mr. Pitofsky.

Mr. PITOFSKY. Senator, I should have said, if I may; Senator, you were one of the very first people that called my attention to this set of issues, and you've been a most constant supporter of this project, and I want to thank you and acknowledge your support.

Senator BROWNBACK. Thank you.

The CHAIRMAN. As do all of us.

We thank you, Chairman Pitofsky, and we look forward to seeing you again. We may call you back in a couple of weeks, but I hope we don't have to do that. Again, I want to thank you and the Com-

mission, and we look forward to, I think this is the beginning rather than the end of this very difficult issue. Thank you.

Mr. PITOFSKY. Thank you.

The CHAIRMAN. We now are privileged to have before the Committee Ms. Lynne Cheney, who's the former chairman of the National Endowment for Humanities.

Some of the members are over voting, but we thought we would not want to impose on your time anymore and ask you to give your testimony. You come before the Committee not only as a person of sterling reputation and advocate for families all over America, but your previous position as chairman of the National Endowment for the Humanities clearly qualifies you to address the Committee today, and we are pleased to have you here.

Please proceed.

STATEMENT OF LYNNE CHENEY, FORMER CHAIRMAN, NATIONAL ENDOWMENT FOR THE HUMANITIES

Ms. CHENEY. Thank you very much for asking me to be here, Mr. Chairman. I appreciate the opportunity to address this important issue.

I thought I might begin today with a description. It's one that I owe to my good friend, Peggy Noonan. She suggests that we think of our children as intelligent fish swimming in a deep ocean. And she imagines that the TV and the video games and movies and recordings, she imagines them as waves that penetrate through the water and penetrate through our children.

"They go through our children again and again," she writes, "from this direction and that. And, increasingly," she notes, "these waves are more and more about sex and violence." She writes, "We forget, those of us who are middle aged, that we grew up in a time of saner images and sounds. For instance, the culture of crime only begin to explode in the 1960s. We have lived in it for 30 years, and most of us turned out okay, so we think our children will be all right, too. But they never had a normal culture against to which to balance the newer, sicker one. They had no reference points to the old boring normality. We assume they know what we know. This is not right. We know that. But why would they know that. The water in which they swim is the only water that they have ever known."

Well, I wanted to read that because I think it's important that, shocked as we all are by this FTC report, shocked as we all are that the entertainment industry would market to children items, products that they know to be inappropriate for children, they would market them to children, I think we are all so shocked at that, and I want to join in the chorus of outrage.

But I think our shock at that, our shock at the way they market their products, shouldn't let us forget, shouldn't distract us from our shock at the products they market. There is a problem with the products they market no matter how they market them. It's shameful they're doing it to children, but let's just remember what they're marketing.

I would like to say at the outset that I would join with all of those who say that any legislation is on this issue is fraught with peril. I have been a First Amendment advocate for my entire life,

and I worry very much about policymakers legislating or regulating in a way that might threaten the First Amendment.

What seems to me the proper stance here is for outraged citizens, policymakers included, of course, to take it as a duty to speak out about, to hold people who produce these outrageous products, to hold these people responsible for them, to shame them. And there's a model for this.

Bill Bennett and Joe Lieberman a few years ago began distributing the "Silver Sewer Award" to particular outrageous, particularly culpable people in the industry who had produced particularly harmful products.

I take that as a model. We need to be specific. My point is is we don't want to have blanket enunciations. They do us no good. Several people, I have observed here earlier today, have said we've been here before; we've been here before. Blanket enunciations do not make much progress. Let's be specific.

And so that's what I'm here today to do, is to talk about how we might do it and to offer myself as an example.

I have lately been very disturbed by the lyrics of the rap singer Eminem. They were displayed in this room earlier, or at least a part of them were. They could not be more despicable. They could not be more hateful in their attitudes towards women in particular. There are many groups that Eminem is quite despicable toward. But he is a violent misogynist. He advocates raping and murdering his mother in one of his songs. He glories in the same song the idea that he might murder any woman he comes across.

He talks about how he will choke the women he murders slowly so that their screams will last for a long time.

He talks about the painting the forest bright red, or maybe it's orange, I can't remember, with their blood. It is despicable. It is awful.

The CHAIRMAN. Have you put yourself through the torture of listening to this?

Ms. CHENEY. I actually listened to it. And I will give Eminem this credit: You can understand every word he says. Many rock singers and rappers you can't understand. This is absolutely clear. I have lyrics from this song, which is called, "Kill You," that I will be distributing today.

This is dreadful, this is shameful, this is awful. So what to do?

I decided that since the lyrics were so hateful to women what I would do is write the two women members of the Board of Seagram. Seagram owns Interscope, Interscope distributes and produces Eminem's records. So I've written to these two women. One is Marie-Josée Kravis, the other is Michele Hooper. And I've written them letters, which I will also distribute today. They should have received their letters yesterday, asking them to take up with their Board members such questions as: How can you reconcile corporate responsibility with such social irresponsibility?

I serve on corporate boards myself, and I completely understand the duty that corporate directors have to shareholders. But aren't many of the shareholders of Seagram women? Is it to their benefit to distribute lyrics, to put out lyrics under this record label that degrade, demean women, and I think invite violence toward them?

Aren't many of their shareholders parents? Don't these parents shudder at what Interscope and Seagram are doing to their children's culture, to the culture that their children are growing up in?

So that's a small step I've taken, and I've encouraged these two women to contact me at any time, I would be happy to enter into a dialogue with them.

A few years ago I wrote about another example of the entertainment industry's irresponsibility. I don't follow the entertainment industry closely in all its aspects, but every once in a while something like Eminem pops up. Eminem received three awards from the entertainment industry last week, including Best Male Performer at the MTV awards.

Can you imagine that the entire industry honors this man whose work is so hateful?

Well, as I say, every once in a while something pops up and compels my interest. A few years ago it was a film, a movie, called "Kids"—I think I'm supposed to call them "films" but this is no more than a "movie"—a movie called "Kids" that depicted very young teenagers, 13 and 14, having explicit sex. One of them was HIV Positive, and he had sex with as many of his friends, also 13- and 14-year-old girls, as he could.

These youngsters smoked dope. They attacked strangers, and the whole film was presented as this is the way kids behave, of course this is the way kids behave. I have no doubt that many kids saw this film and got the idea that, well, this is the way kids behave, even though it did have an NC–17 rating, because it's very easy for kids to see a film like this.

But even if they didn't, what is the entertainment industry doing to our children when they create a culture in which children are viewed this way? When they make it seem as though early adolescents are sexual objects, that early adolescents should be expected to take drugs and have sex and attack strangers?

Well, so what to do about this film? I wrote about it in detail. This film was produced by Miramax. Senator Boxer made a good point earlier when she pointed out that there's usually a mixed bag here. Miramax also does some fine things. It produced "Shakespeare in Love."

Seagram has done some fine things. One of Seagram's artists, one of their recordings' artists is Luciano Pavarotti.

But when these corporations do things that are so shameful as produce and distribute Eminem, a singer whose lyrics we looked at earlier, or a movie like "Kids," shouldn't people of stature hold them to account? Shouldn't people of stature go to Harvey Weinstein, who is the co-Chairman of Miramax, for example, and ask him to pledge in the future he will not fund works that debase our culture and corrode our children's souls.

I notice that two people of stature, Vice President Gore and Senator Lieberman, are attending a fund-raising extravaganza that Mr. Weinstein is holding on Thursday, and I would ask them, please, to deliver this message.

There are many recommendations that can be made specifically about the report before us, and I certainly think it is important, since I've focused on the recording industry, that they have labels that actually mean something. A parental advisory label is not a

very clear indication to parents of what the problem with the recording might be.

Unless there is some age specificity, retailers have no way of knowing who should buy the product and who should not.

Let me also recommend that the lyrics of any recording product that is deemed unsuitable for children be published and enclosed with the CD, for example.

As I've said, one thing to Eminem's credit is you can understand him, but many of the rockers and rappers you have to listen repeatedly, as kids do. And I will tell you, the kids know what these people are saying. It requires repeated listening to understand.

So I would also suggest that as one specific action that the industry might take in an effort to clean up its act and regulate itself, that anything that has a parental warning label on it should have the lyrics included.

We are faced with a problem that stretches across the entire entertainment industry. I haven't meant to focus particularly on the recording industry or just the movie industry today because there are many problems. But the time has come, I think, to quit issuing blanket denouncements and to zero in and to ask people to be responsible and to be accountable for the products that are distributed.

Thank you, Senator.

[The prepared statement of Ms. Cheney follows:]

PREPARED STATEMENT OF LYNNE CHENEY, FORMER CHAIRMAN, NATIONAL ENDOWMENT FOR THE HUMANITIES

Thank you Mr. Chairman. I appreciate being asked here to address this important issue, and I want to thank you and other Members of the Committee for your consistent leadership on protecting our children from sex and violence.

It has been chilling to read about, and to hear again from Commissioner Pitofsky, the FTC's findings which reveal how methodically companies target adult entertainment products at young people. I know that this report will be well read, not just in Washington DC, but by parents who are concerned about this issue.

This FTC report reiterates what many of us have been saying for a long time: that some in the entertainment industry are consistently failing to act responsibly. They are producing violent, sexually-explicit material, and they are peddling it to children. They claim unbridled license to do so under the First Amendment; however, their persistent irresponsibility, ironically, threatens the First Amendment as their product is so objectionable that more and more good citizens find appealing the idea that government regulation should remove entertainment industry products from the public square. Let me say from the outset that I am opposed to such regulation.

I want to focus on the larger picture for a moment. When I served as Chairman of the National Endowment for the Humanities I often testified before this august body about what Matthew Arnold called "the best that has been thought and known in the world," the history and philosophy and literature that lifts our souls and helps us understand our experience. I've talked about the importance of providing children with models of honesty and honor, of telling them stories of Abe Lincoln and Harriet Tubman so they can understand the beauty and dignity of a life lived according to high ideals.

My friend Peggy Noonan, who is a wonderful writer, suggests that we understand the way our children are affected by such uplifting stories—as well as by stories that demean and degrade—by imagining little children as intelligent fish swimming in a deep ocean. The stories are "waves of sight and sound, of thought and fact [that] come invisibly through the water, like radar; they go through [our children] again and again, from this direction and that." The waves come from books and movies, from music and television, and more and more they are about sex and violence, about hate and degradation. Noonan writes:

> We forget, those of us who are middle-aged, that we grew up in a time of saner images and sounds. For instance, the culture of crime only began to explode in the sixties. We have lived in it for thirty years, and most of us turned out okay. So we think our children will be all right, too. But they never had a normal culture against which to balance the newer, sicker one. They have no reference points to the old boring normality. We assume they know what we know: "This is not right." But why would they know that? The water in which they swim is the only water they have ever known.

Cleaning up the water, the ocean our children are swimming in, is, Noonan writes, the most important environmental issue of our time.

But where to begin? For years now, we have talked about this problem at a high level. With this latest outrage, it seems to me the time has come to get very specific, to name names, to say exactly what is wrong, and to ask individuals to be accountable. So here is a name: Marshall Mathers, the rapper otherwise known as Eminem. And here is exactly what is wrong—or at least one among many things objectionable about his lyrics—he promotes violence of the most degrading kind against women. In "Kill You," a song from his album "The Marshall Mathers LP," he begins by describing the satisfaction of raping and murdering his mother and then goes on to imagine the joys of murdering any woman he might come across. "Wives, nuns, sluts," whoever "the bitches" might be, he will kill them slowly, leaving enough air in their lungs so their screaming will be prolonged. He will paint the forest with their blood. "I got the machete from O.J.," he shouts, "Bitch, I'm a kill you."

Eminem is not the first rapper to revel in violent misogyny, but he has taken hatred of women and depictions of degrading and violating them to such lengths that I have written to Michele Hooper and Marie-Josée Kravis, the two female members of the board of Seagram, whose company, Interscope, produces and distributes Eminem. I have asked Hooper and Kravis to ask their fellow board members how it is possible to reconcile corporate responsibility with the distribution of lyrics that are socially irresponsible. "I fully understand your duty to shareholders," I wrote to them, "but can that duty be defined in purely economic terms? Aren't many of your shareholders women, who are demeaned by some of the music you distribute? Aren't many of them parents, who shudder at the debased and violent culture that Seagram is helping create?"

I noted in my letters that the time has long passed when we can shrug off violence in the entertainment industry by saying that it has no effect, by saying it's just coincidence that Eric Harris and Dylan Klebold, the murderers of Columbine High, were fans of the shock rocker, Marilyn Manson, also distributed by Seagram. It is no longer credible to suggest that young people aren't affected by music, films, and video games that celebrate violence. The entertainment industry, when it claims this, sounds exactly like the tobacco industry of a few years ago when its leaders kept insisting that you couldn't really say that cigarettes cause cancer.

Which brings us back to the shareholders of Seagram. Is it in their best interest for Seagram to pursue a course that may well lead to federal regulation? Let me reiterate that I am opposed to such regulation. I have long been a vocal supporter of free speech, and it is hard to imagine a law to regulate the entertainment industry that would not run afoul of the first amendment. But we have arrived at a situation where the entertainment industry is causing such outrage that regulation is being seriously proposed.

At a minimum, I have suggested to Michele Hooper and Marie-Josée Kravis that Seagram ought to work with others in the music industry to give the current rating system more meaning by providing reasons for advisory labels, and specifying ages. This last would make it easier to recognize when music was being marketed inappropriately, which is a first step if the industry is to regulate this matter itself. Age-labeling would also give retailers information they need in order to decide who should be able to buy certain materials and who should not. As the FTC report makes clear, there is confusion on this point now. While some music outlets let anyone buy anything, others do try to impose standards, but in one instance the standard will be that no one under seventeen can buy an advisory-labeled CD. In another, no one under thirteen.

I also suggest that the industry require that music deemed suitable only for those over seventeen include the lyrics so that parents can review them and know what their children are listening to.

Mr. Chairman, as I am sure you and other Members of this Committee know, Seagram is hardly the only culprit. That company may produce and distribute Eminem, but the entire music industry reveres him. Last week, he received three MTV music awards, including best male artist. It is truly astonishing to me that a man whose work is so filled with hate would be so honored by his peers.

We are faced with a problem that stretches across the entire entertainment industry, including movies and video games as well as music. But the time has come, I think, to quit issuing blanket denouncements, to zero in with a bill of particulars, and to hope that individuals will step up and assume responsibility.

I thank you for giving me the opportunity to testify today.

The CHAIRMAN. I thank you very much, Ms. Cheney.

You mentioned fund raising. The last time I checked, some $18 million, most of it in soft money contributions, have been given by the movie industry to political campaigns. It would be very interesting to see how that continues. Special interests, again, have such inordinate influence here on our legislative agenda.

Senator Hollings.

Senator HOLLINGS. I thank the distinguished witness for her appearance, and I agree, if I ran the movie industry and knew that this was an ongoing problem for some 50 years and all you had to do is continue to make your contributions and nothing happened, I'd sort of continue to run it that way because, as I've pointed out, Ambassador Cheney, what happens is, and I'll read it again, just that one paragraph back in 1954: "It has been found"—this is producer's directions—"It has been found that we retain audience interest best when our story is concerned with murder. Therefore, although other crimes may be introduced, somebody must be murdered, preferably early, with the threat of more violence to come." That's in the history of broadcasting.

Now my distinguished colleague, Senator DeWine, says he just can't understand why they can't do it. They're in the business of making money, profit. And as long as it continues and they know violence, crime pays, they're going to continue to do it. So really it's my contention, and you'll dramatize it again, is that we know, you and I have been up there in Washington quite some time, and it's up to us to act. Like the Europeans, they have a safe harbor down in Australia now with the Olympics. They've got a safe harbor in New Zealand. But we just won't put it in because it'll stop it. Even though it is for excessive gratuitous violence.

They mention, they go right away to *Private Ryan* or *Schindler's List*, and those other things. Obviously, that's necessary to the history. We're talking about violence that is gratuitous and even again violence itself, it's got to be excessive gratuitous violence. And that's the way they've tested it. We've had the Attorney General say it stands constitutional muster and why not try it.

But I appreciate your appearance very much.

Ms. CHENEY. I think that there is something to be said for the old fashioned concept of shame. Most people like to have the regard of their friends, and the people who are running these corporations I don't suspect are different from you and me and everyone else in this room. I suspect they like to have the good regard of their friends. But they produce this stuff, and people don't hold them singly and individually accountable.

That's why I've written to two women on the Seagram Board and asked them to be responsible and accountable. That's why I would suggest that Senator Lieberman and Vice President Gore ask Mr. Weinstein when they see him on Thursday to be accountable.

That's why I would suggest that each of us, when we are offended by this, take note, take names and ask people to be responsible.

Senator HOLLINGS. The Chairman's going to have him up here in two weeks' time.

Ms. CHENEY. That's very good.

The CHAIRMAN. I think Senator Hollings agrees with me, that we will not issue a subpoena. We're not going to do that kind of thing. We've never done that. Mr. Weinstein has time to attend a fundraiser, but he does not have time to come here. Perhaps we may be able to understand that. I don't, but maybe others will.

We thank you, again, Ms. Cheney. Again, I think you bring some very important suggestions to this Committee, and we look forward to working with you, and we're very honored by your presence.

Ms. CHENEY. Thank you, Mr. Chairman. It's always a pleasure to be in any room where you are spreading your wisdom and good fellowship. Thank you.

The CHAIRMAN. Thank you.

Our next panel is Mr. Danny Goldberg, Mr. Strauss Zelnick, Mr. Peter Moore, and Mr. Gregory Fischbach.

Mr. Goldberg is President of Artemis Records; Mr. Strauss Zelnick is the President and CEO of BMG Entertainment; Mr. Peter Moore is President and Chief Operating Officer of Sega of America; and Mr. Gregory Fischbach is the President and CEO of Acclaim Entertainment.

We welcome you before the Committee, we thank you for coming today. We appreciate the fact that this is not the most comfortable time for you, but we also appreciate the fact that you are willing to come and address this Committee and the American people. We thank you.

Mr. Goldberg, we'd like to begin with you.

STATEMENT OF DANNY GOLDBERG, PRESIDENT, ARTEMIS RECORDS

Mr. GOLDBERG. Chairman McCain, Senator Hollings, and Members of the Committee, I'm pleased to have the opportunity to testify before you today.

As you said, Chairman, I'm the CEO and co-owner of Artemis Records. It's a year-old independently owned record company. Our current roster includes Rickie Lee Jones, Steve Earle, Warren Zevon, and the Baha Men.

We are not a member of the record industry association. But during the 1990s, I was president of three major labels—Atlantic, Warner Brothers, and Mercury.

I'm speaking not only as a long-time record executive, but also as a father of a 10-year-old girl and a 6½-year-old boy, and I do not believe that either government or any entertainment industry committee has any business in telling me and my wife what entertainment our children should be exposed to.

The United States is a diverse country with hundreds of divergent religious beliefs, ethnic backgrounds, regional traditions, and different opinions about art and entertainment.

Unlike the visual media, the record business is being asked to categorize and label groups of words for the same reason that there

is no rating system for books or, for that matter, congressional testimony. With one narrow exception, it's virtually impossible to rate words.

I agree with the idea that Lynne Cheney and the FTC said about making lyrics available to anyone who wants to read them, but all parents are not going to agree with the Committee about these lyrics. For example, the reason rating is so difficult, for example, is on the subject of violence what kind of system can distinguish between the words, "I want to kill you," said in an affectionate, sarcastic or ironic way, or put into the mouth of an unsympathetic character from those same words being used literally, advocating a crime.

Song lyrics are, by their nature, impressionistic and are often used symbolically. No one really thought that the words to "Killing me softly with his song" referred to murder or suicide.

The one exception that I mentioned are the so-called dirty words, the seven dirty words or ten dirty words, and for fifteen years record companies, including my company, have been placing parental advisory stickers on albums that have a lot of curse words.

Please note, Senators, distinguished from the movie business and contrary to the sloppy and inaccurate remarks of the President and the Vice President earlier this week, record companies have never suggested an age limit for albums with parental advisory stickers.

My company has such a sticker on our current album, "Spit" by the heavy metal band Kittie because the teenage girls in the band use several curse words over the course of the album. There's nothing illegal about this. Critics across the country and half a million people who bought it are morally comfortable with it as well.

I know that there are many Americans who are offended by curse words and don't want children exposed to them. However, those people have no moral or legal right to impose such a standard on my family or millions of other Americans, who, like George W. Bush, are comfortable with cursing.

[Laughter.]

The parental advisory sticker informs retailers and parents that such words are on the album. Other than that, there's no universal criteria for categorizing words and lyrics. Of course, there are subjective criteria. It's the function of critics to criticize, of preachers to preach, of people like myself to exercise personal moral judgments about what my company releases.

However, people of goodwill will often have different opinions about entertainment. I respect the fact that many parents don't want their kids to watch R-rated movie, but I prefer a deeper analysis of each movie, and I recently recommended the R-rated Erin Brockovich to our 10-year-old daughter, Katie, who's a passionate feminist and environmentalist, because I had seen the film and I knew the rating was only because of cursing. Others may disagree. But this country will cease to be free the day that one group of parents can tell all other parents how to raise their children.

Song lyrics are not literal. Listening to the blues often makes people happy. Angry, weird songs often make adolescents feel less lonely and more connected to other kids. Millions of these teens and young adults feel ostracized when politicians and academics who obviously have no real understanding of their culture, make

sweeping generalizations about their entertainment, conveniently overlooking the fact that every generation has embraced entertainment about sexual and violent themes.

Gangsta rap is the direct descendent of the gangster movies of the 1930s and 1940s, the TV Westerns of the 1950s, and critically acclaimed films like the "Godfather."

Mr. Chairman, I don't like every record. Spike Lee criticizes much of the rap culture in his new movie, "Bamboozled." Criticism and immoral argument is appropriate and an integral part of the entertainment culture. In an Internet world, there will be ever-increasing ways for parents to find like-minded groups who can advise them on entertainment through the prism of their particular values. However, so-called self-regulation achieved by political intimidation, is the equivalent of censorship.

It's become commonplace to assert that popular culture is popular against the wishes and values of its fans. But popular culture gets that way because the balance of consumers, not rule-makers, but everyday people enjoy it.

Make no mistake, Members of the Committee, their tastes, their values, their morality are under assault today just as much as we executives who occupy the hot seats today.

Washington is a culture of legislation and policy. Asking the FTC or the Washington media or the Congress to analyze popular entertainment, makes about as much sense as going to Hollywood to restructure Medicare.

From Ralph Nader to Pat Buchanan, Washington political leaders, in my opinion, are out of touch with the real dynamic of the ways young people process entertainment and they condemn youth culture.

The only result of demonizing pop culture is to drive millions of young people away from politics. In the last congressional election, less than 17 percent of 18- to 25-year-olds voted, less than half the rest of the population.

I believe that 15 years of youth culture, entertainment bashing in Washington has greatly contributed to alienation and apathy on the part of young people from politics.

Mr. Chairman and Members of the Committee, please help stop this trend of pushing young people away from politics.

The CHAIRMAN. Thank you, Mr. Goldberg.

[The prepared statement of Mr. Goldberg follows:]

PREPARED STATEMENT OF DANNY GOLDBERG, PRESIDENT, ARTEMIS RECORDS

Chairman McCain, Senator Hollings, and Members of the Committee. I am pleased to have the opportunity to testify before you today.

I am the CEO and co-owner of Artemis Records a year old independently owned record company. Our current roster includes Rickie Lee Jones, Steve Earle, Warren Zevon, and the Baha Men. During the nineteen-nineties I was the President of three major record labels, Atlantic, Warner Bros, and Mercury.

I am speaking not only as a long time record executive, but also as a father of a ten year old girl and a six and a half year old boy. I do not believe either government or any entertainment industry committee has any business in telling me and my wife what entertainment our children should be exposed to.

The United States is a diverse country with hundreds of divergent religious beliefs, ethnic backgrounds, regional traditions, and opinions about art and entertainment. Unlike the visual media, the record business is being asked to categorize and label groups of words. For the same reason there is no ratings system for books,

or for that matter Congressional testimony, with one narrow exception, it is virtually impossible to "rate" words.

For example, on the subject of violence, what kind of system can distinguish between the words "I want to kill you" said in an affectionate, sarcastic or ironic way from those same words being used literally? Song lyrics are by their nature impressionistic and are often used symbolically. No one really thought that the words to "killing me softly with his song" referred to murder.

The one exception are the so called seven dirty words and for fifteen years, record companies, including my independent company Artemis Records, have been placing "parental advisory" stickers on albums that have a lot of curse words. Please note Senators, distinguished from the movie business and contrary to the sloppy and inaccurate remarks of the President and Vice-President earlier this week, record companies have never suggested an age limit for albums with "parental advisory" stickers. We placed such a sticker on our current album *Spit* by the heavy metal band Kittie because the teenage girls in the band use several curse words over the course of the album. There is nothing illegal about this and I and critics across the country and the half a million people in the U.S. who have bought the album are morally comfortable with it as well. I know that there are many Americans who are offended by curse words and don't want children exposed to them. However, those people have no moral or legal right to impose such a standard on my family or the millions of other Americans who, like George Bush, are comfortable with cursing.

The parental advisory sticker informs retailers and parents that such words are on the album. Other than that there is no universal criteria for categorizing words in lyrics, books, magazines, newspapers, etc. There are, of course, subjective criteria. It is the function of critics to criticize, of preachers to preach and of people like myself to exercise personal moral judgments about what my company releases. However people of good will often have different opinions about entertainment. I respect the fact that many parents don't want their kids to watch R-rated movies but I prefer a deeper analysis of each movie and I recently recommended the R-rated *Erin Brockovich* to our ten year old daughter Katie who is a passionate feminist and environmentalist because I had seen the film and knew the rating was because of cursing. Others may disagree but this country will cease to be free the day that one group of parents can tell all other parents how to raise their children.

Song lyrics are not literal. Listening to the blues often makes people happy. Angry weird songs often make adolescents feel less lonely and more connected to other kids. Millions of these teens and young adults feel ostracized when politicians and academics who obviously have no real understanding of their culture make sweeping generalizations about their entertainment, conveniently overlooking the fact that literally every generation has embraced entertainment with sexual and violent themes. Gangsta rap is the direct descendent of the gangster movies of the thirties and forties, the TV westerns of the fifties, and critically acclaimed films like *The Godfather*.

Mr. Chairman, I don't like every record. Spike Lee criticizes much of the rap culture in his new movie *Bamboozled*. Criticism and immoral argument is appropriate and an integral part of the entertainment culture. In an internet world, there will be ever increasing ways for parents to find like minded groups who can advise them on entertainment through the prism of their own particular values. However so-called self-regulation achieved by political intimidation is the equivalent of censorship.

It has become commonplace to assert that popular culture is popular against the wishes and values of its fans. But popular culture gets that way precisely because the balance of consumers—not record makers, not rule makers, but everyday people—enjoy it.

Mr. Chairman, make no mistake, their tastes, their values, and their morality are under assault every bit as much as the entertainment executives who occupy the hot seat today.

Washington is a culture of legislation and policy. Asking the FTC or the Washington media or the Congress to analyze popular entertainment makes about as much sense as going to Hollywood to re-structure Medicare. From Ralph Nader to Pat Buchanan, Washington political leaders, who are out of touch with the real dynamic of the ways young people process entertainment, condemn youth culture. The only result of demonizing pop culture is to drive millions of young people away from politics. In the last Congressional election in 1998, less than 17% of 18–25-year-olds voted, less than half the rest of the population. I believe that fifteen years of youth culture entertainment bashing in Washington has greatly contributed to alienation and apathy on the part of young people from politics.

Mr. Chairman and Members of the Committee, please help to stop this trend of pushing young people away from politics.

The CHAIRMAN. Mr. Zelnick.

STATEMENT OF STRAUSS ZELNICK, PRESIDENT AND CHIEF OPERATING OFFICER, BMG ENTERTAINMENT

Mr. ZELNICK. Chairman McCain, Senator Hollings, and Members of this Committee, I'm here to testify as the father of four children, as a concerned citizen, and as the Chief Executive Officer of a leading entertainment company.

I welcome the opportunity to discuss the obligation that we all share to strengthen the social fabric of our country.

I want to address this issue, and I trust that you do, too, in the spirit of mutual respect and mutual responsibility.

All of us who are raising children understand what Senator McCain, Senator Lieberman, and others inside and outside this chamber have said. Certain of the messages that pervade our society make it difficult to teach our children the difference between right and wrong. And, yes, popular culture plays a role in creating our moral climate. But there is significant room for doubt that entertainment is a cause of violence in America.

Popular culture may be made here, but it's consumed everywhere, and presumably our movies, our music, and our video games have the same impact everywhere. Yet, our country is more violent than any other advanced society. Our homicide rate is five times greater than the United Kingdom's, six times greater than Germany's, eleven times greater than Japan's.

When it comes to our children, the numbers are even more shocking. In 1995, firearms killed a total of 185 children in the United Kingdom, Germany, France, and Japan combined, but that same year 5,285 children were killed by guns in America.

In this regard, what makes America unique is not its possible culture but our relative ease of access to guns.

Today, over 40 percent of households in America have firearms. That's far more than almost any other advanced nation, and our regulations with regard to the licensing, registration, and authorization of their use are among the most relaxed.

Still, guns aren't the only explanation for crime and violence among young people. There is, among other factors, the sense of hopelessness among some of the very poor, the sense of meaninglessness among some of the very wealthy, and the long hours that many parents must work just to provide for their families.

And, yes, we in the media, do share in shaping our nation's culture. We may not change what people think, but we create a vernacular for those thoughts. We, as an industry, must recognize our role and play it responsibly. None of this means, however, that the government should serve as the censor of our art and the regulator of our speech.

Yes, violence is a terrible problem, but government interference with free expression is a cure that's worse than the disease.

As lawmakers, you understand better than anyone that the First Amendment protects speech of all kinds. Yet agreeing that government censorship is wrong, should not be the end of our discussion, it should be the beginning.

It's up to each and every one of us to do the things we should do, not because the government coerces us but because our consciences command us.

In America today, our consciences command us to action against violence.

I have acknowledged and addressed this responsibility in a talk earlier this year at the National Academy of Recording Arts and Sciences Entertainment Law Interview, as well as with leaders in our industry and executives of my company.

I'd like to share with the Committee my specific views.

The record business and we at BMG do not condone violence, and yet violence is part of the world that creates, buys, and is influenced by our music.

Many of our artists legitimately express and comment on the problems of our society. We need to ensure that those voices are heard. I believe it's far better to provide an outlet for expression than to close one; far better to promote agitation in art than violence in life.

While we therefore sometimes explore challenging themes, we must not exploit them. What matters most is not exercising taboo topics but exercising personal, artistic, and moral judgment.

We cannot set hard and fast rules for what is creative, versus what has exploited it. Rather, we try to distinguish one from the other, artist by artist, lyric by lyric, and case by case.

Every time we release a record, we make a choice. As the CEO of BMG, I am ultimately responsible for what my company produces. It's as simple as that. I stand by our art, just as I stand by our sense of taste and restraint. We're not always successful in this regard. We've made mistakes. But with the freedom to choose, comes the accountability for our choices, both the good ones and the bad ones.

As long as artistic excellence is our most enduring value, we won't go far wrong. And make no mistake about it, the ultimate responsibility for deciding what music young people listen to rests with parents in their homes not public officials.

For many years, BMG and the rest of our industry have voluntarily labeled records with advisories providing parents with the information they need to make personal and moral judgments for their families. The system is intended to help parents decide what music is appropriate for their children based on their values.

Yet, we must ask ourselves, are we doing enough. Does the information we offer help parents make appropriate decisions? Can we and should we be doing more?

On these issues, we might all benefit from a national discussion and exchange of ideas with parents and educators, religious leaders and artists, business people, and law enforcement officials.

We might also benefit from a public service advertising campaign, led by artists of all types and from all backgrounds, sending a clear antiviolence message to our children.

In the end, the solutions will be found in our homes and in our studios, not in a one-size-fits-all approach mandated by our government. The answer lies in returning to first principals not revising the First Amendment.

If parents, artists and business people take responsibility together, we will live out the lyrics of a song from my own youth, "Teach your children well." And we will have kept faith with our nation's heritage of freedom tempered by responsibility.

Thank you.

The CHAIRMAN. Thank you, Mr. Zelnick.

[The prepared statement of Mr. Zelnick follows:]

PREPARED STATEMENT OF STRAUSS ZELNICK, PRESIDENT AND CHIEF OPERATING OFFICER, BMG ENTERTAINMENT

Chairman McCain, Senator Hollings, and Members of this Committee: I am here to testify as the father of four children, as a concerned citizen, and as the chief executive officer of a leading entertainment company.

I welcome the opportunity to discuss the obligation that we all share to strengthen the social fabric of our country. I want to address this issue—and I trust that you do, too—in a spirit of mutual respect and mutual responsibility.

All of us who are raising children understand what Senator McCain, Senator Lieberman and others inside and outside this chamber have said: certain of the messages that pervade our society make it difficult to teach our children the difference between right and wrong. And, yes, popular culture plays a role in creating our moral climate.

But there is significant room for doubt that entertainment is a cause of violence in America.

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Still guns aren't the only explanation for crime and violence among young people. There are, among other factors, the sense of hopelessness among some of the very poor; the sense of meaninglessness among some of the very wealthy; and the long hours that many parents must work just to provide for their families.

And yes, we in the media do share in shaping our nation's culture. We may not change what people think, but we create a vernacular for those thoughts. We as an industry must recognize our role and play it responsibly.

None of this means, however, that the government should serve as the censor of our art and the regulator of our speech.

Yes, violence is a terrible problem. But government interference with free expression is a "cure" that is worse than the disease.

As lawmakers, you understand better than anyone that the first amendment protects speech of all kinds.

Yet agreeing that government censorship is wrong should not be the end of our discussion. It should be the beginning.

It is up to each and every one of us to do the things we should do—not because the government coerces us but because our consciences command us.

In America today, our consciences command us to take action against violence.

I have acknowledged—and addressed—this responsibility in a talk earlier this year at the National Academy of Recording Arts and Sciences' Entertainment Law Initiative as well as with leaders in our industry and executives at my company.

I would like to share with this Committee my specific views.

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Many of our artists legitimately express and comment on the problems of our society. We need to ensure that their voices are heard. I believe it is far better to provide an outlet for expression than to close one, far better to promote agitation in art than violence in life.

While we therefore sometimes explore challenging themes, we must not exploit them. What matters most is not exorcising taboo topics but exercising personal, artistic and moral judgment. We cannot set hard and fast rules for what is creative versus what is exploitative; rather, we try to distinguish one from the other, artist-by-artist, lyric-by-lyric, and case-by-case.

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Yet, we must ask ourselves: are we doing enough? Does the information we offer help parents make appropriate decisions? Can we—and should we—be doing more?

On these issues we might all benefit from a national discussion—an exchange of ideas with parents and educators, religious leaders and artists, business people and law enforcement officials.

We might also benefit from a public service advertising campaign, led by artists of all types and from all backgrounds, sending a clear anti-violence message to our children.

In the end, the solutions will be found in our homes and our studios—not in a one-size-fits-all approach, mandated by our government.

The answer lies in returning to first principles, not revising the first amendment.

If parents, artists, and business people take responsibility together, we will live out the lyrics of a song from my own youth: "teach your children well." And we will have kept faith with our nation's heritage of freedom tempered by responsibility.

Thank you very much.

The CHAIRMAN. Mr. Moore, welcome.

STATEMENT OF PETER MOORE, PRESIDENT AND CHIEF OPERATING OFFICER, SEGA OF AMERICA

Mr. MOORE. Thank you, Mr. Chairman, Members of the Committee. My name is Peter Moore, President and Chief Operating Officer of Sega America.

I am very glad to have volunteered to be here today as we work together to address the concerns of the public and the consumer market. I see these as two distinct groups comprised of the same people, made different only by the gap and perceptions of government and private industry.

So I am pleased to offer the experiences of Sega and to listen to your concerns so that the interest of the consumer market and public are both addressed and gap in perceptions is narrowed.

Further, I am also glad to be here as the parent of three young children. One of them, my 14-year-old son Tyler, is an avid gamer. The issues that the Committee is addressing today are the issues my wife and I, like most parents, must address everyday, as we decide channel by channel, film by film, and game by game how we want our children spending their entertainment time.

I'm sure you will agree with me that parental responsibility and choice are key to protecting the interests of the children of our country.

To start, I'd like to offer background on Sega. Sega is almost 50 years old and was started by former U.S. Army officers manufacturing and distributing pinball machines to the U.S. troops abroad through the 1960s and 1970s. In fact, the name Sega, is created from the words SErvice GAmes.

Sega broke new ground in entertainment in the 1980s by developing the first simulation-type video games. In 1998, Sega's historic role in leading video game development was recognized by the Smithsonian Institution during an exhibit on innovation where the world's first three-dimensional interactive video games, Virtua Fighter, was on display.

Continuing our cutting edge in home gaming entertainment, Sega sells a game console, the Sega Dreamcast. We also develop our own games for use on Dreamcast.

Our newest service, SegaNet, is an Internet-based video gaming network that gives gamers the opportunity to play their Dreamcast and PCs against their friends through the Internet. It was kicked off only last week, with gamers playing football against rivals across the country. Another first for the entertainment industry.

For the industry overall, the U.S. market is by far the world leader, earning over $7 billion last year in software and console sales.

Sega of America is one of the top software publishers and advertisers in this industry. Because Sega has historically been at the vanguard of video game innovation, we are pleased to begin a dialogue with you in the last few days of the 106th Congress.

Just as you feel a responsibility to the people who elected you, we at Sega also feel a responsibility to the people who spent almost $7 billion last year on video games. Because many of your constituents are our customers, you and I have a mutual interest in building a more complete understanding of this community.

I speak of my responsibility as a parent and of Sega's responsibility as a corporation because, for me, as president of the company, the two are intertwined.

Just as I am responsible for choosing the entertainment for my children, I feel strongly that it is Sega's responsibility to educate parents so that they can make informed decisions. I know this firsthand. Toward fulfilling that responsibility, Sega in 1993, introduced a voluntary rating system for our products, which was the forerunner of the Entertainment Software Rating Board, or E.S.R.B., the independent organization that develops the age range and content rating system for video games.

Fulfilling its commitment to consumer protection, the E.S.R.B. unveiled last year the Advertising Review Council, which serves to ensure that industry ads are appropriate, responsible, truthful, and accurate, and market appropriately to the correct audiences.

Over the past few months, Sega has worked closely with the FTC to share information on our products and marketing programs. We are glad to have participated in this endeavor as it offers mutual opportunities for both my company and the FTC.

First: It allows Sega an opportunity to educate the Commission on our business practices.

Second: It allows the FTC to share its concerns with us.

The report's findings show that over the past year, the electronic gaming industry self-imposed regulations have had great success. This effort includes industry members following careful age and content rating procedures implemented by the E.S.R.B., carefully and clearly labeling our products, not in code but in plain English.

The FTC survey this year showed that 54 percent of parents are at least slightly familiar with the system believe it to be excellent or good. That's a substantial increase in only one year, when from a 1999 survey, 20 percent of parents thought their rating system helpful.

That success is due directly to our hard work and efforts to serve and educate our consumers.

Although many marketing plans for M-rated games in the report stated primary or secondary audiences as being 12- to 17-year-olds, that is simply a practice that we do not condone. I assure you that we are working to ensure that such instances do not happen in the future.

I do feel, however, as I read the section of the FTC report that addresses marketing, that their expectations and criticisms are based on unrealistic assumptions.

For example, in the analysis of the industry's print advertising and gaming publications, I find it extremely difficult to justify banning M-rated game titles from a magazine that has over half its readership age 17 or older.

It is neither practical nor fair to imply that we should bypass advertising media targeted to the gaming enthusiast simply because of the possibility of spillage to a younger demographic.

I also take issue with the portion of the report addressing television advertising, saying that simply because we advertise during such widely popular shows as *The Simpsons*, *The X–Files*, and *Baywatch*, that our plans are—and I quote from the report—"strongly suggesting that children under 17 were being targeted." The information in the report is misleading.

For example, according to the Nielsen ratings for the 2000 television seasons, many popular programs have audiences that are significantly over 18 years old. *The Simpsons* has 71 percent over 18; *Malcolm in the Middle* at 70 percent over 18; *Friends* in cable syndication has 79 percent 18 years or above.

This type of speculation is substantiated in a document that has all the appearance of a scientific survey.

In any industry that markets its products, there's always the challenge to break through the clutter of messages that bombard people every day. Even more difficult is to silo messages to only one demographic group without having any unintended spillage into another.

Having said that, I also want you to know that we are thoughtful and sensitive to the fact that children may be unintentionally receiving messages meant for an older audience. In recognition of such a situation, Sega and the IDSA both enjoy close relations with our retail partners and continually work with them to develop new programs to educate consumers about the appropriateness of the content.

I am troubled by part of this report and similar innuendo and political stump speeches that generalize that the industry routinely

and overtly markets to audiences younger than designated by the E.S.R.B. ratings.

Such sweeping generalizations oversimplify and sensationalize the issue and unfairly indict companies such as Sega for the isolated mistakes of others.

Mr. Chairman, Members of the Committee, I know we all want the same goal. We want every child and every family to be involved in daily decisions. We in the electronic gaming industry have proven ourselves committed to that goal, and we intend to push further.

We want to work with you, we want you to understand our business practices based on fact, not assumptions. We want to learn of your concerns and thoughts.

We are an industry that is served by some of the most artistic and creative people ever, but we know that no one corners the market on creativity. We are open to suggestions, but suggestions based on reality not speculation.

I want to thank you for this opportunity to offer our significant experience as we work together to address concerns of the public we both serve. Thank you.

The CHAIRMAN. Thank you.

[The prepared statement of Mr. Moore follows:]

PREPARED STATEMENT OF PETER MOORE, PRESIDENT AND CHIEF OPERATING OFFICER, SEGA OF AMERICA

Good morning Mr. Chairman and Members of the Committee. My name is Peter Moore, President and Chief Operating Officer of Sega of America. I am very glad to have volunteered to be here today as we work together to address the concerns of the public and the consumer market. I see these as two distinct groups comprised of the same people, made different only by the gap in perceptions of government and private industry. So, I am pleased to offer the experiences of Sega and to listen to your concerns so that the interests of the consumer market and public are both addressed, and the gap in perceptions is narrowed.

Further, I am glad to be here as the parent of three young children: the oldest, Tara, is 17 years old; my 14-year-old son Tyler is an avid gamer, and his younger sister, Tony Marie, is 8 years old. The issues the Committee is addressing today are issues that, like most parents, my wife and I must address everyday as we decide channel-by-channel, film-by-film and game-by-game how we want our children spending their entertainment time. I'm sure you will agree with me that parental responsibility and choice are key to protecting the interests of the children of our country.

To start, I'd like to offer background on Sega. Sega is almost 50 years old and was started by former U.S. Army officers, manufacturing and distributing pinball machines to the U.S. troops abroad through the 1960's and 70's. In fact, the name Sega is created from the words *SE*rvice *GA*mes.

Sega broke new ground in entertainment in the 1980's by developing the first simulation type video games. In 1998, Sega's historic role in leading video game development was recognized by the Smithsonian Institution during an exhibit on innovation where the world's first 3-dimensional interactive video game, Virtua Fighter, was on display.

Continuing our cutting-edge innovations in home gaming entertainment, Sega sells a game console with the highest-speed processor on the market today, the Sega Dreamcast system, which offers users phenomenal, realistic graphics. We also develop our own games for use on Dreamcast. Additionally, third-party publishers also produce games for Dreamcast.

Our newest service, SegaNet, is an Internet-based video gaming network that gives gamers the opportunity to play their Dreamcasts and PCs against their friends through the Internet. It was kicked off only last week, with gamers playing football against rivals, across the country. Another first for the entertainment industry.

For the industry overall, the U.S. market is by far the world leader, earning over 7 billion dollars last year in software and console sales. Sega of America is one of the top software publishers and advertisers in this industry.

Because Sega has historically been at the vanguard of video game innovation, we are pleased to begin a dialogue with you in the last few days of the 106th Congress.

Just as you feel a responsibility to the people who elected you, we at Sega also feel a responsibility to the people who spent almost 7 billion dollars last year on video games. Because many of your constituents are our customers, you and I have a mutual interest in building a more complete understanding of this community.

I speak of my responsibility as a parent and of Sega's responsibility as a corporation because, for me as President of the company, the two are intertwined. Just as I am responsible for choosing the entertainment for my children, I feel strongly that it is Sega's responsibility to educate parents so they can make informed decisions. I know this first-hand.

Toward fulfilling that responsibility, Sega in 1993 introduced a voluntary rating system for our products which was the forerunner of the Entertainment Software Rating Board, or E.S.R.B., the independent organization that develops the age-range and content rating system for video games.

Building upon the E.S.R.B.'s commitment to protecting the consumer, within the past year have unveiled the Advertising Review Council, which sets guidelines for all video game advertising content. The A.R.C.'s mandate is to ensure that industry ads are appropriate, responsible, truthful and accurate and marketed appropriately to the correct audiences.

Over the past few months, Sega has worked closely with the Federal Trade Commission to share information on our products and marketing programs. We are glad to have participated in this endeavor as it offers mutual opportunities for both my company and the FTC. First, it allows Sega an opportunity to further educate the Commission on the consumer market that we serve as well as our business practices within that market. Concurrently, it allows us the opportunity to hear the concerns that the Commission carries in its effort to address questions from the public.

The results of this dialogue and information sharing, as outlined in the FTC's report released Monday, show that over the past year, the electronic gaming industry's self-imposed regulations have had great success. This effort includes industry members following careful age- and content-rating procedures implemented by the E.S.R.B., carefully and clearly labeling our products—not in code, but in plain English. These efforts are positively impacting parental education about the rating system.

The FTC's survey this year showed that 54% of "parents are at least slightly familiar with the system" believe it to be excellent or good. That's a substantial increase in only one year, when from a 1999 FTC survey, 20% of parents thought the rating system helpful. That success is due directly to our hard work and efforts to serve and educate our consumers.

Although many marketing plans for M-rated games in the report stated primary or secondary audiences as being 12- to 17-year-olds, that is simply a practice that we do not condone. I assure you that we are working to ensure that such instances do not happen in the future.

I do feel, however, as I read the section of the FTC report that addresses marketing, that their expectations and criticisms are based on unrealistic assumptions. For example, on page 47's analysis of the industry's print advertising in gaming publications, I will find it extremely difficult to justify banning M-rated game titles from a magazine that has over half of its readership aged 17 or older. It is neither practical nor fair to imply that we should bypass advertising media targeted to the gaming enthusiast simply because of the *possibility* of spillage to a younger demographic.

I also take issue with the portion of the report addressing television advertising, saying that simply because we advertise during such widely popular shows as, *The Simpsons*, *The X-Files*, and *Baywatch*, that our plans are—and I quote this from the report—"strongly suggesting that children under 17 were being targeted." Unfortunately this information in the report is misleading.

For example, according to the Nielsen ratings for the 2000 television season, many popular programs have audiences that are significantly over 18-years-old: *The Simpsons* has 71% over-18; *Malcolm in the Middle* at 70% over-18; *Friends* in cable syndication has over 79% 18-years or above.

This type of speculation is unconscionable in a document that has all the appearance of a scientific survey. These TV shows have wide, mainstream appeal, and as such, they inevitably capture some younger *and* older consumers than the shows' core audiences.

In any industry that markets its products, there's always the challenge to not only reach your target audience, but also to break through the clutter of messages that bombard people everyday. Even more difficult is to silo messages to only one demographic group without having any unintended spillage into other demographic groups.

Having said that, I also want you to know that we are thoughtful and sensitive to the fact that children may be *unintentionally* receiving messages meant for an older audience. In recognition of such a situation, Sega and the IDSA both enjoy close relations with our retail partners and continually work with them to develop new programs to educate consumers about the age and content suitability of video games.

Sega, the I.D.S.A., E.S.R.B. and retailers are all working together in a very tight, very well thought-out and very well-managed system. I troubled by this report, and similar innuendo in political stump speeches, that overlooks our positive efforts and instead generalizes that the industry *routinely and overtly* markets to audiences younger than designated by E.S.R.B. ratings. Such sweeping generalizations oversimplify and sensationalize the issue, and unfairly indict responsible companies such as Sega for the isolated mistakes of others.

Aside from my position at Sega, as a father of three young children, I am angered that, based on a handful of instances, government officials point an accusing finger at an entire industry as the cause of all youth violence. Any responsible parent knows that there are a multitude of factors involved in childhood development. The more time our government spends scape-goating one of the thousands of impressions made everyday on children, the less time is spent on real, sustainable solutions.

Mr. Chairman, Members of the Committee, I know we all want the same goal: we want every child and every family to be informed and involved in daily decisions. We in the electronic gaming industry have proven ourselves committed to that goal and we intend to push further. We want to work with you. We want you to understand our business practices, based on fact, not assumptions. We want to learn of your concerns and thoughts. We are an industry that is served by some of the most artistic and creative people ever, but we know that no one corners the market on creativity. We are open to suggestions, but suggestions based on reality, not speculation.

I want to thank you for this opportunity, to offer our significant experience as we work together to address concerns of the public we both serve.

Thank you.

STATEMENT OF GREGORY FISCHBACH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ACCLAIM ENTERTAINMENT

Mr. FISCHBACH. Thank you, Mr. Chairman.

I would like to address some comments to Mr. Brownback.

I have some prepared remarks, however, with respect to a game that we released called *ECW Hardcore Revolution*.

ECW, like WWF and WCW, is an organized wrestling league. It appears on TNN every Saturday evening between six and seven. It also uses Pay-Per-View as a vehicle for marketing itself. It does personal appearances around the country, most of them east of the Mississippi.

The M-rating on the product was chosen because of the language content in the product. We felt it appropriate that the product was rated "M", and that we marketed it accordingly as an M-rated product.

The action figures that you displayed, I believe——

Senator BROWNBACK. Here, I'll hand it to you, if you'd like to have it.

Mr. FISCHBACH. —yes, were marketed, they did not come from our company. They came from the ECW League themselves. They licensed that product themselves. It was not licensed by us.

Senator BROWNBACK. So they didn't have to get any permission from you to use——

Mr. FISCHBACH. No, we actually——

Senator BROWNBACK. —to put it on.

Mr. FISCHBACH. —had to get permission from them to use their wrestlers in our product. So in this particular instance, we tried to stay within the guidelines, and we tried to market the product accordingly, and I really didn't recall that there were action figures in the marketplace at this point.

So it was not part of our marketing practices, and we focused our marketing for that particular product, according to the ratings and according to the rules of ARC.

So if I may proceed now?

The CHAIRMAN. Please.

Mr. FISCHBACH. Thanks.

Our company was established in early 1987 and publishes software for all of the leading hardware systems. I am the Co-Chairman, CEO and one of the cofounders of the organization.

As a veteran in the video game industry, I am a long-time supporter of the IDSA. That's our industry organization, and currently serve as chair of the IDSA Board of Directors.

In addition, I strongly support and endorse the work of the E.S.R.B. All of our software carries an E.S.R.B. rating.

Furthermore, Acclaim complies with all E.S.R.B. advertising standards and guidelines, including the placing of rating icons and content information on packaging and in advertising.

In this hyperaccelerated, new media world, think back a minute. The first video games were developed in the mid-1970s. The ability of a consumer to control the movement of an object on the screen was considered revolutionary at the time.

In 1977, the introduction of the hugely-popular Atari 2600, the game called *PONG,* created a new generation called video gamers. Today, the original gamers who grew up playing their Atari machines and hardware that followed, are now an average age of 30, and they are still gamers.

At the same time the game machines were improving, the user demographics broadened. Software wasn't just aimed at a 12- to 18-year-old male audience. Today, video games are as mainstream as CDs, and games are being developed for people of all ages, from *Pokeman* and *Mary Kate and Ashley* to *ECW Hard Core Revolution*.

The issue, as I understand it, is appropriately marketing video game entertainment at a time when the demographics of gaming is broadening so rapidly.

I believe we are making great strides with the E.S.R.B. rating system, the new E.S.R.B. Advertising Review Council and its principals and guidelines for responsible advertising practices.

However, as an industry, we need to continually work at and evolve with the changing business environment in which we operate.

Video game publishers must take direct responsibility for how and to whom we market our games. As our demographics continue to expand, so must we expand our efforts to ensure that the marketing of our products is responsible.

I am pleased that the FTC recognized in its report that the electronic entertainment industry is taking important steps to make its

existing codes that prohibit target marketing to children even more effective.

And we are not only encouraging our colleagues in the retail sector to enforce rating systems, we are also escalating our efforts to make parents aware of the video game rating system. In this regard, we are proud that golfer Tiger Woods filmed the PSA for the E.S.R.B. last fall urging parents to check the ratings to determine which games are right for them.

Eighty-three percent of all parents are involved in the purchase of video games for their children. But as an industry, Senator, we need to do more. We as publishers need to take steps to ensure that we comply with the established Code of Conduct, including the anti-targeting provisions, and we definitely need to work further to elevate parents' awareness and understanding of the rating system.

It's an ongoing process, and I believe we are committed as an industry to improving it.

Acclaim presently publishes very few M-rated games. For those titles that we do publish, we are careful to target our marketing efforts to appropriate audiences. We strictly adhere to the IDSA guidelines. For example, we confine our print advertising, the publications that cater to our core audience, and we do not advertise in the mass market books.

For TV advertising, we restrict our media buys to after 10 o'clock p.m.

In terms of the advertising media, our primary advertising vehicle is print. Naturally, we choose print publications that cover our industry and our products. These are magazines that review the very products that we're talking about today.

The highest circulation amongst those publications reached a mere 500,000 consumers. Definitely not mass market. Mass media, like television is becoming less important for us. It has become too hard to target a particular demographic, rendering TV both inaccurate and ineffective. It is also hard to control who is viewing our TV ad content, regardless of which time slots or programs we purchase.

Having said all that, we know from research what leads consumers to their purchase decisions. According to a recent study conducted by the FairField Research, the number one factor in making the purchase decision is game rental, followed in order by playing a friend's copy, trying the game in a store, reading magazine reviews, word of mouth, and reading game packaging.

Then follows print advertising, TV advertising, point-of-sale advertising, and web site information. So while magazine advertising is important to us, it is not, in fact, the primary driver in our marketing plans, which leads me to my last point.

Perhaps the most outstanding revelation about this youth culture is that they admire their parents and the opinions of their parents. Ninety-four percent of today's youth trust their parents. Similarly, parents must understand that they not only have the responsibility but the opportunity, as the FTC said, "To be involved in the entertainment decisions of their children."

The variety and complexity of today's entertainment options may have become too unwieldy a task for any parent alone. Between books, magazines, music, movies, cellular phones, TV, and the

Internet, many parents need assistance in making intelligent choices for their children.

Because of our prominent role in the electronic entertainment industry, Acclaim not only supports strong self-regulation, we are setting an example for our industry. We are committed to continually reexamine our own and our industry's efforts to ensure that we are getting the job done.

Thank you very much for the opportunity to participate.

[The prepared statement of Mr. Fischbach follows:]

PREPARED STATEMENT OF GREGORY FISCHBACH, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ACCLAIM ENTERTAINMENT

Good Morning, My name is Gregory Fischbach, and I am the founder, co-chairman, and CEO of Acclaim Entertainment, one of the leading independent software publishers in the video game industry.

Acclaim Entertainment was established in early 1987 and publishes software for all of the leading hardware systems. In addition, Acclaim also publishes comic books and strategy guides.

Acclaim's corporate offices are located in Glen Cove, New York, and our other domestic offices are located in Salt Lake, Cincinnati, San Francisco and Austin. Acclaim software is distributed worldwide through an international organization that maintains marketing, sales and distribution facilities in all of our major markets.

As a veteran in the video game industry, I am a long time supporter of the Interactive Digital Software Association (IDSA), our industry's trade organization and currently serve as Chair of the IDSA Board of Directors. In addition, I strongly support and endorse the work of the Entertainment Software Rating Board (ESRB). The ESRB was established in 1995 with the primary purpose of establishing and maintaining a universal rating system for entertainment software.

All Acclaim software, whether published internally or only distributed by our company, carries an ESRB rating. Furthermore, Acclaim complies with all the ESRB advertising standards and guidelines, including placing of rating icons and content information on packaging and in advertising.

Five years ago, Acclaim established a website to support the sales and marketing of our software. This site carries the ESRBi seal of approval which means it is actively monitored by the ESRBi, complying with all of its standards.

In this hyper-accelerated new media world, think back a minute. The first video games were developed in the middle 70's. The ability of a consumer to control the movement of an object on the screen was considered revolutionary at that time.

In 1977, the introduction of the hugely popular Atari 2600 and a game called *PONG* created a new generation called video gamers. The Atari machine's price initially targeted it towards older kids; but as the technology improved, prices came down, the games became more sophisticated, and the audience broadened.

Today, the original gamers who grew up playing their Atari machines and the hardware that followed are now an average age of 30. And they are still gamers. As the game machines progressed, the games and the game play features became more intricate, and the plots and game play became more immersive.

At the same time the game machines were improving, the user demographics broadened. Software wasn't just aimed at the 12- to 18-year-old male audience. Today, video games are as mainstream as CD's and games are being developed for people of all ages and genders. From *Pokemon* to *Who Wants to be a Millionaire,* there's something for everyone.

The issue, as I understand it, is appropriately marketing video game entertainment at a time when the demographics of gaming is broadening so rapidly. I believe we are making great strides with the ESRB rating system, the new ESRB Advertising Review Council and its Principles and Guidelines for Responsible Advertising Practices. However, we need to continually work at it and evolve with the changing business environment in which we operate. Video game publishers must take direct responsibility for how and to whom we market our games. As the demographics continue to expand, so must we expand our efforts to ensure that the marketing of video game entertainment is responsible.

I am pleased that the FTC recognized in its report the electronic entertainment industry is taking important steps to make its existing codes that prohibit target marketing to children even more effective. And we are not only encouraging our colleagues in the retail sector to enforce rating systems, we are also escalating efforts

to make parents aware of the video game rating system. In this regard, we are proud that golfer Tiger Woods filmed a PSA for the ESRB last fall urging parents to "check the ratings" to determine which games are right for them.

But we need to do more. We, as publishers need to take steps to ensure that we comply with the established code of conduct, including the anti-targeting provisions and we definitely need to work further to elevate parents' awareness and understanding of the ratings system. It's an ongoing process, and I believe we are all committed to improving it.

Just who is the younger generation that we're talking about? There are 60 million 5–20 year olds; three times larger then Generation X, and the biggest blip on the American economic screen since the baby boom. They are very independent, have a strong sense of self worth and are active in environmental and social causes. Throughout their entire young lives, they have been bombarded with information from TV, radio, the Internet and print. This media-saturated generation is extremely marketing savvy.

Acclaim begins its marketing plans at the initial stages of product development. We develop games for a variety of different interests, and attempt to develop titles that best satisfy those demands. We do this by collaborating with our retailers to gauge what their customers want as well as by conducting our own research to determine what types of games consumers are interested in. This is the basis on which we develop our tactical marketing plans on building awareness and interest in our products.

Acclaim presently publishes very few M-rated games; but for those titles we do publish, we are very careful to target our marketing efforts to the appropriate audience. We strictly adhere to IDSA's guidelines and work closely with the publications, websites, TV and radio stations to evaluate the advertising beforehand and make changes where necessary. For example, we confine our print advertising to the publications that cater to our core audience and do not advertise in mass market books. For TV advertising, we restrict our media buys to post-10:00 pm programming and conform the commercials in collaboration with the specific cable and network clearance departments.

In response to the FTC request for information from our company, we uncovered a marketing plan that did recommend targeting of a Mature game to persons for whom it was not appropriate. In fact, we never implemented the plan, but we have nonetheless taken steps internally to make sure our marketing plans are properly prepared.

In terms of the advertising media, our primary advertising vehicle is print. Naturally we choose publications that cover our industry and our products. The highest circulation amongst these publications reaches a maximum of 500,000 consumers. Definitely not mass market. Mass media like television is becoming less important for us. It has become too hard to target a particular demographic, rendering TV both inaccurate and ineffective. It is also hard to control who is viewing our TV ad content regardless of which time slots or programs we purchase. On the other hand, we can place content more efficiently on the Internet and can also control who is viewing our information more effectively.

Having said all that, we know from research what leads consumers to their purchase decisions. According to a recent study conducted by FairField Research, the number one factor in making a purchase decision is game rental followed in order: by playing a friend's copy, trying the game in store, reading magazine reviews, word of mouth and reading game packaging in store. Then follows print advertising, TV advertising, point of sale advertising and website information. So while magazine advertising is important to us, it is not, in fact, the primary driver in our marketing plans. Which leads me to my last point.

Perhaps the most outstanding revelation about this youth culture is that they admire their parents and the opinions of their parents. What's more, 97% of them actually say—out loud and proud—that they like their parents and consider them confidants and friends. While the Baby Boomers' mantra was "Don't trust anyone over 30," 94% of today's youth trust their parents and 8 out of 10 state they often have "really important" talks with their parents. Game publishers and marketers must understand the importance and value of this core relationship as it relates to home entertainment. Similarly, parents must understand that they not only have the responsibility, but the opportunity, as the FTC said, to be involved in the entertainment decisions of their children.

The variety and complexity of today's entertainment options may have become too unwieldy a task for any parent alone. Between books, magazines, movies, music, cellular phones, TV and the Internet, many parents need assistance in making intelligent choices for their children. Because of our prominent role in the electronic entertainment industry, Acclaim not only supports strong self-regulation; we are set-

ting an example for our industry. We are committed to continually re-examine our own and our industry's efforts to ensure that we're getting the job done.

Thank you for the opportunity to participate in this effort.

The CHAIRMAN. Thank you very much, Mr. Fischbach.

You and Mr. Moore present views that are very interesting and, contrast with those of Mr. Goldberg and Mr. Zelnick about the importance of informing parents of the content and also the overall issue of the rating system.

Obviously, Mr. Goldberg in his statement, and Mr. Zelnick to a lesser degree, view this as some sort of coercion or censorship. I do not. I want to thank you for your commitment, both you and Mr. Moore, for improving from the situation as it exists today. As outlined by the FTC, nearly all the game companies have marketed violent, M-rated games to children in violation of the IDSAs anti-targeting provision.

Mr. Goldberg and Mr. Zelnick, I'd like to engage in a little colloquy with you, and since I would feel free to interrupt you, please feel free to interrupt me. Seriously.

[Laughter.]

I think that's the only way I think we can have an honest exchange of views here, because I am concerned about some of the things that you stated in your written testimony.

First of all, could I mention, Mr. Goldberg, I think that young people are not involved in the political process simply because they don't believe they're represented anymore here. I think they believe that the special interests and the big money, the proliferation of huge amounts of money, are unbelievable. I know you and Mr. Zelnick are both very wealthy. You could have purchased a ticket to a fund raiser for $500,000 recently, and I'm sure you would have only done that in the interests of good government, and yet average citizens are unable to do that.

Mr. GOLDBERG. I completely agree with you about that. I support McCain–Feingold.

The CHAIRMAN. Yes. So I really feel that is the reason why these young people are not participating is because they're not represented anymore.

Mr. GOLDBERG. But they're not represented here today, either, Chairman.

The CHAIRMAN. Go ahead. Why not?

Mr. GOLDBERG. There's no young people testifying today. There's no groups of fans or consumers or group people have been invited, so they're also not represented in a proceeding like this.

The CHAIRMAN. Well, I would be glad to do that, but we were reviewing a study of marketing practices as opposed to purchasing practices. The whole purpose of this hearing was to review the FTC report. But I do agree with you, perhaps we should have more young people come testify before Congress.

But I'll tell you what a lot of them would say, it doesn't make any difference, because I couldn't afford the $500,000 ticket fundraiser.

So I'd be glad to hear—again, please feel free to interrupt. So I disagree with you as to why young Americans aren't involved in the political process.

Second of all, on the issue of labeling, it's my view that any family member or any person who walks into a retail establishment and wants to buy a product, that that person should have the right to know what the content of the product is. If it's a can of soup, we should know what goes into it.

I'm talking about labeling as a way of informing both consumers and families as to what the content is so that they will be informed in their purchases. That's the whole rationale, in my view, behind labeling.

I'll be glad to hear your response to that statement because, Mr. Goldberg, especially you view it as some form of forced censorship. Please respond.

Mr. GOLDBERG. Well, we do label curse words because you can have objective criteria. Either those words are on an album or they're not, and I think the companies, our company included, does label records with those words. That's exactly what we've been doing for 15 years.

Other than curse words——

The CHAIRMAN. But if I could interrupt, and please interrupt me, the label I'm talking about is mature audiences, really suitable for certain—go ahead.

Mr. GOLDBERG. I don't believe that there's universal criteria even in this country that all 14-year-olds are the same. A 14-year-old in one family, their parents may not want to expose them to something, and in my family maybe we do. We have no idea——

The CHAIRMAN. But shouldn't we——

Mr. GOLDBERG. —how to categorize words.

I do agree, as I said, with making all the lyrics available for parents who want to read them. I'm happy to do that, subject to the copyright owners' permission to do so, and I think that would be a good way. And I think with the Internet, that's going to happen.

But in terms of categorizing a simple M, V, X, these kinds of things, other than the dirty words, I don't understand the criteria that could be used to create those categories.

As someone who has thought about this for a long time and lived with lyrics, the same way book publishers don't do it, magazines, newspapers, words don't lend themselves to those kind of categories, except for profanity, which we do label.

Senator DORGAN. Mr. Chairman, might I interrupt just for a moment?

The CHAIRMAN. Everybody interrupt. Mr. Zelnick, you have been strangely silent. Go ahead.

Senator DORGAN. Just on that point, we had testimony previously this morning by Lynne Cheney, and she described, for example, the Eminem album about the lyrics about the satisfaction of raping and murdering his mother, et cetera, et cetera. There may not be dirty words—there's dirty words in that song, but in those phrases, there may not be dirty words, but do you think that kind of lyric is appropriate for 10- 12-year-old children?

I don't think it's just about words itself. I don't think that's what the Chairman's asking about.

Mr. GOLDBERG. Well, I think that different families will have different opinions of what age. I don't have that album in my house,

my oldest kid is 10, and we've talked about why we don't want that labeling in our house.

The CHAIRMAN. But this brings us back to labeling. In other words, shouldn't your family and other families know that there are lyrics in here that talk about rape and murder without ever using a dirty word?

Mr. GOLDBERG. I think reviewers and the media explain these things to people, but there could be an anti-rape song. There have been books, novels, written in the first person of murders. "Crime and Punishment," I think. Or Richard Wright's "Native Son," where a murderer is speaking in the first person and yet clearly the intent of that is to de-legitimize and make ugly the murderer.

There are people who use these themes in a humorous, sarcastic way, symbolically, not really meaning to do it, and different people of goodwill, even different people in this room, may interpret some of these things differently. That's not my record so I didn't analyze them, discuss it with the artist. But it's very hard to have clear criteria.

The debate of reviewers and discussions is the right way for parents to get not simplistic labeling. That's my point.

The CHAIRMAN. I frankly recoiled at the lyrics that Senator Brownback put up there. Isn't that pretty clear that something like that should be labeled?

Mr. Zelnick, speak.

[Laughter.]

Mr. ZELNICK. I'm not a big fan of interrupting people, Mr. Chairman.

The CHAIRMAN. I don't call it interrupting, I call it a dialogue. And I appreciate, because you represent one of the largest part of your industry, and it's important that we hear from you.

Mr. ZELNICK. As you can see, I'm here for that exact reason, Senator.

The CHAIRMAN. Yes.

Mr. ZELNICK. And I believe I'm the only CEO of a major entertainment company that's here today.

The CHAIRMAN. And that is very much appreciated by this Committee.

Mr. ZELNICK. As I said in my remarks, I'm in favor of rating systems, voluntary rating systems.

You may not know this about my background. I started in the television business, then I ran a video company. For four years, I was president of 20th Century Fox, and I was a member of the Board of the MPAA, where we discussed this exact topic at a time when we revised our rating system.

I was a founding member of the Board of the IDSA, where we discussed ratings, and Greg and I discussed them together then, when I was in the video game business, and now my parapetetic career has led me to record in the music business. I'm on the Board of the RAA, and one of the first topics I discussed at my first RAA Board meeting six years ago was our rating system.

In my testimony today, I acknowledged the fact that perhaps we need to do more in our system. The research shows, the FTC report shows, that three-quarters of the parents served feel that the music rating system does give them sufficient information.

And while BMG doesn't put out very many explicit recordings, we put out some that are labeled, about 4 percent of our releases, and in the six years I've been CEO of the company, we've not received one complaint from a parent on something being inappropriately labeled.

That doesn't mean that the system is perfect, and we have an open mind as to how we can improve that system. It is hard for one company to do it in isolation. I think it is important for the industry to act together and reasonable people can disagree on a topic.

But my personal view, frankly, is that there's nothing wrong with considering and perhaps adopting a more robust system.

The CHAIRMAN. I thank you for that.

I want to emphasize, Mr. Goldberg, I don't believe that I, and I can't speak for other Members of this Committee, want to resort to censorship.

I'd be glad to do it if I knew where it ended. It's easy to go down that path, but you never know where the end is. So I certainly am not speaking to you as an advocate for censorship. But what I believe is important and I think the message that I've heard from all the Members of the Committee who have participated, is that we work together to try to remove and eradicate a problem that's been identified by a respected agency of government.

Did you want to respond?

Mr. GOLDBERG. I would love to censor people that I disagree with and don't like, but I agree with you. There's no way of stopping it, and who would we empower to do so.

I think, to answer your question, Senator Dorgan, about the Eminem album, it is—it definitely has a sticker. I just know that from reading about it, even though it's not a record I'm involved with. The problem is a lot of people like it anyway, and I realize that everybody here didn't like reading lyrics isolated, disconnected from music, disconnected from context, and you might have hated hearing the whole album and even meeting the artist, but millions of people like it.

And in a free society, what do you do about that, except tell your opinion and the clash of ideas in the marketplace of ideas.

And I think you also have to recognize that young people have language that they use, different symbols, and have a different feeling about this. Most young people I know feel that's a human record not a violent record. You may disagree with them but it might be good to hear them and hear their point of view, the actual fans of this music, instead of assuming how they interpret it.

The CHAIRMAN. By the way, we're going to try and bring some—we will bring some young people up to discuss MP-3 and some of this music downloading issue, which is obviously another issue of concern to the panel.

Senator Hollings.

Senator HOLLINGS. No, thank you, Mr. Chairman.

The CHAIRMAN. Senator Brownback.

Senator BROWNBACK. Thank you, Mr. Chairman.

I want to follow up on this line of questioning.

Mr. Goldberg, as I understood what you said a little bit earlier, you're willing to work on a disclosure system that discloses fully

everything of all the lyrics in music? I want to make sure that I get that correct?

Mr. GOLDBERG. I'm in favor of it and willing to do it subject to the legalisms. In other words, record companies don't own the copyrights to the lyrics, so we have to get permission if our artists don't write the songs.

We usually make all the lyrics available except when we're not permitted to, and my guess is that this could be something that could develop as a universal thing with cooperation of the music publisher.

I'm in favor of it because I think instead of having simplistic ratings for lyrics, people and parents who are interested could read all of the lyrics and make their decisions about whether or not they want it in their house, but I don't think you'd like all of the decisions that all of the parents make.

Senator BROWNBACK. I'm not concerned about that. I'm concerned about decisions my wife and I make for our children.

I'm also concerned that when we get up in the morning, we're eating food, and we can see the product label about how much fat content, what's the carbohydrates in the food, etc. I like having that information to decide. But with any of the lyrics or the music, you just don't have that. You have a sticker on a product, but that doesn't really tell you much of anything about it.

And, Mr. Zelnick, as I understand, you are agreeable to this as well, but you want it to be an industry-wide effort of disclosure of lyrics; is that correct?

Mr. ZELNICK. My point is that the recorded music industry has to have a common standard, and I think the FTC itself acknowledges that for each company to have a different rating system within one specific industry would be disruptive, and might actually make it hard for consumers to make choices.

But, Senator, I respectfully disagree. I don't think you can analyze a creative product, a work of art, the same way you can analyze a breakfast cereal. And the fact is that there are subjective elements. What we try to do with our explicit warning label now is make it clear that there, indeed, is explicit material, as I understand it.

Senator BROWNBACK. No, I understand that part of it. But I thought you were saying to me that you were willing to work on an industry-wide disclosure of all the words in the lyrics as it came forward, as long as the effort is industry-wide, which is what Mr. Goldberg said he's willing to do.

Mr. GOLDBERG. First of all——

Senator BROWNBACK. And as a parent, I would think you would find that helpful if you knew all the words that were in the lyrics.

Mr. GOLDBERG. First of all, we have no issue with disclosing of the lyrics in any case.

Senator BROWNBACK. Good.

Let me ask each of you about marketing plans because that's why we're here, about marketing plans.

The CHAIRMAN. Can I also interrupt one second?

And I appreciate your commitment at least to work with us and others in trying to better the system.

Go ahead. I'm sorry.

Senator BROWNBACK. Yes. I appreciate your willingness to show up. We've been fighting for a long time to get somebody to show up, and this is a good, positive step.

All of you are involved, and each of you are involved with the final marketing plans of your major products that come out; is that correct?

Mr. MOORE: Sure.

Senator BROWNBACK. Mr. Zelnick, you're not shaking your head. You're not involved in the marketing plan?

Mr. ZELNICK. Well, we put out 1,500 releases a year. So it would be inaccurate to say that I review each marketing plan. However, I establish policy, and I stand behind the policy, so I am responsible in that sense.

Senator BROWNBACK. All right. And the other three of you are directly responsible or directly involved in marketing plans?

Mr. MOORE. As Presidents of companies, I think we all take accountability regardless of whether we're involved or not.

Senator BROWNBACK. All right. Because that's the point of the hearing. We can talk about censorship, we can dive different places here. The point of it is the marketing that's taking place with the products, and that's been the concern here.

I want to go particularly at the game industry, if we could look at that, because the FTC study says that of its 118 electronic games with mature ratings for violence that the Commission selected for its study, 83 or 70 percent targeted children under 17. That's the FTC wording within this.

Marketing plans for 60 of these or 51 percent, expressly included children under 17 and their target audience.

Have either of you been involved in a mature-rated video game that has been marketed towards children?

Mr. FISCHBACH. We supplied certain documents. This is volumes and volumes of documents to the FTC, and when I was briefed before the hearing, I was shown three different documents with basically plans—not execution and plans, plans of what somebody had proposed within our organization.

And on the top of the plan it said, "M–12 to 24", so immediately you know that that draws a flag because "M" is not 12 to 24, "M–17 to 24" or "17 to wherever."

I can tell you in the execution of those plans, like with ECW, and we may disagree with respect to the action figures and where they fit, we did not market those products to children. We marketed those products to the appropriate audience, and specifically with respect to the ECW campaign, it was very specifically focused at an older audience, and we limited our advertising to an older audience, so we didn't try to pick up and do something that we weren't supposed to do.

Senator BROWNBACK. So, Mr. Fischbach, you have not been involved in any discussions, in any marketing plans, or under any age——

Mr. FISCHBACH. I didn't say that.

Senator BROWNBACK. Well, I'm asking you if you have or you haven't, and that's—have you?

Mr. FISCHBACH. No, we haven't.

Senator BROWNBACK. So you have not?

Mr. FISCHBACH. No.

Senator BROWNBACK. Have you, from Sega's point of view, been involved in any marketing plans where there was discussion of taking a mature product and marketing it to an underage audience?

Mr. MOORE. Absolutely not. Absolutely not. I think the interesting thing, when I read the report, Senator, is the differentiation between a marketing plan, a marketing execution was not brought up.

If I read the Commission's report accurately, and read the assertions they were making about the plan to market to 6 year olds or 12 year olds, and I'm a marketer by profession, is my background, then I would see *Sports Illustrated For Kids, Highlights for Children*, magazines of that nature be proliferated with print advertising of M-rated games, that is simply not the case.

What the Commission's issue is manufacturing, such as ourselves marketing M-rated games in gaming enthusiasts magazines.

As Mr. Fischbach has stated in his testimony, those magazines are very focused. The biggest one is 500,000. And that may seem like a lot, but in the world it's minuscule.

It is our ascertion that at least 50 percent, if not more, were 17 years and older as regards readership, and that, obviously, from our perspective is a legitimate vehicle for us to be able to market our products.

If we felt, if we truly felt that that was an inappropriate vehicle for marketing our products, we simply wouldn't do it.

Senator BROWNBACK. If I could on this point.

Mr. MOORE. Sure.

Senator BROWNBACK. Anybody in your industry that has a mature rated product and goes ahead and approves a marketing plan that overtly markets to children under the age of 17, you would say, "That's wrong, that's bad; we, as an industry, want to stop this?"

Mr. FISCHBACH. Let me just respond. The answer is yes, but not only that we've established a Council within our organization, within E.S.R.B. that does review it and does have sanctions and penalties for those kinds of infractions.

Senator BROWNBACK. Has anybody been sanctioned or penalized?

Mr. MOORE. I will bring it right back to Sega's case. Last week we launched two TV commercials. Now these were for E for Everyone games. These were actually football games. But we fell foul of the limitations that the ARC puts in our advertising, and we were wrong.

What we didn't do, which we agreed to do in writing to the advertising review council of the E.S.R.B., was actually have a voice over for the rating of that game that was featured in that commercial.

Even though at the start of that game commercial, had the logo "E for Everyone", we neglected in our rush to get that commercial to broadcast, to have a voice-over which says, this game is rated "E for Everyone." We were wrong.

We were notified the very next morning by the ARC in writing, and we had rectified that within 24 hours.

Now I'm not talking about an M-rated game, I'm talking about an NFL game, which represents 35 percent of our sales—football, sports games in general.

But the ARC works, it watches us, they have the power to be punitive. We were wrong. We recognize we were wrong, and we rectified it within 24 hours.

Senator BROWNBACK. What your stating is contrary to the study.

Mr. MOORE. In my testimony, Senator, I had issues with the study.

Senator BROWNBACK. Well, let me go, if I could on this question, and this will be the last one I put forward at this time.

Mr. Goldberg, if I could ask you, you state that the parental advisory sticker is supposed to help inform parents that that's what the product is about, and yet the FTC report states that parents have no say in whether an album is stickered or not, have no way of knowing why it was stickered, have no way of finding the lyrics, and have no recourse if they disagree with the manufacturer's decision as to whether to sticker or not.

Is there any reason why parents are kept so powerless in this system?

Mr. GOLDBERG. Well, I also feel there are major flaws in the report. I don't know of any example where a parent has asked for a copy of lyrics where they were not given them in the companies that I ran, which were big companies. Now I have a very small company, so we have fewer people we're dealing with. But I don't think there's any intent to keep lyrics away from parents.

The only criteria we've been able to establish, in my experience, and my colleagues may do it differently, but my experience in trying to figure out whether or not to put on stickers, if there were curse words on it, we stickered it because that was a specific objective criteria.

And our artists also would live with that. Our artists have contract rights in terms of the way that they work.

Other than letting parents know the lyrics themselves or whether or not there are so-called dirty words on them, I can't think of any other criteria that would be rational for the same reason that book publishers, magazine publishers, newspaper publishers, don't have those kinds of ratings.

To me, the best answer is let the consumers have access to the lyrics and express themselves as parents about whether or not they want them in their homes.

Senator BROWNBACK. I think we're going to have to work on a system where they can be because they don't know how to get a hold of lyrics presently. They don't know how to get a hold of you, although I'd be happy to publish your name and address.

Mr. GOLDBERG. Once again, the study itself said that three-quarters of parents are happy with the parental advisory sticker system, so I don't think you can discount three-quarters of the parents surveyed by the study that you, yourself, are appraising.

Senator BROWNBACK. Thank you, Mr. Chairman.

The CHAIRMAN. I thank you.

Could I, before turning to Senator Dorgan, announce that there's going to be a vote at 1:45, an important vote on tabling the Thompson Amendment. So we would have to, after Senator Dorgan fin-

ishes his questions to the panel, adjourn until 2:00 this afternoon, at which time we will have the final panel.

Senator Dorgan.

Senator DORGAN. Mr. Chairman, thank you.

The CHAIRMAN. Again, I want to thank the witnesses for being here.

Senator DORGAN. Mr. Chairman, thank you very much. Never have I heard so much credit given to people who just show up.

[Laughter.]

Senator DORGAN. But let me also say thanks for being here. And, Mr. Goldberg, you produced some lively testimony and said at the end of it that we were out of touch, and you've had to join a long line in order to make that charge, as a matter of fact.

But I would say if you held a town meeting in Arizona or Kansas or North Dakota, I think you would find expressions of most of the people who came to that town meeting very similar to the expressions you hear today on this panel about pop culture, about children, about lyrics, about violence on television, and so on.

This is about target advertising, and let me just ask the question in a manner similar to the way Senator Brownback asked it.

The FTC says that the documents they have developed show that on R-rated films a substantial number of them have been shown to—for example, 10-year-olds, 12-year-olds, 15-year-olds in market testing.

So with films, market testing to young teens, music, video, is the same way. I mean, I assume that gives you some pause, would it not? I mean, I assume that if we have a general understanding of what we're trying to do here that a disclosure that there is market testing of R-rated movies on 12- , 14-year-olds kids would give you pause? Would you disagree with that, Mr. Zelnick?

Mr. ZELNICK. No.

Senator DORGAN. All right. Mr. Goldberg, does it give you some pause?

Mr. GOLDBERG. Gotta wait two weeks for the movie people to tell you that. We're not in the movie business.

Senator DORGAN. But how about music? CDs? Same thing.

Mr. GOLDBERG. We don't have age descriptions on our CDs. The report was wrong about that. And all of the descriptions of the music business have been wrong about that because, for some reason, the FTC chose not to acknowledge that the record business has always said that we can't come up with a specific age criteria the way movies do. We don't have pictures, we don't have nudity, we don't have blood. We have words.

Senator DORGAN. I understand.

Mr. GOLDBERG. And so all we can do is label the so-called dirty words and, frankly, all teenagers are not the same. There's a big difference between a 13-year-old and a 16-year-old.

There's a difference between the way a 16-year-old in Greenwich Village might be raised, where I live, compared to a 16-year-old maybe in your home state. There's real diversity in this country, and there's not a possibility of universal criteria. Therefore, the marketplace of ideas, the clash of ideas, is how the culture is created.

We do give information about the curse words and we're happy to make the lyrics available, but you're not going to like all the records.

Senator DORGAN. Mr. Goldberg, I don't think there's a difference between those who live in Boston or Bismarck about whether they think a 12-year-old would not be harmed, in the opposite, by listening to a CD that talks about murdering and raping your mother. I think there's generally——

Mr. GOLDBERG. What about if it's against murdering and raping your mother and condemning that sort of attitude but illustrating it through an unsympathetic character?

Senator DORGAN. Well, you know, the First Amendment is industry. The First Amendment is not equivocal. It protects repulsive and vulgar speech.

I happen to vote against those who want to change the Constitution to prohibit flag desecration, because I believe the First Amendment is very important. We haven't mastered that for 200 years, and I don't see too many Thomas Jeffersons and Madisons and Masons hanging around.

So I think it's important to protect that First Amendment, and this is not about censorship. This hearing is not about and will never be about censorship. But it is about some important issues.

Let me try to get at this a slightly different way.

My assumption is that all four of you have some general notion in your own minds about what kind of products you will produce and what you won't produce.

Mr. ZELNICK. Senator, let me address that.

I have a specific notion, which is what I discussed in my testimony, but that very specific notion has to do with what my company will do.

Senator DORGAN. Correct.

Mr. ZELNICK. That may not be something that Danny's company agrees with, and I respect Danny's right to disagree.

We have no issue, however, about providing information to parents and providing disclosure. We also don't have any concern about taking responsibility because the buck stops on my desk and I take that responsibility.

I think since we're talking about marketing, we should just establish a couple of facts.

The first is that less than 10 percent of marketing expenditures in the record business actually go to consumer marketing. We don't market the same way the movie business does. I know because I ran a major movie company. We don't market the same way the video game business does. One size does not fit all.

Of the 10 percent of our expenditures that go to consumer marketing, virtually none of that goes to traditional television or print media, with the rare exception of very straight ahead family programming. Why is that? Not only because it would be inappropriate to market explicit material to children, but also because the economics of our business only allow for that type of consumer marketing for which there's a very broad audience.

Senator DORGAN. But it's especially the former, I hope? If you think it's inappropriate to market to children——

Mr. ZELNICK. Senator, in my view, it's absolutely the case. However, there's no reason not to bring some facts into the discussion. In this case, the fact is that the record business does precious little consumer marketing, and it does virtually no consumer marketing of explicit material.

In the case of BMG, of the 2,300 major releases we've put out in the last two years, fewer than 100 were explicit, and more than half of those had an edited version available, and none of those were marketed to children. That's a fact.

Senator DORGAN. Well, when you talk about bringing some facts, the implication is there aren't that many facts here. The FTC report is based on a set of facts, an investigation they did. I guess I reject the notion that this isn't based on a foundation of findings that relate to what has been happening, what companies are doing.

Mr. ZELNICK. I think if you take a look at what we've heard this morning, and I've been here all morning, a great deal of time has been spent on people's criticism of the content of what we do, and that's what Danny and I specifically reject. We take responsibility for the content of what we do.

We don't choose to market explicit material to minors, we don't believe in it.

And I think you'll get a good deal of assent in our industry, even among people who are not like-minded that that's inappropriate, and that we largely agree that there ought to be specific standards that prevent that.

Where I think you lose this constituency, is when people venture opinions about specific material and decry it as shameful or not artistic.

That, in my view, is not the purview of the legislature of this country.

Senator DORGAN. Well, the First Amendment applies not just to our constituents but to those of us who serve in Congress. If I choose to quote something that Lynn Cheney described here from Eminem and say I happen to agree with her description of that, I think it's disgusting. I have a 13-year-old son, a wonderful young guy, and an 11-year-old daughter. You've got children. Sam Brownback has children. We're all concerned about trying to protect these children.

My son was given a CD by a group I'd have heard of, Limp Bizkit, and my wife listened to the CD on the way to work one day just to make sure, before she let him open it, and she came back and she said, "My God." And she told me what the CD was about. Well, obviously he didn't listen to it because they apparently had two versions of that, and whoever gave it to him gave him the version with all of the vulgarity, and it's an extraordinarily vulgar piece.

I looked at that CD. I don't see many CDs these days, but I looked at it, and it wasn't very easy to see that there was a rating on it—by the way; it wasn't very easy to see—I mean, I didn't see it at first glance, but it was there.

I mean, I have a right as a parent to make a judgment about that, and I hope you agree that you want to help parents all across this country make sensible judgments about content. I hope you want to do that.

Mr. ZELNICK. We agree——

Senator DORGAN. You have a right to produce it——

Mr. ZELNICK. —and we've said that.

Senator DORGAN. And I was going to ask you more about this issue of what are your lines. I mean, you draw a line about what you want to produce and what you're proud of producing, and what you're proud of making a profit on. All of you do that, I guess. What are the lines?

If you draw those lines, especially with relationship to children, I'd be interested in knowing what those lines are. And you say it's individual per company, that's fine. I'd just be interested in knowing what your company's individual line is. How do you, as a CEO, draw that line?

Mr. GOLDBERG. Artist by artist. Record by record. There's not simplistic one-sentence or one-paragraph or one-page answers as to how you evaluate an artist. You have to analyze all of what they're doing. You have to meet the artist. You have to have everybody in your company analyze how you think it will affect people.

And there are all sorts of things that I and all of my colleagues refuse to put out on moral grounds, some of them that we can make money with.

There are also things that we choose to put out that would be offensive to a lot of people, including people in this room that we still think have a valid place in the marketplace and are works of arts. And it's always been thus with entertainment. There's always been entertainment that's very offensive to some people and very popular with others.

I don't think any two of us have exactly the same criteria. There are records that Strauss would put out that I wouldn't, and vice versa. But we have to go with our own conscience and with the sensibility of the people around us, and we certainly are happy to inform parents and other consumers and retailers about the nature of the content.

But we're not going to get a consensus about cursing, about whether or not violence should be depicted in entertainment or sex depicted in entertainment. These are cosmic questions that have been debated for hundreds of years.

Senator DORGAN. That's a fair point and the four of you are articulate in making your points. I would just ask one additional question.

Senator McCain, I think, asked about labeling. I was involved early on trying to make sure that everything you buy in a grocery store is labeled so that consumers know what they're buying. And I think you, Mr. Goldberg, or someone made the point, there's a difference between string beans and ideas, or whatever the term you used.

And that's a fair point, except that in both cases labeling with respect to content is designed to accomplish certain purposes. If we in this country would like, if parents want to be empowered, and if we would like to have some basic content labeling, don't you think there's an appropriate way to agree on, generally speaking, what is appropriate for 10-year-olds or 12-year-olds or 14-year-olds?

Now Jack Valenti does it. I frankly think those standards are changing rather quickly having seen a PG–13 last weekend that had words in it that would not have been in some while ago.

But Jack Valenti in the movie industry has done it for 30 years, and if they can do it—"R", "PG", "PG–13"—why cannot we do it in virtually every other area?

This report here suggests there's, despite the ratings, explicit marketing by these filmmakers to kids, which is wrong, and we're going to talk about how to deal with that. But why can't we do that?

Mr. GOLDBERG. Words are different from pictures. Pictures, there's nudity or there's not nudity; there's blood or there's not blood. He can talk far more eloquently than me about how they do their ratings. Words have been categorized the way you're suggesting. It doesn't exist for books, for magazines, or for newspapers or for congressional testimony.

All that you can do is identify if certain dirty words are there or not. There's no other history of categorizing words, and I think it would be a very dangerous path to ask any industry or any group in this society to go down. I think better to make the words available and let each family make their own decision about them.

And that's produced a vibrant culture that, all over the world, people admire us for our popular culture. As much as we're seeing the dark side of it, the same freedom that creates that ugliness creates a lot of brilliance, and I'm not so sure you can get rid of the stuff you don't like and still keep all the stuff that inspires you.

Mr. ZELNICK. But, Senator, our goal in fact was to do what you did with that album that you and your wife listened to; which is to advise you when there's explicit material. In most cases, in the few cases we put out a record like that, we put out an edited version as well, and to encourage parents to take responsibility to do exactly what you did.

And the Advisory, by the way, is mandated by our trade association. In most instances, the FTC report shows that we do, in fact, comply with the placement of the logo, which is generally quite vivid, at least from my perspective. So that is, in fact, the goal.

And I agree with Danny, that particularly in the case of music and words, standards can differ. One of the watch words of the First Amendment has been certainly with regard to obscenity discussions, which we all remember from law school, actually, many of us remember from law school, is community standards apply, and people can have different points of view in different communities, just as what's right for my 18-year-old may be quite different than what's right for your 13- or 14-year-old or, indeed, if you have an 18-year-old.

I think the point of view is to give people appropriate information and not to market to children, and that's the position that we take.

To address your earlier question about standards, while the results may be different, I think Danny and I approach it the same way; just last weekend there was a release in question. I spent most of the weekend reading lyrics, which were lengthy, listening to music, and having discussions with the creative executive in charge of an album, the label executive in charge of that executive's

group of releases, and colleagues of mine at the corporation before we decided to release a record.

So we take this very seriously, and I've taken it seriously for the 17 years I've been in the entertainment business; I haven't just taken it seriously for the 5 days that I knew I'd be appearing before Congress.

The CHAIRMAN. Mr. Moore, you wanted to make a comment?

Mr. MOORE. Senator, our business is a little more complex, obviously, because we are interactive and it is visual, and so as a result the E.S.R.B. actually breaks our ratings into five separate ratings to inform parents.

We have Early Childhood, "EC", which is suitable for ages three plus. Everyone "E", 6 plus. Teen "T", 13 plus; "M" Mature, 17 plus. On the very rare occasion that a title is befitting, we have "AO", Adults Only.

But the challenge is that the descriptors below inform parents.

But it brings me back to something that Senator Brownback was saying, is that we all wander around supermarkets. And this weekend I was in a supermarket at home in San Francisco, where I live, and I watched a woman study a cereal box, $1.99 cereal box for the nutritional value. And it strikes me if parents would spend as much time scrutinizing the entertainment diet of their child as they do the nutritional diet, many of these issues wouldn't occur today. Everything is there for them to be informed.

Senator BROWNBACK. I would disagree that everything is there for them to—

Senator DORGAN. Let me tell you, as a parent, you can watch the most benign programming in the world and discover advertising that comes on during that programming pushing a whole range of other kinds of programming that in many ways is fairly disgusting.

Again, let me say, the First Amendment gives people the right to produce these issues. The issue here is targeting inappropriate things to children. I think all of us agree that's inappropriate.

Where it's happening, it ought to stop. And we can find mechanisms to stop it, we ought to use those mechanisms without resorting to censorship, and I think this kind of a hearing, as I appreciate very much the Chairman for calling it. As I indicated earlier, I introduced the first V-chip legislation in the Senate when Congressman Markey introduced it in the House because that empowers parents as well. I wish more parents used it. I want to empower parents.

But I'll tell you, it's very hard sometimes. Turn on the radio. With what's happening in the concentration of radio these days, you've got something being run out of Texas someplace, or a thousand radio stations, and you're using words and various approaches on the radio that never used to be on the radio, and you've got your 11-year-old daughter in the car driving down the road with you, I'm horrified by it sometimes. And I bet Senator Brownback is as well.

There are a whole series of standards that are of great concern, and I think parents all across the country express this concern.

I will only say this: You're right. You travel around the world and you discover the influence of culture from—this pop culture—from this country especially, it's influence around the world. You

can go deep in the mountain jungles of Nicaragua and find T-shirts on campesinos that come to the helicopter, and you'll find the influence of what the arts in this country have been.

I'm somebody who supports the National Endowment for the Arts. Go to Europe and find out what's left of the 16th Century in Europe, its wonderful art and the legacy of that art.

But by the same token, you can't do this in a vacuum. You can't say that what I do, I have the freedom to do and nobody else has anything to say about it.

Families and parents in this country will have something to say, perhaps, hopefully through the marketplace some say. But I also hope, Mr. Zelnick, you've indicated several times now and I appreciate it and others have as well, that you will help us find ways to provide more information to parents to help them become good parents and be better parents in dealing with all of these influences that head the way the American families entertainment is.

Sam, did you have anything?

Senator BROWNBACK. The Chairman stated that we would go into recess until 2:00.

I would pose to each of you, though, is there anything, any image, any word that you could state now you would not put forth in music or a video game?

Mr. FISCHBACH. Our products, cost between $40 and $50 and $60 retail, and when you talk about a child going in to buy the product, the child has to have some sort of parental consent in order to do that, because he's not going to be able to pull out a Mastercard or Visa or the $40 because he can't make it.

So when you're looking at games and you're looking at informing them, we're doing all the things within our industry to inform the parent to make correct decisions, that parent is making the choice for the child.

Senator BROWNBACK. You're not helping them in some cases, but I understand we have a difference of opinion.

But can any of you state anything that right now you would not——

Mr. GOLDBERG. Ninety-nine percent of the things submitted to me I don't put out, many of them for moral reasons.

Senator BROWNBACK. Could you state anything there? Any word, any image, that you would not put out?

Mr. GOLDBERG. I wouldn't state any individual word that no matter how it was used. There's no one word. Not in terms of an individual word.

Senator BROWNBACK. There's no image, pedophiles, anything you wouldn't?

Mr. GOLDBERG. I didn't say that, Senator. That's not——

Senator BROWNBACK. No, but I'm asking you. Would you state here today any——

Mr. GOLDBERG. Well, if somebody put——

Senator BROWNBACK. —image or any words that you would not put forward in music or video games?

Mr. GOLDBERG. Any individual word?

Mr. FISCHBACH. I think you have to look at the totality of the game and what it is, and I think that——

Senator BROWNBACK. It's only yes or no.

Mr. FISCHBACH. —we make individual choices.

Mr. GOLDBERG. Is there any individual word that I would bar from my label? No, there's no such individual word.

Senator BROWNBACK. Is there any image that you would create with the words, that you would create on video screen that you could say here today that we would not put forth?

Mr. FISCHBACH. Yes, absolutely.

Mr. GOLDBERG. Yes, absolutely.

Mr. FISCHBACH. There are images we refuse to put out all the time, and there are also words that are offensive that we don't put out also.

Senator BROWNBACK. And what are those?

Mr. ZELNICK. You can't be specific about it, and certainly this isn't the forum to be specific about it. But I can tell you there's plenty of stuff that crosses my desk to which I say no.

Senator BROWNBACK. You cannot articulate anything of any words or any images in the country that you wouldn't do?

Mr. ZELNICK. Senator, I can articulate it easily and I can articulate it inside the company.

Senator BROWNBACK. Please.

Mr. ZELNICK. I'm not going to articulate in these chambers the basis for these artistic and moral and ethical decisions. It's inappropriate. The responsibility lies inside my company. It does not lie here. It's an inappropriate question.

Senator BROWNBACK. You wouldn't——

Mr. ZELNICK. But to your question, are there things we won't——

Senator BROWNBACK. It is not an inappropriate question——

Mr. ZELNICK. —put out?

Senator BROWNBACK. —and we've asked you——

Mr. ZELNICK. May I please finish?

Senator BROWNBACK. —for some time.

Mr. ZELNICK. Are there things that we will not put out? You bet there are. There are things we don't put out.

Senator BROWNBACK. And what are those?

Mr. ZELNICK. Things that we feel are offensive and cross the line and are no longer art.

Senator BROWNBACK. Can you describe any of that?

Mr. ZELNICK. I can describe in the way that I just did: They are offensive, they offend our consciences and we don't believe they're art.

Senator BROWNBACK. I take it the answer is "no."

Mr. ZELNICK. No, the answer is not "no," Senator.

Senator BROWNBACK. Well, maybe you could write it to me and submit it, then, so that we could understand. What we've asked for some time is for a code of conduct for the industries, wherein you would articulate, here's a floor below which we will not go. We don't seem to have reached that yet. We're just—we're asking.

Mr. FISCHBACH. I think as the floor changes and our culture changes——

Senator BROWNBACK. On this one here today we've had the marketing plans that have been put forward by a number of companies, so that's what we're trying to get at, and apparently we're still not quite there.

Thank you all very much for coming here. We'll be in recess until 2:00.

The CHAIRMAN. The hearing will come to order. We will reconvene. I would like to reconvene this afternoon.

There's a vote going on on the floor of the Senate as we speak, and I expect other members to arrive shortly.

Meanwhile, our fourth and final panel is Mr. Tom Diaz, who is the Senior Policy Analyst at the Violence Policy Center; Ms. Hillary Rosen, who's the President of the Recording Industry Association; Mr. Douglas Lowenstein, who is the President of Interactive Digital Software Association; Mr. Daniel Borenstein, President of the American Psychiatric Association; Dr. Donald Cook, who's the President of American Academy of Pediatrics; Mr. Jack Valenti, President of the Motion Picture Association, and Mr. Jeff McIntyre, President of the American Psychological Association.

And I want to thank all of the witnesses for being here.

Mr. Diaz.

STATEMENT OF TOM DIAZ, SENIOR POLICY ANALYST, VIOLENCE POLICY CENTER

Mr. DIAZ. Thank you, Mr. Chairman.

In keeping with some of the former autobiographical introductions, I'd like to say I'm the father of two, grandfather of one, a former gun nut, a former member of the NRA, and I may still be an expert pistol shot. But one thing I am not is President of the Violence Policy Center. I'm the senior policy analyst.

The CHAIRMAN. I apologize, Mr. Diaz. We'll correct the record. Senior Policy Analyst at the Violence Policy Center. Thank you.

Mr. DIAZ. Thank you.

The Federal Trade Commission's report on target marketing violent images to kids in the entertainment media is important, and we applaud your work.

But we feel we should worry more about kids who are the targets of real bullets and not media images. We should worry at least as much about how easy it is for children to get real guns as how many pictures of guns they see, and we should worry twice as much about the gun industry's, to use a phrase from the FTC report, pervasive and aggressive marketing of guns to kids.

So we urge that, along with looking at the entertainment industry's target marketing of violent images, you also investigate the gun industry's target marketing of real guns to kids.

Senator Hollings said this morning that there have been 29 hearings in the history of this Committee on the entertainment industry. There has never been a hearing in either house of the Congress on the gun industry as a civilian gun industry. There have been hearings on profit-making during wartime and on specific aspects, but never a hearing on the industry itself.

We feel that America's parents should know what the gun industry big wigs are doing to sell real guns to their kids as much as what entertainment executives are doing to lure them into the movies.

Movies and video games may inspire violent fantasies, but real killing happens when children get real guns. Sick dreams are one

thing, but real guns turn violent fantasies into murder, and that is the core of our problem today.

Even though the causes of violence by and against young people in America are complex, one single thread runs through youth violence, and that bloody marker is not movies, it is not video games, it is not competing cliques of jocks and nerds, it is guns.

It is no accident that America's children are awash in guns. Kids have been in the gun industry's sights for a long time. We recoil at the blood of children shot down by firearms, but to the gun industry, children are the lifeblood of the gun industry, and it makes no secret about it.

The gun industry has suffered declining demand for decades in its primary market, which is older white males. So gun industry executives have begun to target kids, along with—and you mentioned this this morning, Mr. Chairman—targeting blacks and Latinos.

The gun industry is also doing that in marketing firearms.

The gun industry has launched a children's crusade to enlist kids into the ranks of the gun culture. It has a well coordinated strategy, that is well documented, to recruit kids to guns, and gun makers, importers and dealers spend millions of dollars to implement that target marketing strategy.

This crusade reflects an important fact, that except for tobacco, the gun industry is the only consumer product left in America that is not regulated for health and safety. The gun industry is truly the last and wildest bunch in America.

I feel that if you investigated the industry and looked at how it's changed in, say the last 40 or 50 years, certainly from the time when I learned to shoot in the Boy Scouts in Mississippi, you will find that the mix of products that the industry sells has changed dramatically.

In 1946, handguns made up 8 percent of the market; in 1994, they made up 54 percent of the market, and they now regularly make up about 50 percent of the market.

This is a little toy Smith & Wesson puts out. It's a teddy bear that it sells through its marketing program. This teddy bear, under the existing law, is more heavily regulated than any of the firearms Smith & Wesson makes. If they put buttons on this, these little eyes, all of this is regulated as a consumer product, but the firearms Smith & Wesson makes are not.

Here's another little cammie jumper that Smith & Wesson makes. It's called the Little Smith, all of this designed to recruit kids into the gun culture.

Now if movies were truly the source of the epidemic of youth violence in America, we believe we'd see similar violence in other countries where the same films are shown but the record does not bear this out. I won't bore you with the details.

Allusion was made to that this morning. But it's quite clear that the United States stands alone in terms of firearm related deaths. Among U.S. children, 14 years and younger, our firearms deaths are 12 times higher than the same rate among children in 25 other industrialized countries combined.

American kids are not more evil than kids in other countries. The difference is not movies or cliques of jocks and nerds, the dif-

ference is guns. And we feel real progress cannot be made until we take on this industry, stop the easy access to firearms by children, and stop particularly, which is related to the FTC report, the gun industry's aggressive marketing of firearms to kids.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Diaz.

[The prepared statement of Mr. Diaz follows:]

PREPARED STATEMENT OF TOM DIAZ, SENIOR POLICY ANALYST, VIOLENCE POLICY CENTER

Thank you, Mr. Chairman, for the opportunity to present the views of the Violence Policy Center—a non-partisan, non-profit institute dedicated to the study of firearms violence in America—on the roots of violence among youth in this country. The Federal Trade Commission's report addresses one aspect of youth violence. However, it is crucial that we look at all facets of this issue, the gravity of which is beyond question.

The horrible events at Columbine High School in Littleton, Colorado, last year snapped matters into focus for all Americans. Whether overall violence in our schools is up, down, or sideways became beside the point. No sane society can accept its children being gunned down in its very halls of learning. No caring society can accept a Columbine—much less a Columbine *plus* a Springfield, Oregon . . . a Jonesboro, Arkansas . . . a West Paducah, Kentucky . . . a Pearl, Mississippi, and more. These are merely the better known school shootings in the United States within the last three years alone.

As horrible as these school shootings are, their deeper importance is as a warning signal of a pervasive problem festering in our society, the growing entanglement of children and firearms. In 1998, the last year for which data is available, 2,887 children—that is, young people 18 years of age and under—were killed by firearms. That number of deaths, in a very ordinary year in America, is the equivalent of 206 Columbine shootings.

I. We Must Address Easy Access to Guns as Well as Exposure to Violent Images

The causes of this epidemic of violence by and against young people in America are varied and complex. The FTC report addresses one of them. But one other single thread runs like a blood red marker through all of this youth violence. That bloody marker is not movies. It is not day care. It is not competing cliques of jocks and nerds, nor is it any of the score of other sophisticated "reasons" advanced to explain these shootings every time one occurs. The single constant factor is the unique availability of firearms to young people in the United States. Short of war, no other country in the world, and perhaps no other society in history, has given its children such unrestrained access to so many weapons capable of so much violence.

Yes, our children are bombarded from infancy with images of violent behavior. These images—increasingly explicit and realistic in movies, videos, and computer games—may inspire actual violent behavior among some children and among some adults. But whatever deviant urges these images inspire would be much less lethal if our children did not have the ready access to firearms that our society indulges today.

This raises fundamental questions for the policy debate you are engaged in. For example, which makes more sense? To try to change an entire culture's imaginative arts, to regulate its literature, and control its expressive freedoms? Or to more intelligently regulate the single thing that we know is involved over and over and over again in youth violence—the gun? Does it make sense to sacrifice real First Amendment rights while tiptoeing around putative rights under the Second Amendment, rights that the National Rifle Association and the gun lobby have grossly inflated?

In short, we need to worry more about how easy it is for our children to get real guns than about how many pictures of guns they see.

II. The Gun Industry Actively Markets Firearms to Children and Juveniles

It is no accident that America's children are literally awash in guns. The gun industry has worked hard to make it that way. It pours millions of guns into our society every year and aggressively seeks to attract children to using those guns.

We recoil at the blood of children shot down by firearms. But the gun industry sees children as the lifeblood of the firearms business.

The hard economic fact is that the gun industry has been faced with declining demand for three decades in its primary gun-buying market—older white males. So it has launched a crusade to recruit children (along with women and members of minority groups) into the ranks of the gun culture, what it euphemistically calls "the shooting sports." The industry has exerted enormous effort to develop a well-coordinated strategy, and spends millions upon millions of dollars to implement that strategy by recruiting young people into its heavily armed children's crusade. It works hand-in-hand with the gun lobby and with gun fanzines, and exploits youth-oriented magazines and other outlets, to promote guns to children.

The industry's primary objective is to recruit future customers to shore up its declining markets. It knows that a person exposed to firearms as a child is about three times more likely to buy guns as an adult than one who is not exposed to firearms. The industry and the gun lobby are also recruiting foot soldiers in the ongoing social and political debate about the proper role of and limits on firearms in our society.

However, the gun industry's techniques are not restricted to simply conditioning children to be future customers as adults. It goes so far as to market firearms directly to kids who are too young to buy them. The attitude of the industry is illustrated by a 1993 column by Grits Gresham in the National Shooting Sports Foundation's *S.H.O.T. Business* (distributed free of charge to manufacturers, dealers, and distributors) which observed:

> Kids can't buy guns, you say? Well, yes and no. It's true that most students from kindergarten through high school can't purchase firearms on their own. But it's also true that in many parts of the country, youngsters (from preteens on up) are shooting and hunting. Pop picks up the tab. Whether they continue to shoot and hunt depends, to a great degree, on whether or not the desire is there. That's where you come in. Every decade there is a whole new crop of shining young faces taking their place in society as adults. They will quickly become the movers and shakers. Many of them can vote before leaving high school, whether they do or not. You can help see that they do. . . . Are you in for the long haul? If so, it's time to make your pitch for young minds, as well as for the adult ones. Unless you and I, and all who want a good climate for shooting and hunting, imprint our positions in the minds of those future leaders, we're in trouble. . . . [1]

Gresham raised here a key point in the industry strategy. Kids cannot buy guns legally, but they *can* possess them. This is a reflection of the patchwork nature of gun laws regulating firearms possession by juveniles. (These loopholes are addressed below in this statement). The industry has continuously and vigorously taken advantage of these facts to market guns to children.

What about guns in movies, television, and electronic games? Here we know that gun companies work to place specific firearms in such media in order to stimulate demand for that product. This should not surprise us. If so-called "product placement" works for makers of cigarettes (Lark in *License to Kill*) computers (Apple in *Independence Day*), running shoes (Reebok in *Ghost* and Nike in *Forrest Gump*), automobiles (BMW in *Goldeneye*), and alcoholic beverages (Budweiser in *Flipper* and *Tin Cup*), it should also work for guns.

The gun industry at least thinks that product placement works. One gun maker, Smith & Wesson, was reported to have paid International Promotions, a specialized product placement firm, to help get its guns into the movies. But such direct expenditures seem to be the exception. Instead, gun companies work closely with so-called "prop houses" to cast their guns as costars.

The president of a Long Island company that supplies weapons and pyrotechnics to movies told me last year that gun manufacturers "sometimes reach out to us if they have a new product and they think it will be hot." He said that manufacturers are "more than happy to provide us with what we need, or loan or give us a discount." A gun handler at the premier gun prop house in California confirmed this practice in a separate conversation with me. "Manufacturers express their wish to us," he said. "We work closely with most everybody. We have a long term relationship that works both ways."

The list of specific guns and gun makers that have benefitted from their few minutes on the screen range from Smith & Wesson's .44 Magnum Model 29 revolver, wielded by Dirty Harry, to Glock and Beretta semiautomatic pistols in several score movies, to so-called "Desert Eagle" Magnum pistols and endless varieties of shotguns and assault weapons.

Don't think that children attracted to guns do not know the brand differences among guns. They do.

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[1] National Shooting Sports Foundation, *SHOT Business* (September/October 1993).

Having said all that, however, the key point remains this: fascination with a given gun may be disturbing to some in the abstract. But it becomes lethal when children can get their hands on the guns that turn violent fantasies into mass killings. That is the core of our problem today.

If you think the problem has gone away, think again. According to a 1999 CDC survey of youth risk behavior, one out of every 20 high-school students (grades 9 thru 12) had brought a gun to school with them in the past month. And for males, it was even higher, nearly one out of every 10 had brought a gun to school. Kids know where to get the tools to implement their fantasies. We make it easy for them.

III. Kids' Access to Guns is the Result of Lack of Regulation of the Gun Industry

It is not a coincidence that the gun industry feels free to market its products to children. Nor is it a coincidence that the gun industry has completely restructured the civilian gun market in the last 50 years from one that was primarily sporting and recreation oriented to one that now emphasizes what an NRA official candidly admitted is the "Rambo factor"—high-capacity, high-powered handguns and military style assault weapons, designed and primarily useful for engaging other human beings in mortal combat.

The reason is simple. Unlike every other consumer product in America, excepting tobacco, firearms are not regulated for health and safety. This deadly immunity from basic product health and safety regulation is the biggest loophole in our nation's gun laws. It is worth noting that no committee of either house of Congress has ever held a hearing on the civilian gun industry—although it has closely scrutinized the health and safety aspects of the tobacco industry, the entertainment industry, the airline industry, and even the funeral industry.

Free from such basic regulation and rudimentary scrutiny, the gun industry over the last three decades has deliberately enhanced its profits by increasing the lethality—the killing power—of the products it sells. Lethality is the nicotine of the gun industry. Time and time again, the gun industry has injected into the civilian market new guns that are specifically designed to be better at killing and, not incidentally, to jolt lagging markets to life. The industry has relied on greater ammunition capacity, higher firepower in the form of bigger caliber, increased concealability, or all three to create demand for its products.

We regularly see the effects of this orgy of increased killing power all around us. Here are just a few of many examples:

- *The explosion of handguns.* In 1946, handguns accounted for only 8 percent of the civilian gun market in the United States. In 1994, they accounted for *54 percent!* No wonder that more than two out of three of the one million Americans who have died by firearms violence since 1962 were killed with handguns, the perfect tool for killing a human being at close range.[2] In 1998, handguns were used in 82 percent of the homicides by juvenile offenders who used a firearm. Overall, 63 percent of victims of homicides by juvenile offenders were murdered with a handgun that year.

- *The growth of military-style semiautomatic assault weapons.* In the 1980s the gun industry introduced military-style assault weapons to the civilian market. The consequences of the unrestrained marketing of such killing machines can be seen in events like the massacre at Columbine High School, where the teenaged gunmen, armed with an assault pistol and a high-capacity carbine, were able to engage an armed security guard in a gun battle—and win!

- *The promotion of "pocket rockets."* The gun industry has lately been heavily promoting what it calls "pocket rockets," which are very small (palm-sized) high caliber, easily concealed handguns. These guns are ideal for stuffing into a child's back pack. After self-proclaimed white supremacist Buford O. Furrow, Jr. shot up the North Valley Jewish Community Center in Granada Hills, California, last year, he used a Glock pocket rocket to kill a postal employee, who happened to be a Filipino-American, as a "target of opportunity."[3]

It happens that proposed legislation, S. 534, the Firearm Safety and Consumer Protection Act, would help solve this problem by ending the gun industry's exemption from basic health and safety regulation.

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[2] Data sources: *Fatal Firearm Injuries in the United States 1962–1994.* Violence Surveillance Summary Series, No. 3, 1997. *Deaths: Final Data for 1995, Deaths: Final Data for 1996, Deaths: Final Data for 1997.* National Vital Statistics Report.

[3] "Alejandro Mayorkas Holds Briefing With Others on the Furrow Case," *FDCH Political Transcripts* (August 12, 1999).

There are other loopholes in existing law that help make it easier for children to get access to firearms.

A. Lack of Uniform Age Restrictions Makes it Easier for Kids to Get Guns

Federal law on guns and youth is currently a patchwork. There are no uniform federal restrictions on sales to minors or possession of guns by minors. Instead, the law treats different classes of guns differently and contains major loopholes, even within the restrictions. For example:

1. Handguns. Federal law prohibits anyone *under* 21 years old from buying a handgun from a federally licensed firearms dealer (FFL). And, nominally, federal law prohibits handgun possession by anyone *under* the age of 18 years old—although the law contains numerous exemptions.[4] In other words, federal law has created a dangerous "grey zone" regarding youth and handguns. It is illegal for anyone under the age of 21 to buy a handgun at a gun store. But it is legal for those over the age of 18 to possess a handgun. This leaves a dangerous gap for youth between the ages of 18 and 21.

This gap is reflected in the following statistic: In 1997, 18-, 19-, and 20-year-olds ranked first, second, and third in the number of gun homicides committed. Of all gun homicides where an offender was identified, 24 percent were committed by 18- to 20-year-olds.[5] And handguns are the most common type of gun recovered from the 18-to-20 age group (85 percent according to the ATF's 1998 Youth Crime Gun Interdiction Initiative report).

2. Long Guns (Shotguns and Rifles) Federal law prohibits juveniles under 18 from *buying* rifles and shotguns from FFLs. But *possession* of shotguns and rifles by juveniles is regulated solely at the state level. In many states it is legal for juveniles to possess both shotguns and rifles, although other states regulate or prohibit possession of either of these long guns. A 1998 poll conducted by *The New York Times* and *CBS News* found that 15 percent of American youths owned their own gun.[6]

B. Gun Show Loophole Makes it Easier for Kids to Get Guns

One of the most notorious loopholes is that which allows sales of all kinds of firearms at gun shows without background checks. These sales are made by so-called "hobbyists," many of whom are for all intents and purposes, other than a purposively blind federal law, simply unlicensed gun dealers. This loophole allowed a friend to buy two shotguns and one rifle for Columbine shooters Klebold and Harris with no background check. The friend later testified before the Colorado legislature that she would not have bought the guns if she had had to face a background check.

The Senate has passed an amendment that would close this gun show loophole. The Lautenberg amendment to S. 254 (juvenile justice legislation) would require that all firearm sales at gun shows be transacted by a federally licensed firearms dealer. The licensed dealer would be required to conduct a background check of the purchaser and keep records of the gun sales carried out at the gun show.

IV. International Comparisons Show Access to Guns is the Key

If movies were truly the source of our epidemic of youth gun violence, we would expect to see similar results in other countries where the same films are shown. But the record does not bear this premise out. In fact, the contrary is true. The devastating effect on American children of the ready availability of firearms is graphically illustrated when one compares gun death rates among U.S. children to children who live in other countries.

The international gross sales of violent movies is often close to and in some cases (such as *True Lies* and *Die Hard: With a Vengeance*) greater than U.S. gross. Al-

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[4] The Violent Crime Control Law Enforcement Act of 1994 made it illegal for any person, with some exceptions, to sell or transfer a handgun or handgun ammunition to anyone under 18 years of age. The exceptions include: temporary transfer or possession or use to a juvenile in the course of employment, target practice, hunting, safety instruction, and with prior written consent of the juvenile's parent or guardian who is not prohibited from possessing a firearm; juveniles who are members of the Armed Forces of the United States or the National Guard; a transfer by inheritance of title (but not possession) to a juvenile; and, possession taken in self-defense or for other persons against an intruder into the residence of a juvenile or a residence in which the juvenile is an invited guest. It also made it unlawful for a juvenile, with the same exceptions, to possess a handgun or handgun ammunition.

[5] The Department of the Treasury and The Department of Justice, *Gun Crime in the Age Group 18 to 20* (Washington D.C.: U.S. Government Printing Office, 1999), 2.

[6] Laurie Goodstein, "Teen-Age Poll Finds a Turn to the Traditional," *The New York Times*, 30 April 1998, A1.

though children in other countries are exposed to the same movies, videos, and music as American children, a recent CDC study showed that the overall firearm-related death rate among U.S. children aged 14 years and younger was nearly 12 times higher than among children in 25 other industrialized countries *combined!*

The firearms homicide rate in the U.S. was nearly 16 times higher than that of the other 25 countries. The firearms suicide rate was nearly 11 times higher than that of the other 25 countries. The unintentional firearms death rate was nine times higher than the other 25 countries.

The difference is not movies or cliques of jocks and nerds. The difference is guns. The United States has unparalleled rates of firearm ownership. According to one study published in *Popular Government*, Winter 2000, 28 percent of households in the United States have handguns. The next highest rate of handgun ownership is Switzerland with 12 percent. Most industrialized countries such as Canada and France have handgun-owning households in the low single digits (4.8 percent for Canada, 5.5 percent for France).

In summary, Mr. Chairman, the Violence Policy Center strongly believes that little real progress can or will be made on the problem of juvenile violence unless and until we grapple directly with the underlying problem of easy access to firearms by children and the promotion of the gun culture by the gun industry itself.

The CHAIRMAN. Ms. Rosen, welcome.

STATEMENT OF HILLARY B. ROSEN, PRESIDENT AND CEO, RECORDING INDUSTRY ASSOCIATION

Ms. ROSEN. Thank you, Mr. Chairman.

I am president of the RIAA. It's the trade association of America's record companies. Our membership is as diverse as the music they produce.

I speak for thousands of people in the recording industry whose views on youth violence and culture are similar to this Committee's, not just informed by our industries, but by our families and our community.

I am proud to be a member of an industry that has worked with artists to create the most diverse music in the world, with an amazing mix of musical styles, lyrical imagination, and cultural experiences.

And we're also proud of our 15-year track record of helping parents make informed choices about their kids' music listening.

I'm not going to go on long. It's been a long hearing today, Mr. Chairman, and I obviously will associate myself with the remarks of Mr. Goldberg and Mr. Zelnick this morning. I promised I'd get them here, I didn't promise you'd agree with everything they said, Mr. Chairman.

The CHAIRMAN. I think we've had a very good exchange of views.

Ms. ROSEN. I think so, too.

I would ask that my full statement go in the record of the hearing.

The CHAIRMAN. Without objection.

Ms. ROSEN. I have a couple of other things that I would ask be a part of this record as well, two white papers that we submitted to the FTC in their examination; a media coalition report called *Shooting The Messenger*, which I think informs the issues a lot about media and violence and a survey on what young people have been saying on this issue.*

The CHAIRMAN. Without objection, it will be a part of the record.

*The information referred to has been retained in the Committee's files.

Ms. ROSEN. I'd like to go to the FTC report with respect to music because, despite a lot of the fire, those who have read the report, will see that in terms of marketing, music really has been sort of unique.

I don't want to minimize the importance that people place on the report, but the marketing of music really was not a significant issue in the FTC report.

I think that the FTC findings can be summed up in a few sentences: Parents are satisfied with the industry's ratings system even though the FTC wasn't. Seventy-four percent of parents said that they were. And the majority of CDs that were stickered were also available in edited form.

And as far as I can tell, there were really one or two instances of advertising in any place where there was a majority underage audience. So while there's a lot of things to be said for what's in the report, I think with respect to these different industries, they should be looked at with some detail.

We also have a situation in the music industry that made the report's conclusions difficult, which is that since so much of the music available is available in an edited version, those three or four instances, the FTC found, where there might have been a younger teen audience that had a marketing plan aimed towards it, there's no mention of whether or not that was an edited version of the music available. Perhaps the FTC knows that, but that's not in the report.

The principal and I think most accurate criticism in the FTC report, which I acknowledge, is that record retailers each handle the sale of stickered product to young people in different ways.

Some simply don't sell any stickered products at all. Wal-Mart and K-Mart are the known examples.

Others will sell to most anybody. And then there are other retailers all along the line in between.

I understand that this is viewed as an enforcement problem, but in reality there really is nothing that prevents or, in my view, can prevent retailers from determining their own policies based on their own local community standards for themselves and their customers.

In any event, this really is something over which record companies don't have nor, to be honest, do we want to have any control over.

The FTC recommends three things that all of our industries should do: The first is establish guidelines for advertising. We've done that.

The second is increase compliance at retail. They're going to make their own decisions.

And the third is increase parental awareness of the label. Seventy-seven percent of parents, the FTC acknowledges, are already aware of it, but we can do a better job and we will do that.

The CHAIRMAN. You're saying that the first recommendation you're doing? The first recommendation of the FTC?

Ms. ROSEN. We have advertising guidelines. The FTC report actually——

The CHAIRMAN. You have—all right, go ahead. Please.

Ms. ROSEN. Well, I'll explain that.

The FTC report acknowledges that their conclusions came out prior to seeing revised guidelines that they then appended to their report.

The CHAIRMAN. They weren't reviewing your guidelines, they were reviewing your practices, your marketing practices.

Ms. ROSEN. Well, what I'm saying is they found four instances, and they were all vague.

The CHAIRMAN. It's not their conclusions, but we'll have that.

Ms. ROSEN. I understand. Is my time up or do I get a few minutes?

The CHAIRMAN. No, no. Go ahead. Please.

Ms. ROSEN. Okay. A survey by Garin–Hart shows that there is somewhat of a disconnect about generations on this issue of culture. They surveyed parents who said that they thought that the most influential thing for their children were television, movies, the Internet, games, their friends, other things like music.

When they asked children the same thing, the number one, two, and three most important influences that teenagers said was their parents, their teachers, and their churches. And so I am sympathetic with parents who feel that their children are no longer under their moral authority or control, but in practice is just not that case.

I think that ascribing too much power to culture is a danger for all of us, and that the test of commitment to our young people is not how strongly each of us in this discussion can defend our papers or defend our positions but whether everybody is working together to address the complex issues, the truly complex issues that our young people are facing today.

I think we've done a good bit of our part of that in the last 15 years, and I'm confident that we'll do so in decades to come.

Thank you.

The CHAIRMAN. Thank you, Ms. Rosen.

[The prepared statement of Ms. Rosen follows:]

PREPARED STATEMENT OF HILLARY B. ROSEN, PRESIDENT AND CEO, RECORDING INDUSTRY ASSOCIATION

I am President and CEO of the Recording Industry Association of America. RIAA is the trade association of America's record companies. Our membership is as diverse as our music.

I speak for thousands upon thousands of people in the recording industry. Our views on youth violence and culture—just like those of Members of this Committee and others who testify before it—are not informed by their professional capacities alone.

They are informed by our dreams for our own kids—our concerns about our community—and our commitment to our country.

We are proud to be members of an industry who work with artists to create the most diverse music in the world filled with a multitude of musical styles, lyrical imagination and cultural experiences. And we are also proud of our 15-year track record of helping parents make informed choices about their children's entertainment.

Throughout that period, the issue of how entertainment affects children has wandered back and forth between the headlines from the back pages. But we have been consistent.

Today, as the issue finds itself back on the front pages again, we are proud to speak with you just as authoritatively and every bit as passionately as we have for each of the last 15 years.

Today, Mr. Chairman, I want to explain how the recording industry's system works, how it has been improved and attempt to specifically address some of the FTC's criticisms.

I am somewhat hampered in the latter task. The public or Members of this Committee may not realize this but while some (including this Committee's staff) were apparently briefed on the report a few weeks ago Mr. Chairman, we only received it two days ago. The FTC had over one year to do all of its analysis, compile a hundred page report and a 250 or so page annex with thousand of footnotes containing significant detail and assumptions and we have had 48 hours to look at it before this hearing.

The Recording Industry's Voluntary Program

The premise of our system is to balance an artist's right of self-expression with a parents' need for information to make choices based on their children's individual situation and their own values.

In 1985, we reached agreement on that approach with the National Parent Teacher Association and the Parents Music Resource Center. Within months, music releases with explicit lyrics, whether about violence or sex, were identified.

I should add that despite the emphasis at these hearings on recordings with explicit content, they comprise a relatively small proportion of our industry's output and the themes and language contained in all of our music is a part of today's society.

In an average retail store with 110,000 titles, about 500 will carry the Parental Advisory logo. That's less than one-half of one percent of that store's total inventory. And the major labels produce clean versions of nearly all recordings that carry the logo.

And let me assure you, Mr. Chairman, that this industry is a very tough customer. Recently a story in *The New York Times* carried this headline: "Recording Industry's Strictest Censor Is Itself."

Is this system perfect? Of course not. Even if it had been, entertainment is a constantly evolving industry.

So where our system was imperfect, we have tried to improve it. Where entertainment media evolved, we have tried to adapt to them.

Some thought we hadn't gone far enough—that parents couldn't spot the advisory easily.

So in 1990, we established a uniform, universally recognizable Parental Advisory logo. It is one inch by a half-inch on cassettes and CD jewel boxes.

We have launched extensive marketing campaigns to educate both parents and retailers about the system.

With the advent of the Internet, we recently created standards for applying the Parental Advisory logo to online sales.

We worked with retailers to use the logo in the way they feel best squares with their own values and needs. Some retailers, for example, chose not to sell recordings carrying the Parental Advisory logo to minors. We cooperate with this decision.

Indeed, we welcome it as an indication that this system is working precisely as we intended it—by giving people the information they need to make their *own* decisions based on their *own* values.

Our most recent attempt to fine-tune this system will take effect just over two weeks from now, on October 1, with the implementation of RIAA's new guidelines for the Parental Advisory label.

The revised guidelines cover the following areas.

First, they provide uniform standards to guide a label and artist in deciding whether to apply the Parental Advisory logo. They advise that this decision be made by weighing contemporary cultural morals. They clarify that the logo should be applied to single-track recordings when they are commercially released as well as full albums.

Second, these guidelines indicate that the Parental Advisory logo should be applied in *all* advertising of a recording that carries the logo.

Finally, we created Internet guidelines for the first time. These guidelines call for a specific display of a parental advisory logo for on-line sales. The Parental advisory should be visible from the catalog pages all the way through to the shopping basket.

Today, the recording industry's system has taken root in the public mind and the popular culture. They are instantly recognized. And 74% of parents say they are effective.

So What Did the FTC Find?

From what I can tell, the FTC's findings can be summed up in few sentences. Parents are satisfied with the industry's rating systems to the extent that 74% said so,

but the FTC is not. The majority of CD's that carried the sticker were also available in edited form. As far as I can tell, there was one—I repeat one—specific incident of a television program where this music was advertised with a majority under 17 years of age audience and three more that were questionable. Hardly a sweeping industry condemnation. Indeed, since our guidelines are only voluntary and have never contained any age specific restrictions, there is nothing wrong with these companies leaving the decision to parents to determine what their kids should own.

There were a few instances where an album was seemingly marketed to younger teens (the actual specifics are not in the report) although since the FTC report does not delineate whether or not those albums had edited versions available, it is impossible to draw the conclusion that younger teens were subjected to anything that might have been inappropriate.

The report also says that all of its conclusions were reached prior to having the revised guidelines issued by the RIAA, which addresses these concerns.

The principle and most accurate criticism in the FTC report with regard to music is that record retailers each handle the sale of stickered product to young people in different ways. Some don't sell any stickered product at all and others will sell to most anyone. I understand that this is viewed as an "enforcement" problem but in reality, there is nothing that prevents retailers from determining their own policies based on their own local community standards for themselves and their customers. In any event, it is not something over which record companies have or want to have any control.

The FTC recommends three things that all of the industry should do:

1. Establish guidelines for advertising—we have

2. Increase compliance at retail—retailers make their own decisions

3. Increase parental understanding of the label—77% of the people have said that they are aware but we can always do more education

Music Is Just Music

Those whose concern for our children is most sincere have the greatest interest in ensuring the problem violence is tackled at its real source. And Mr. Chairman, music recordings are not that source.

I wish it were possible to alter depression or anger through musical lyrics. If it were, you would see a flood of songs urging kids to seek help.

But the American Academy of Child & Adolescent Psychiatry lists 14 signs to look for in a suicidal violent child. Music choices are not among them.

The Committee will hear today from experts who posit a correlation between violent behavior and explicit lyrics. That is to say that both occur at the same time—that some youth who listen to music with explicit lyrics also behave violently.

I leave it to people whose expertise in psychology and psychiatry exceeds my own to pontificate on the subject but there simply are no factual correlative studies. We have done the research. In fact, so has the FTC. They said so in this report.

Indeed, the best evidence is experience, and experience in this case is clear. Behind me, Mr. Chairman, are two charts. One shows music sales rising by 4% between 1994 and 1999, and the other shows violent crime among youth falling 27% over the same period. They are not related and that is the point.

Another statistic that is not on a chart but is well know to any elected official is that voting among young people is at an all time low. I have spent much of my career encouraging young people to get involved in the political process. To stand up for their future and to talk to politicians about issues they care about. But young people are a smart and cynical bunch today. They don't like it when their culture is attacked even when it is in the guide of corporate responsibility.

A bipartisan survey by Garin-Hart Research and American Viewpoint showed this disconnect among the generations on the issue of culture. When parents were asked what most influenced their kids, they said, television, movies, the Internet, games, music and their friends. When teenagers were asked, they said overwhelmingly, parents, teachers and their church were the most important influences on their lives.

I am sympathetic with parents who feel that their children are no longer under their moral control. But it just isn't the case.

When we take culture that we don't understand and ascribe power and motivation to it that is well beyond how its audience receives it we do a disservice to young people. Young people who continue to need the guidance and leadership of adults in their lives. It is simply wrong to suggest that any government regulatory action can substitute for such involvement, particularly when it comes to art.

This debate over music keeps coming back to the same thing. Despite all of the trappings and new ways to look at the issue, the fact is that some people just don't like the music. And that, is a freedom of expression issue.

The Committee is concerned about violent and sexual lyrics. As a parent, so am I. But I want to apply my *own* values—the needs of my *individual* children—to decide what sources of entertainment are appropriate for them.

If we attempt to apply any other standard, no bonfire will be tall enough to burn the centuries of art that will have to go up in flames.

If violence is inherently demeaning to culture, then Verdi's *Rigolletto*—in which he opens a sack to find it contains his dying daughter—belongs on the pyre. So does Strauss's *Salome*—in which Herod presents Salome with the head of John the Baptist on a platter. For that matter the recent Dixie Chicks song where a wife exacts revenge for an abusive spouse by poisoning his food is in theory equally violent. A new Steve Earle song talks about a death row killer and his crimes and the value of life and death.

Incidentally, nobody has asked for an advisory label on those CD's.

I fully understand those who with utter sincerity feel there is a difference between rap lyrics and grand opera or country music. But there really isn't.

But remember that these artists were criticized in their day. So were others like them, from Picasso to Stravinsky, Flaubert to James Joyce, Charlie Chaplin to Lenny Bruce to George Carlin to Imus—were also dismissed in their time. Classics are rarely recognized in the momentary heat of controversy.

And remember that the distinction between high art and the low road is deeply rooted in individual values and perspectives.

For each person who believes rap lyrics portray a foreign world, there is another who finds them deep and powerful because that world is all too real.

And above all, we must remember this: In our country, expression is not required to pass any test of validity, or even propriety, to be both permitted and protected.

After all, the test of whether America allows free speech is not whether it grants freedom to those with whom we *mildly* disagree. It is whether we protect the freedom of those whose views—and language—make us apoplectic.

Still, I testify today in a spirit of confidence and cooperation—because I speak here as both an executive and a parent.

I care as deeply and passionately about my own children as I know you do about your own. So do my colleagues in the recording industry, from artists to executives.

The real test of commitment to our youth is not how strongly each participant in this discussion can defend its positions or papers, but whether every party can work together to address the complex blend of challenges facing our children.

The last 15 years have proven that we can. And I am confident that we can do so for decades to come. Thank you.

The CHAIRMAN. Mr. Lowenstein, I welcome you. And I want to emphasize the importance of your appearance here as we go through a change in America where more and more Americans are going to be attaining their entertainment and their music from the Internet and with new technologies. So we are especially pleased to have you here.

Mr. LOWENSTEIN. I'm honored to be here, Mr. Chairman.

STATEMENT OF DOUGLAS LOWENSTEIN, PRESIDENT, INTERACTIVE DIGITAL SOFTWARE ASSOCIATION

Mr. LOWENSTEIN. I originally wrote my testimony as a "Good morning," and I'll change it to a "Good afternoon." I'm thankful that I haven't had to change it to a "Good Evening."

The CHAIRMAN. We're not through with you yet.

Mr. LOWENSTEIN. That's true.

[Laughter.]

Mr. LOWENSTEIN. I am pleased to be here representing the Interactive Digital Software Association, the trade body which represents the computer and video game software industry in the United States.

In reference to your point, our members are also the leading companies that will be the leading edge of publishing games for use on the Internet.

Our industry generated $6.1 billion in retail sales in 1999. In keeping with——

The CHAIRMAN. Up from what?

Mr. LOWENSTEIN. Well, it you go back five years, just to give you a frame of reference, sales were about $3 billion. So sales have about doubled. In over the five-year period, they've been increasing on a double-digit rate pretty much every year.

Like almost everybody who's been here today, I have two children—two daughters aged 18 and 14. I also lost an uncle 20 years ago to gun violence. A mentally deranged individual acquired a gun, crossed state lines, shot my uncle in his office.

So I don't take a back seat to anybody here when it comes to concerns about violence.

I do want to start my remarks by dispelling some myths about our industry. One myth is that video games are played predominately by teenage boys. The fact is that the average age of computer and video game players is 28, and 61 percent of all game players are over 18, and 35 percent are over the age of 36.

And if you think back to Gregory Fischbach's comments, that reflects the maturing of a generation that began playing interactive entertainment 20 and 25 years ago.

Better than 6 out of 10 of the most frequent users of electronic entertainment are also over 18.

A second myth is that kids buy most video games on their own, and parents are out of the picture. In fact, both the FTC and the IDSA report that in at least 8 out of 10 cases in the case of the FTC, 83 percent, and as high as 9 out of 10 parents in the case of our own research, are involved directly in the purchase, in the buying of electronic entertainment.

These games cost $40 to $60, typically. It is very different from the cost of a music CD or going to movies, and there's a fundamental economic issue that makes it much more difficult for children to buy Interactive entertainment.

The FTC put it well when it said in its report: "It is clear that most parents are able to play a watchdog role when they choose to do so. 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."

A third and final myth is that most games are rated Mature and contain significant levels of violence. Once again, the facts say otherwise. The Entertainment Software Rating Board that you've heard discussed this morning, and even critics like Senator Joe Lieberman have complimented that system for its accuracy and reliability.

Under the E.S.R.B., over the seven years it's been in business, and 7,500 titles it's rated, only 9 percent carry a Mature rating, indicating significant violent content.

Seventy percent are rated for everyone over six.

In 1999, only 100, 100 out of 1,500 video games released, were rated Mature, and they represented just five percent, five percent of the total sales to the video game industry last year.

So far this year, of the top 20 best selling games, only two are rated Mature and 16 are rated "E" for everyone, the others are rated "Teen."

As to an epidemic of Mature-rated advertisements bombarding kids, just 10 percent of all game ads placed in the 16 leading game magazines since February were for M-rated product, and virtually all were in magazines with a majority, or close to a majority, of readers over 17.

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 brought appeal.

The video and PC game industry has a proven commitment to effective self-regulation and responding to concerns about the small number of our products that contain significant violence, from establishing the E.S.R.B., to creating an advertising code, to investing and promoting the E.S.R.B.

You've heard about the PSA we did last year with Tiger Woods; other paid media efforts that we're committed to, efforts to encourage retailers to enforce our ratings.

In recent days, mass market retailers such as KMart, Wal-Mart and Target have all joined Toys "R" Us in enforcing the E.S.R.B. ratings, and we're very supportive of their commitment.

Most recently, in September of 1999, the IDSA Board took the far-reaching step of asking the E.S.R.B. to create an Advertising Review Council. The ARC began operations in February by opening a dialogue with people in the publishing, game publishing and magazine business, and actually effectively began its operations in June.

They will not only enforce new industry content standards covering areas such as violence, sex, and language, but also have expanded and more dedicated resources to enforce compliance with the ad code, including the anti-targeting provisions.

Let me now very briefly turn to the FTC report.

We appreciate the fact that the FTC complemented the comprehensiveness of our existing self-regulatory regime and IDSA's efforts to ensure its efficacy. I appreciate your comments this morning, Mr. Chairman, as well as the comments of Senator Lieberman and Congressman Hyde, who all made reference to our industry's efforts.

It's clear, though, that the FTC did uncover individual company marketing plans that violate our longstanding industry guidelines, barring the marketing of games rated Mature for young users. We do not condone this conduct. And through initiatives such as the ARC, launched well before the FTC findings became public, we began taking steps to end such practices.

Having said that, we do strongly disagree with the FTC's fundamental and arbitrary determination that game magazines, with what it calls a majority under 17 readership are not appropriate outlets for advertising.

I just have about another 30 seconds, Mr. Chairman.

The CHAIRMAN. Please take the time you need.

Mr. LOWENSTEIN. Thank you.

We disagree with the FTC's standard that they use in their report. They also said web sites and TV shows that, by their definition, were quote, "popular" with teens, with kids, are similarly inappropriate outlets for advertising.

Now I agree that placing an ad for a Mature-rated product in *Sports Illustrated for Kids* or *Nickolodeon Magazine* is improper, but we do not believe that ads and outlets that have some noteworthy percentage of young readers or viewers, but a substantial and perhaps even dominant share of older viewers is inappropriate.

However, we are mostly in accord with the FTC's recommendations. In fact, we've already implemented most of them. I'll be happy to go into some detail if that would be helpful. And we will meet with the FTC and our industry to assess whether there are additional steps we can take to enhance our self-regulatory system. It's clearly not perfect. We have work to do.

We have proven, though, that with or without the FTC, our efforts to enhance self-regulation are unwavering.

Let me say in closing that we acknowledge our industry's obligation to market and label products appropriately. Clearly, the FTC has found and it's indisputable, this has not always been done, and we do not excuse these lapses, and we're committed to ending them.

But the fact remains, as the FTC itself points out, the parents are almost always involved in getting purchases. They remain the first, last and best offense against children obtaining inappropriate products. Unfortunately, according to the FTC itself, 45 percent of parents who are aware of the video game rating system say they do not use it.

Now I submit to you that no one has yet conceived of a law that can mandate sound parenting. I hope, though, we can all work together to ensure that consumers do use the tools available to them to make informed entertainment decisions.

Thank you for your indulgence.

The CHAIRMAN. Thank you.

[The prepared statement of Mr. Lowenstein follows:]

PREPARED STATEMENT OF DOUGLAS LOWENSTEIN, PRESIDENT, INTERACTIVE DIGITAL SOFTWARE ASSOCIATION

Good morning, and thank you for inviting me to testify today on the Federal Trade Commission's report on entertainment industry marketing practices. 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 1999, the industry generated $6.1 billion in retail software sales. IDSA's 32 members account for 90% of the edutainment and entertainment software sold in the US.

We believe the issues raised by the FTC, and its recommendations, deserve serious and open-minded discussion, both here in Congress and within our own industry.

To that end, I would like to divide my testimony into three sections: first, a discussion offering some critical and important background about our industry, our markets, and our products; second, a review of self-regulatory initiatives we have taken over the years to ensure the responsible labeling and marketing of video and

[1] IDSA's members publish software only for the home. The arcade game business is a different sector with its own representatives.

computer games to consumers; and third, comments on the FTC's findings and recommendations.

Industry Background

Majority of Game Players are Adults, not Kids

First, let me address two of the great myths about the video game industry, to wit: 1) video games are played predominantly by teenage boys and 2) most video games are rated Mature and have significant levels of violence. Both are wrong.

In fact, the primary audience for video games is NOT adolescent boys. According to research by Peter D. Hart Research Associates earlier this year, the average age of computer and video game players is 28 years old, and 61 percent of all game players are age 18 and over. A remarkable 35% of game players are over 35 years old, and 13% are over 50; 43% of the 145 million Americans who play computer and video games are women. IDSA's own consumer research reveals that 70% of the most frequent users of computer games and 57% of the most frequent users of video games are also over 18.

Unlike other entertainment products, most newly released video games cost anywhere from $40–60. Thus, it's not surprising, 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, 84% 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, even more parents (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 take into account 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."

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.

70% Of Games Appropriate for Everyone; only 9% Are Rated Mature

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 Sen. Joe Lieberman has repeatedly praised, has rated over 7,500 titles of which only 9% carry a Mature rating. Seventy percent are rated for Everyone over six. In 1999, only 100 out of 1,500 titles released were Mature games, and these represented just 5% 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 *Pokemon, Who Wants to be a Millionaire, SimCity 3000,* and racing and skateboarding games. So far in 2000, only two of the top selling PC and video games are rated M, and 16 are rated Everyone. What 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. The bulk of that growth has been fueled by consumers over the age of 18 and by games whose content has broad appeal.

Commitment to Effective Self-regulation

The video and PC game industry has been committed to effective self-regulation since the formation of the IDSA in 1994. We have consistently and continuously

sought to respond to concerns about the small number of our products that contain significant violence, balancing our absolute commitment to creative freedom with our commitment to empowering consumers to make informed choices. We are guided by our belief that the ultimate responsibility for controlling the games that come into the home lies with parents—not industry, not Congress, and not federal or state governments. According to the FTC, 45% of parents who are aware of the video game rating system say they do not use it. I submit to you that no one has yet conceived of a law that can mandate sound parenting.

Initiatives on Game Ratings

In 1995, the IDSA created the Entertainment Software Rating Board, or ESRB, which uses teams of independent, demographically diverse raters to review each and every video game. ESRB issues ratings suggesting—and that is a key word "suggesting" but not dictating—the age appropriateness of a title. In addition, ESRB ratings provide simple but clear information about the content that influenced the rating, such as animated violence, strong language, or suggestive themes. The philosophy underpinning the ESRB system is to give parents the tools to make informed choices, but not to attempt to dictate to them what is right for their families. At the same time the ESRB was created, IDSA voluntarily created an Advertising Code of Conduct requiring that the ratings and content information issued by ESRB be placed on packaging and in advertising. The Ad Code also contained a provision advising that "companies must not specifically target advertising for entertainment software products rated for Teen, Mature, or Adults Only to consumers for whom the product is not rated as appropriate."

Starting in 1995, the ESRB maintained an active program to provide information on the ESRB to retailers and consumers. It established a toll free number which has logged millions of calls since its inception, created a multilingual web site where consumers can get information on the age and content rating of over 6,000 video games, and distributed millions of Parent Guides to ESRB Ratings to retailers and advocacy throughout the country, as well as to the Attorney General of Illinois.

In 1997, recognizing the emergence of the Internet, the ESRB launched a new rating service called ESRB Interactive, or ESRBi. Through this service, ESRB offers companies the opportunity to rate their websites and video games distributed on line. More and more companies are now rating online games and game websites with ESRBi.

In May 1999, in the weeks after the Columbine tragedy, I appeared before a hearing of this Committee chaired by Sen. Sam Brownback, and made a series of new commitments in response to renewed concerns about entertainment violence. Specifically, IDSA said:

1. it would launch a stepped up campaign to educate consumers about the rating system;

2. we would reach out more aggressively to retailers to encourage them to both increase the amount of rating information available in stores and enforce the ESRB ratings; and

3. we would examine industry advertising practices and explore ways we could address concerns in this area, both as to the content of ads and the targeting of these ads.

We have redeemed every commitment made that day.

Consumer and Retailer Education and Enforcement

Last fall, ESRB launched an extraordinary campaign to raise awareness and use of its ratings, with the centerpiece being a PSA featuring Tiger Woods urging parents to "Check the Rating" of games they buy. ESRB purchased advertising in major national publications with significant parent readership, such as *Good Housekeeping, Parenting,* and *Newsweek.* ESRB placed pull-out flyers in major parent-oriented publications, such as *Child Magazine.* It redesigned its consumer brochures and distributed millions to leading retailer; and it reached out to leading national grassroots organizations with ties to schools and parents, such as Mothers Against Violence in America and the PTA seeking ways to partner with them to get the word out to consumers, especially parents, about ESRB ratings and how to use them.

Furthermore, the IDSA sent letters to major national retailers asking them to make a commitment to consumers to use their best efforts not to sell Mature rated games to persons under 17, a step we had also taken in October 1998. As you know, Toys "R" Us was the first retailer to adopt this policy and in the last week KMart,

Wal-Mart, and Target have done so as well. IDSA supports those efforts. We believe other retailers will soon follow suit.

In addition to all these steps, the IDSA Board this past July renewed its commitment to another paid media campaign this holiday season to promote the ESRB, and offered to fund 50 percent of the cost of producing in-store educational materials on the ESRB for use by retailers.

Yet another voluntary self-regulatory step came as a result of discussions that began at the White House Summit on Violence. The IDSA and ESRB completed an agreement with AOL in which AOL adopted the ESRB ratings as the standard for games on its service. ESRB and AOL have also formed a Task Force to promote the ESRB ratings with other leading Internet sites.

Initiatives on Advertising and Marketing

In September 1999, the IDSA Board took the extraordinary and far reaching step of asking the ESRB to create a new Advertising Review Council (ARC) within the ESRB. The ARC is empowered both to ensure that all advertisements by those who use ESRB ratings adhere to strict content standards covering such areas as violence, sex, and language, and to enforce compliance with all other provisions of the industry ad code, including the anti-targeting provision. In addition, the IDSA shifted responsibility for the ad code and its enforcement from the association to the new ESRB ad council, and provided a major increase in resources to support expanded staffing and more aggressive monitoring and enforcement of advertising standards. This initiative was undertaken long before the FTC report was completed, and reflected our own judgment that our industry needed to revamp and step up our approach to monitoring and enforcing our advertising standards. The ARC unit began operations February 1—coincidentally the cutoff date by the FTC's of its monitoring effort—and one of its first successes was convincing virtually every top game enthusiast magazine—the primary advertising vehicle for our industry—to adopt the ARC principles and guidelines as their own. In addition, Ziff-Davis, IDG, and Imagine, the three top publishers of game magazines, sit on the ARC Board of Directors. Since February, ARC has been meeting extensively with IDSA members to educate them on the ad code and ensure compliance.

The FTC Report

We appreciate the fact that the FTC described our industry's overall self-regulatory program as "the most comprehensive of the three industry systems studied by the Commission" and that it recognized that "it is widely used by industry members and has been revised repeatedly to address new challenges, developments, and concerns regarding the practices of our members." The FTC also pointed out that quite the opposite of standing by idly, we have been aggressive in seeking compliance with our standards. As it put it, "to its credit, the IDSA has taken several steps to encourage industry members to comply with" the industry's various ratings and advertising requirements. Also perhaps lost in the hubbub over the report is the recognition by the FTC that the independent rating system used by the video game industry "appears to be helpful to those parents who actually use it" and that a majority of these parents say it does an excellent or good job in advising them on the levels of violence in our products.

In this regard, Peter Hart completed a new survey this past July seeking to gauge whether consumers themselves believe that ESRB ratings are accurate. 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, 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.

It is clear, though, that the FTC uncovered individual marketing plans that indicate that some of our members, in violation of long standing industry guidelines, planned to market, and may have marketed, games rated for Mature users to young people. Let me make it clear to this Committee that the IDSA does not condone or excuse the marketing of Mature rated products to persons under-17 and, indeed, we condemn it. As I noted, six years ago and long before the recent outcry over media violence, we ourselves voluntarily created an advertising code of conduct, which contained an anti-targeting provision.

But it also must be pointed out that we have some legitimate business disagreements with the FTC's analysis of industry practices and the impression the report

conveys of our industry's markets and marketing. Thus, let me take a moment to address several facts ignored by the FTC.

According to statistics collected by the ESRB's new Advertising Review Council, since February 1, 2000, the 16 leading game enthusiast magazines, noted by the FTC as the primary vehicles for industry marketing, ran a total of 1,830 ads for games. Of these, only 188, or about 10%, were for Mature rated product. The most M-rated ads in a single issue was 7, and typically, each issue contains only 3 or 4 ads for Mature rated products. This relative paucity of ads for M-rated product reflects the fact, as I pointed out earlier, that M-rated games are actually a small portion of the overall game market both in total releases and retail sales. The question of whether those ads should or should not appear in these publications is a fair point of discussion, but let's all understand that any suggestion that companies are flooding consumers with ads for Mature rated product is simply not accurate.

One of our major quarrels with the FTC report is the apparent assumption that magazines with what it calls "a majority under-17 readership" are not appropriate outlets for advertising of Mature rated games, and that websites or TV shows that are "popular" with kids are similarly inappropriate outlets for advertising Mature product. We agree that placing an ad for a Mature rated product in a publication that is clearly and squarely aimed at young readers, such as *Nickelodeon* or *SI for Kids*, is a violation of our standards. But we reject the FTC's operating assumption that ads in publications that happen to have some noteworthy percentage of young readers, but a substantial and perhaps even dominant share of older readers and users, is inappropriate. We do not think it is unreasonable for a company to place an ad for a game in *GamePro* magazine where the average age of the readers is 18. We do not feel it is inappropriate to place an M ad in *Electronic Gaming Monthly* where, according to the magazine, 59% of its readers are 17 and over. The FTC, by the way, in some apparent zeal to make its point, says its standard for review for game magazines are those with a majority of subscribers age 17 or under. The problem with this, of course, is that an M-rated game is appropriate for persons 17 and older so the FTC should have used an under 17 cutoff. It's hard to know how this skews its data but it is clear that in the case of EGM, it makes a dramatic difference.

In the same vein, FTC's use of a "popularity" test to rule out other advertising outlets is restrictive and commercially impractical. "Popularity" is not much of a bright line standard. Using this guidepost, virtually every game website and sites like mtv.com would be off limits to advertisers of Mature products even though a majority of viewers may be in the appropriately targeted demographic group. This is unreasonably restrictive.

It's easy to lose sight of the fact, in all the rhetoric and political posturing, that video games are entertainment products for people of all ages, that they are constitutionally protected products, and that at best, the scientific evidence linking them to harmful effects is weak and ambiguous at best, and at worst does not exist. Indeed, that's exactly what The Government of Australia concluded last December after an exhaustive evaluation of all the available research on violent video games.

The Australian Government report concluded: "After examining several attempts to find effects of aggressive content in either experimental studies or field studies, at best only weak and ambiguous evidence has emerged. Importantly, these studies have employed current games or concerned contemporary young players who presumably have access to the latest games. The accumulating evidence—provided largely by researchers keen to demonstrate the games' undesirable effects—does indicate that it is very hard to find such effects and that they are unlikely to be substantial."

I know this Committee will hear testimony from some medical groups announcing that the debate is closed, but these groups make the unscientific leap of treating video games as parallel entertainment to TV and films even as they acknowledge that there is little research to support the claim that video games are harmful. As Jeff McIntyre, Senior Legislative Assistant for the American Psychological Association said in *The Baltimore Sun* on June 26, 2000, "Interactive media are so new, scientists are uncertain how they affect young people . . . We are not sure about it, we are real involved in getting research funded to get some ideas about that . . . The social community is really struggling with these issues."

The FTC Recommendations

While we do have some issues with the FTC findings, we are mostly in accord with its recommendations. In fact, in virtually every instance, IDSA has already implemented these recommendations, in some cases as many as six years ago. This does not mean our job is done. We will carefully review all of the recommendations, and will meet with the FTC, representatives of our industry, and advertising outlets

to explore whether there are reasonable and practical ways to enhance the efficacy of our self-regulatory system.

With respect to the specific recommendations and our position, the FTC recommends that:

1. *Industries establish or expand codes to prohibit target marketing to children and impose sanctions for violations.* **IDSA Response:** The FTC notes that the IDSA has "crafted a code to address this issue." We did that six years ago. But in addition, a year ago, we recognized that our industry needed to take more proactive steps to address concerns about marketing as our industry grew and became more sophisticated. To that end, as I have mentioned, we created a new Advertising Review Council, or ARC, in the ESRB, increased both the funding and personnel dedicated to monitoring and enforcing industry ad guidelines. For the first time ever, ARC drafted and is implementing guidelines governing the content of game ads in such areas as violence, sex, and language. ARC took the additional step of linking compliance with the ad code to securing a rating. Thus, any company that gets an ESRB rating is legally obligated to comply with the ad guide and failure to do so could trigger a range of sanctions including revocation of the rating (which would force the product off the shelf) to legal action for trademark infringements to referring violators to the FTC or other appropriate agencies.

2. *The FTC called for increased compliance with ratings at the retail level.* **IDSA Position:** We have urged retailers for several years to take steps to uphold ESRB ratings at the point of sale. Last fall, we asked retailers to sign a Commitment to Consumers pledging to use their good faith efforts to restrict the sale of M-rated products to persons under 17. We are pleased that in recent weeks KMart, Wal-Mart, and Target have all joined Toys "R" Us in adopting restrictive sales policies and believe other retailers will follow suit in some manner.

3. *FTC called on industries to include the reasons for the rating in advertising and product packaging and continue efforts to educate parents.* **IDSA Position:** When ESRB created the video game rating system it included from the start information on both age appropriateness and content that influenced a rating. From the inception of the ESRB, companies have been required to put a content descriptor box on the back of packaging showing any content flagged by the ESRB as noteworthy. In addition, a year ago, the industry amended its ad code to require that the content descriptors be included in all print advertising. On the promotion front, we have been quite aggressive. The highlight was a PSA filmed for the industry by Tiger Woods last fall that was offered for play to every major TV network and every local TV station in the nation's top markets. In addition, ESRB took out paid ads in magazines such as *Good Housekeeping, Parenting,* and *Newsweek* to educate parents about the ESRB ratings. Most recently, our Board reaffirmed its commitment to a new paid media campaign this Fall, as well as offering to fund fifty percent of the cost of producing educational pieces for use by retailers in their stores.

Conclusion

Mr. Chairman, I will not tell you our industry has been perfect either in its conduct or its implementation of our own standards. I will tell you we have shown a genuine commitment to the principle of informing consumers about the content of our products and regulating how these products are marketed. We have proven that with or without the FTC, with or without the heat of a presidential campaign, our efforts to continue to enhance our self-regulatory regime are unwavering.

At the same time, we must acknowledge that we do live in a world where media is incredibly complex, where the Internet spans the globe, where consumers, young and old, have access to information in ways never before imagined. In this environment, it is simply not possible or realistic to create an air-tight system where young people do not hear about, or even obtain, games that are not appropriate for them. To the extent this occurs due to industry's unambiguous effort to target kids to buy M-rated products, it is not defensible. But to the extent it happens as a result of the information and media explosion flooding over all of us, it is unfair and unrealistic to point fingers.

Where does this leave us? About where the FTC said when it commented on parents' awareness of the rating system. "It is clear that most parents are able to play a watchdog role when they choose to do so . . . . [The] 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."

In the final analysis, we all must work cooperatively to ensure that parents know about and make use of the rating systems. In a world where nearly half say they

do not even pay attention to the efforts our industry already makes, it seems to me that is a goal we all can work towards.

Thank you.

STATEMENT OF DR. DANIEL B. BORENSTEIN, PRESIDENT, AMERICAN PSYCHIATRIC ASSOCIATION

Dr. BORENSTEIN. Good afternoon, Chairman McCain and distinguished Members of the Committee. I am Dr. Daniel B. Borenstein, President of the American Psychiatric Association. Our 40,000 psychiatric physicians are dedicated to caring for those who suffer from mental illness and advocating for the mental health of adults and children. My testimony is on behalf of the American Psychiatric Association (APA) and the American Academy of Child and Adolescent Psychiatry (AACAP).

We thank you for the opportunity to testify and for your commitment to children's health and well being. I ask that my full written statement be included in the record.

The CHAIRMAN. Without objection.

Dr. BORENSTEIN. Parents today face the overwhelming burden of monitoring not only their children's television viewing, but also video games, interactive media and music. Our children are awash in a tidal wave of electronic violence. We are convinced that repeated exposure to entertainment violence in all its forms has significant public health implications. As documented by multiple studies, we know that video game play correlates with aggression. The case against violent interactive entertainment is building rapidly. Dr. Michael Brody, a noted children's media researcher says, ''the negative impact may be significantly more severe than that wrought by television, movies, or music.'' In the face of such data, we are alarmed and concerned about the FTC report findings that the industry is deliberately marketing this kind of violent entertainment to young children. (APA and AACAP support the recommendations in the FCC report.) I would like to comment specifically on the recommendation for an improved labeling and rating system. In 1996, we declined to endorse the MPAA proposed rating system, deeply concerned it did not provide sufficient information to parents. Regrettably—regrettably—we are here again today because the media industry has not taken comprehensive, responsible steps to consistently and accurately identify violent content in its products, and continues to market violence as entertainment to children.

We continue to strive for a much stronger and clearer media rating system. When parents buy cereal for their child, they look on the box to check the specific ingredients. But what goes into a child's mind is just as important as what goes into his stomach.

Parents want to know what is inside the TV program or video game. They deserve clear and simple information. An effective media rating system should describe content as to language, sex, and/or violence. An informative, uniform guideline system will help parents decide what is appropriate for their children. Guidelines should not assume that children are incapable of understanding double entendres, nor assume that these situations are not harmful simply due to the child's chronological age. (We would be glad to work with the entertainment industry and others in strengthening

the rating system.) APA and AACAP are not suggesting that entertainment violence is the sole, or even the most important factor contributing to youth aggression, anti-social attitudes, and violence. Family breakdown, peer influences, the availability of weapons, and numerous other factors all contribute to these problems. A public dialogue, parental involvement and clear information about media content through an effective ratings system are keys to enhancing the health and well being of America's children.

We must help parents protect their children from violent programming in the same way we help parents protect their children from infectious disease.

Mr. Chairman, on behalf of the American Psychiatric Association and the American Academy of Child and Adolescent Psychiatry, I thank you for the opportunity to testify. I will be happy to respond to any questions.

The CHAIRMAN. Thank you. Could I ask the size of the membership of your organization that you speak for?

Dr. BORENSTEIN. Forty thousand members of the American Psychiatric Association. The American Academy of Child and Adolescent Psychiatry has 6,000 members.

The CHAIRMAN. Thank you, very much. You make a very strong statement.

[The prepared statement of Dr. Borenstein follows:]

PREPARED STATEMENT OF DR. DANIEL B. BORENSTEIN, PRESIDENT, AMERICAN PSYCHIATRIC ASSOCIATION

Good morning, Chairman McCain and distinguished Members of the Committee. I am Dr. Daniel B. Borenstein, President of the American Psychiatric Association, the nation's oldest medical specialty organization which represents over 40,000 psychiatric physicians dedicated to caring for those who suffer from mental illness and advocating for the mental health and welfare of adults and children. My testimony is on behalf of the American Psychiatric Association (APA) and the American Academy of Child and Adolescent Psychiatry (AACAP).

We thank you for the opportunity to testify on the impact of media violence on children and youth, and for your commitment to their health and well being. I ask that my full written statement be included in the record.

Parents today face the overwhelming burden of monitoring not only their children's television viewing—now estimated at an average of 28 hours a week—but also video games, other interactive media on the Internet and music. As a nation—we are awash in a tidal wave of electronic violence. Not long ago, one of my patients brought me this video game, and asked what the APA cold do to keep this material out of the hands of his 12-year-old son. And so I feel I am representing him today, as well as the APA and AACAP.

Our organizations have been involved in the debate over media violence since the Surgeon General's Report issued in 1973. We are convinced that repeated exposure to entertainment violence in all its forms has significant public health implications. We know that video game play correlates with aggression, the primary emotional response to playing. While less research is available on the impact of violent interactive entertainment, the case against it is building rapidly. Dr. Michael Brody, a children's media researcher says that, "Preliminary studies indicate that the negative impact may be significantly more severe than that wrought by television, movies, or music." In the face of such emerging data, we are alarmed and concerned about the recent FTC report findings that the industry is deliberately marketing this kind of violent entertainment to young children.[1]

The FTC Report found:

[1] "Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording and Electronic Game Industries: A Report of the Federal Trade Commission" September 2000. Federal Trade Commission Report. *http://www.ftc.gov/opa/2000/09/youthviol.htm.*

- 70% of the games studied by the FTC were marketed to children ages 16 and younger despite ratings on the games that indicated that they were suitable for those at least 17 years old. 10 video game producers released documents to the FTC indicating that boys younger than 17 were the primary or secondary target audiences for mature-rated games.
- Hollywood has systematically marketed violent, adult-oriented films, video games and music to children, using popular cartoon shows and children's shows to do it.

Also, a substantial body of research has demonstrated the association of violence or aggressive behaviors with repeated exposure to televised violence.[4, 5] Simply put, the more violent programming children view, the more likely they are to behave violently or aggressively. Children exposed to violence are also likely to fear being a victim of violence.

The data are clear, convincing, and overwhelming.[2, 3, 4, 5, 6] The repeated exposure to violent imagery desensitizes us to violence and greatly increases the risk that we will manifest violence in our own behavior. We must educate parents to the health risk of exposure to violent entertainment products in the same way we educate them to the health risk of exposure to infectious diseases.

In 1996, the Motion Picture Association of America presented a proposed television rating system to the American Psychiatric Association. At that time, both the APA and AACAP declined to endorse the rating system, deeply concerned it did not provide sufficient specific information to parents. Regrettably, it appears we are here again today because the media industry has not taken comprehensive, responsible steps to consistently and accurately identify violent content in its products and continues to market violence as entertainment to children in the face of voluntary industry guidelines.

The American Psychiatric Association and American Academy of Child and Adolescent Psychiatry maintains their resolve to strive for a much stronger and clearer media rating system. When parents go to the supermarket to buy cereal for their child, they pick up the box and look on the side panel to check the ingredients. The label does not say, "This package *may* contain some oats, *may* contain some rice, *may* contain some wheat, and it *might* be nutritious for you." Quite the contrary. Simply and precisely, the package indicates what is inside. In the same manner, parents want to know what is inside a TV program or a video game. They deserve the same clarity and simplicity of information. After all, what goes into a child's mind is just as important as what goes into his stomach.

An effective media rating system should, in a relatively straight forward manner, communicate content issues as to language, sex, and/or violence. An informative, uniform guideline system will assist parents in making judgements as to what is appropriate for their children. Guidelines should not assume that children are incapable of understanding double entendres with sexual or violent implications, nor assume these situations are not harmful simply due to the child's chronological age.

In addition to issues of content, the APA and AACAP are concerned about the process by which the ratings and content descriptions will be applied and reviewed. We would be glad to work with the industry and other organizations in assisting the entertainment industry in this endeavor.

APA and AACAP are not suggesting that entertainment violence is the sole, or even most important factor contributing to youth aggression, anti-social attitudes, and violence. Family breakdown, peer influences, the availability of weapons, and numerous other factors all contribute to these problems. A public dialogue, parental involvement and clear information about media context through an effective ratings system are keys to enhancing the health and well being of America's children.[7]

Mr. Chairman, on behalf of the American Psychiatric Association and the American Academy of Child and Adolescent Psychiatry, I thank you for the opportunity

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[2] Bandura, A., Ross, D., & Ross, S. Transmission of aggression through imitation of aggressive models. *Journal of Abnormal and Social Psychology*, 1967, 63, (pp 575–582).

[3] Mediascope, Inc. (1996). *National Television Violence Study Executive Summary 1994 1995.* Los Angeles, CA: Author.

[4] American Medical Association. (1996). *Physician Guide to Media Violence.* Chicago, IL: Author.

[5] Singer, D.G., & Singer, J.L. Television viewing and aggressive behavior in preschool children: A field study. Forensic Psychology and Psychiatry. *Annals of the New York Academy of Sciences*, 1980, 347, (pp. 289–303).

[6] National Institute of Mental Health. (1982). *Television and Behavior: Ten Years of Scientific Progress and Implications for the Eighties Vol. 2: Technical Reviews.* (p. iii) Rockville, MD: Author.

[7] "Joint Statement of Public Health Groups on Media Violence" August 2, 2000. American Psychiatric Association, *www.psych.org/publicpolicy.htm*.

to testify before this Senate Committee. I would be happy to respond to any questions.

The CHAIRMAN. Dr. Cook, welcome.

STATEMENT OF DONALD E. COOK, M.D., FAAP, PRESIDENT, AMERICAN ACADEMY OF PEDIATRICS

Dr. COOK. Thank you. Mr. Chairman, Members of the Committee, thank you for this opportunity to testify about the effect of media violence on the health of children and adolescents. As president of the American Academy of Pediatrics and as a practicing pediatrician for over 40 years from the state of Colorado, I am testifying today on behalf of the nation's pediatricians.

For several decades, pediatricians have been increasingly concerned about media violence and its effect on the physical and mental health of children and adolescents. America's young people are being exposed to increasing amounts of extremely graphic violence through movies, video games, and popular music.

Research

Since the 1950s, more than 3,500 research studies in the United States and around the world have examined whether there is an association between exposure to media violence and subsequent violent behavior. All but 18 of these studies have shown a positive correlation between media exposure to violence and violent behavior.

Children learn the ways of the world by observing and imitating. They cannot help but be influenced by the media. Exposure to media violence results in an increased acceptance of violence as an appropriate means of conflict resolution and/or problem solving. Media exaggerate the prevalence of violence in the United States and the world and offer strong motivation to protect oneself by carrying a weapon and being more aggressive. Perhaps the most insidious and potent effect of media violence is to desensitize viewers to "real life" violence. The more realistic, comic, or enjoyable the media violence, the greater the desensitization felt by the children.

Child Development

Research in a variety of circumstances and settings has shown that the single strongest correlate with violent behavior in young children is previous exposure to violence. Before age 8, children cannot discriminate between real life and fantasy. On-screen violence is as real to this group of children as is the violence they witness in their home or the community. From childhood's magical thinking and impulsive behavior, adolescents must develop abstract thought and social controls to prepare them to deal with adult realities. If this development process occurs in a violent environment, it can become distorted or changed. Media have a great potential for shaping the hearts, the minds, and the behavior of America's young people and we all need to understand and accept this potential very seriously.

The causes of violence are complex. Entertainment is not the sole or even the most important factor contributing to youth aggression, antisocial attitudes and violence. Family breakdown, peer influences, community problems, the availability of weapons and nu-

merous other factors may all contribute to these problems. But entertainment violence does contribute. It is an area of clear risk that we as a compassionate society can address.

Entertainment media are a major industry in the United States and our number one export to the rest of the world. Media not only serve as educational tools, but also deliver powerful messages, messages of who we are, how we live and what we dream.

Media are a powerful tool too that we should not use casually. As medical professionals, pediatricians want parents and the entertainment industry to understand that films, video games, music, TV programs and the Internet can have and do have powerful effects on child health and behavior. They can be used to teach wonderful, enlightening and entertaining lessons to children, but can also show graphically violent, cruel and terrifying images that can lead to aggressive behavior in some children.

We invite the entertainment industry to join us voluntarily in our efforts to reduce youth exposure to violence, none of which has to do with bans, censorship or restriction on creative activities. We do want our children to be less exposed to the continual violence that pervades the media at this time. Though many producers and consumers of entertainment media express helplessness to change the flood of violence, the problem will best be solved through caring people in both communities deciding to reject media violence.

In conclusion, we are all in this together and we should seek a collective solution. We are a society with great resources, economic and human. The entertainment industry can and should respond to the FTC report findings and stop or decrease the marketing of violence to our youth.

Given the overwhelming body of research indicating the danger posed by media violence to the normal, healthy development of our human resources, we need to focus on nurturing and preserving those resources, our children and our nation's future. Thank you.

The CHAIRMAN. Thank you, Dr. Cook. How many physicians do you represent?

Dr. COOK. About 55,000, sir.

The CHAIRMAN. And how long have you been in the practice of medicine?

Dr. COOK. I have practiced for 44 years.

The CHAIRMAN. We thank you for appearing here today.

Dr. COOK. Thank you for asking.

Senator HOLLINGS. He ought to take a rest.

[Laughter.]

Dr. COOK. I always keep saying next year.

The CHAIRMAN. We many times have special interests represented here before this Committee and that is understandable. What you and Dr. Borenstein represent I think should have enormous credibility with anyone who observes your testimony. And we thank you both for taking the time to be here.

[The prepared statement of Dr. Cook follows:]

PREPARED STATEMENT OF DONALD E. COOK, M.D., FAAP, PRESIDENT, AMERICAN ACADEMY OF PEDIATRICS

Good morning Mr. Chairman, Members of the Committee. Thank you for the opportunity to testify today about the effect of media violence on the health of chil-

dren. My name is Dr. Donald Cook, president of the American Academy of Pediatrics. I am also a clinical professor of pediatrics at the University of Colorado School of Medicine, Denver and practice at the Monfort Children's Clinic in Greeley, Colorado. It is my pleasure to testify on behalf of 55,000 primary care pediatricians, pediatric medical subspecialists and pediatric surgical specialists dedicated to the health, safety and well-being of infants, children, adolescents and young adults.

For several decades, pediatricians have been increasingly concerned about media violence and its effects on the physical and mental health of children and adolescents. America's young people are being exposed to increasing amounts of media violence through television, movies, video games, and popular music. Video game violence, children's cartoons, and music lyrics have become increasingly graphic. Action films depict anatomically precise murder, rapes and assaults and video games detail bodies being blown apart, splattering blood and body parts on walls and floor. One of this year's best-selling music CDs contains a song in which the protagonist lovingly puts his baby to bed and engages in a fight with the child's mother, which ends in him slitting her throat, her screams of fear subsiding in the gurgle of blood.

On Monday, the Federal Trade Commission issued a report on the marketing of violence to children by the entertainment industry. As a pediatrician, I would like to present research on media violence and its effects on children and adolescents, examine the nature of child development, and show why entertainment violence can affect the health of some children.

Research

Since the l950s, more than 3,500 research studies in the United States and around the world using many investigative methods have examined whether there is an association between exposure to media violence and subsequent violent behavior. All but 18 have shown a positive correlation between media exposure and violent behavior. Some findings:

- Epidemiologists studying a broad array of factors associated with violence, including poverty, racial discrimination, substance abuse, inadequate schools, joblessness and family dissolution, found that exposure to violent media was a factor in half of the 10,000 homicides committed in the United States the previous year.
- Numerous studies indicate that a preference for heavy metal music may be a significant marker for alienation, substance abuse, psychiatric disorders, suicide risk, sex-role stereotyping, or risk-taking behaviors during adolescence.
- Research to date indicates that interactive media have an even more potent and lasting effect on violent behavior than passive media forms like television and movies. Several studies have shown that after playing violent video games, children and adolescents become desensitized to violence, have increased levels of aggressive thoughts and behavior, and act hostile toward others.
- Studies designed to test the theory that experiencing media violence leads to a catharsis, a reduction in actual aggression due to the vicarious release of hostility, actually found increased overt aggression because of lowered inhibitions after experiencing media violence.
- Meta-analysis, a process by which the results from many different research studies are analyzed as a whole, shows that the strength of the correlation between exposure to media violence and aggressive behavior is larger than that of condom non-use and sexually transmitted HIV, lead exposure and lower I.Q., passive tobacco smoke and lung cancer or calcium intake and bone mass, relationships which pediatricians accept as fact and on which we routinely base preventive medicine.

Children learn the ways of the world by observing and imitating—they cannot help but be influenced by media. Exposure to media violence, particularly violence perpetrated by dramatic heroes or, in the case of video games, the children themselves, results in an increased acceptance of violence as an appropriate means of conflict resolution. Media exaggerate the prevalence of violence in the world and offer strong motivation to protect oneself by carrying a weapon and being more aggressive. Perhaps the most insidious and potent effect of media violence is that it desensitizes viewers to "real life" violence and to the harm caused its victims. The more realistic, comic, or enjoyable the media violence, the greater the desensitization—video games that reward killing with points and higher levels of play are using better graphics capabilities to increase the gore, showing spraying blood and mangled body parts, or to personalize games with digital images such as recognizable faces on victims.

The etiology of violence is complex and multi-factorial. Entertainment violence is not the sole factor contributing to youth aggression, anti-social attitudes and violence. Family breakdown, peer influences, the availability of weapons, and numerous other factors may all play a part. But entertainment violence does contribute. The media are an area of clear risk that we, as a compassionate society, can address. Overwhelming scientific evidence has demonstrated that when young people are exposed to media violence, they learn aggressive attitudes and behaviors, develop fear of being victimized by a "mean world", and become desensitized to violence. We need to recognize these effects and take this knowledge into consideration when we choose the media our children will use.

Child Development

Research in a variety of circumstances and settings has shown that the strongest single correlate with violent behavior in young people is previous exposure to violence. Before age 8, children cannot discriminate between real life and fantasy. On-screen violence is as real to them as violence that they witness at home or in their community. From childhood's magical thinking and impulsive behavior, adolescents must develop abstract thought and social controls to prepare them to deal with adult realities. If this development process occurs in a violent environment, it can become distorted. Media, with which children spend more time than with parents or teachers, have great potential for shaping the hearts, minds, and behaviors of America's young people—and we need to take this potential very seriously.

What Can Be Done?

Today, 99 percent of American homes have a television and 87 percent a VCR, 54 percent of children have a television and video games in their bedrooms, and watching videos is America's favorite leisure activity. The average American child consumes media for 6 hours and 43 minutes each day, spending twice as much time each year with media as they do in school. Video games generate $10 billion in earnings a year, more than the motion picture industry. Children average 90 minutes of video gaming per day and fantasy violence games are the most popular among children from the fourth grade on. Given what we know through research, why is violence marketed to children? To quote Dr. David Walsh, author of *Selling out America's Children*, "Violent entertainment is aimed at children because it is profitable. Questions of right or wrong, beneficial or harmful, are not considered. The only question is 'Will it sell?' ".

Entertainment media are a major industry in the United States and our number one export to the rest of the world. The entertainment industry is not only economically important, but it carries powerful messages, messages of who we are, how we live, and what we dream. It represents the spirit and culture of America—to ourselves, to the world, and to history. It is a powerful tool, a tool that we should not use casually. As medical professionals, pediatricians want parents and the entertainment industry to understand that films, video games, music, television programs and the Internet can have powerful effects on child health. They can be used to teach wonderful, enlightening and entertaining lessons to children but also can show graphically violent, cruel, and terrifying images that can lead to aggressive behavior in some children and nightmares, fearfulness or other emotional disturbances in others.

Free speech and open discussion of society's concerns protect our liberty. We do not want censorship, which is both unconstitutional and ultimately unsuccessful in a free society. However, as U.S. House of Representatives Speaker Dennis Hastert (R–Ill.) asserted, "Free expression does not necessarily have to lead to moral chaos. Let us join together in finding ways to help parents raise their children to be good, productive citizens." We must approach the media and their potential health effects on children as a reality of contemporary life. With this in mind, we need to decide what sort of life we want that to be.

Parents, health professionals, policymakers and the entertainment industry each bear some responsibility. For example, parents should ensure that their children are thoughtful, critical consumers of media. They should set content and time limits on media use, monitor and discuss the media their children consume, and take TVs and video games out of the children's bedrooms. Health care professionals need to recognize the effects of media on child health and ask about media use as part of their evaluation of health risks. Pediatricians should alert and educate parents when positive media opportunities arise, either educational or informational. Policymakers need to enforce and in some cases, strengthen laws and regulations that protect children as media consumers. They should increase the funding available for media research and support media education programs in American schools that have been demonstrated to be effective.

Lastly, the entertainment industry needs to acknowledge that it is an important and powerful force in American society, one that affects all of us in many ways. Its products have both positive *and* negative effects on children and their health. Too often scientific research on the effects of media on children and adolescents is ignored or denied by some in the entertainment industry. Yet the leading medical groups in this country, including the American Academy of Pediatrics, American Medical Association, American Psychiatric Association, American Psychological Association, American Academy of Family Physicians, and the American Academy of Child and Adolescent Psychiatry—representing more than half a million health professionals—all echo the same conclusion. In July, these organizations issued a joint statement on the impact of entertainment violence on children. The conclusion, based on decades of research, is that viewing entertainment violence can lead to increases in aggressive attitudes, values and behavior, particularly in children. It is time for everyone in the entertainment industry to join us in protecting and promoting the health of our children.

If the entertainment industry accepts our invitation, we can start talking about reasonable and practical solutions, none of which has to do with bans, censorship or restrictions on creative activities. For example, pediatricians in California volunteer their time to work with writers and producers in conveying child health issues accurately and appropriately in television shows and movies. We hope media producers will use the American Academy of Pediatrics' Media Resource Team's offer to serve as a resource for accurate information on pediatric medicine and child and family health and well-being. Many in the entertainment industry are parents, grandparents, aunts or uncles themselves. As individuals they care deeply about children and youth. We are simply asking them to take their personal values into the workplace as they pursue their business of selling movies, games and music. Though many producers and consumers of entertainment media express helplessness to change the flood of violence, this problem will only be solved through caring people—media producers and media consumers—deciding to reject violent media. As the entertainment audience, we must focus on what we want our young people to learn and how we want them to behave. To do so, we must support positive entertainment products and reject negative and dangerous media products. To extend the philosophy of a wonderful movie, *Field of Dreams*, "If you do not come, they will not build it."

Media Matters

In order for children and adolescents to be protected from the damaging effects of media, they must learn to "read" and understand media messages for what they are, rather than passively accepting them at face value. If they are media literate, young people can consume and enjoy media, embracing positive content and rejecting negative, hurtful, or dangerous material. Media education teaches us to be selective, critical viewers who make informed choices and can evaluate and modulate media's effect on ourselves and on society.

Media Matters, a national public education campaign launched three years ago by the American Academy of Pediatrics, helps pediatricians, parents and children become more aware of the influence that media have on child and adolescent health. Through lecturing at medical schools, speaking to families, visiting elementary schools, and addressing community groups, AAP members have been raising important issues of concern such as the media's relationship to violent behavior and aggression, substance abuse, obesity and poor body-image.

Conclusion

Ultimately, we are all in this together and we should seek a collective solution. Parents, health professionals, the entertainment industry and policymakers have critical roles in discussing and addressing the increasing amount of media violence in society, particularly when it comes to the health of children and adolescents. We are a society with great resources, economic and human. We have been very successful at developing and preserving our economic resources. The American entertainment industry has plenty of creativity, innovation and vision. They can respond to the FTC report findings and stop the marketing of violence to our youth. They can make socially responsible entertainment and they can make money, preserving economic resources. Given the overwhelming body of research indicating the danger posed by media violence to the normal, healthy development of our human resources, we need to focus on nurturing and preserving those resources, our children and our nation's future.

The CHAIRMAN. Mr. Valenti.

STATEMENT OF JACK VALENTI, PRESIDENT AND CEO, MOTION PICTURE ASSOCIATION OF AMERICA

Mr. VALENTI. Before you start the clock ticking, Mr. Chairman, may I explain the absence of the movie executives which permeated this morning's session which I listened to and perhaps I could offer a response to that. Is that possible?

The CHAIRMAN. Absolutely.

Mr. VALENTI. About a week ago, I did discuss with Mr. Buse and Mr. Crane of your staff about the hearing. The 13th was an inflexible date and I understand why that you could not move it. But at that time, we did not have the report and the report was not in our hands until 10 o'clock on Monday morning, the 11th.

Meanwhile, I got in touch with the people that your staff wanted to have invited. That is the heads of the motion picture divisions of each of the major studios. I got in touch with every one of them. One of them at this moment is in London with a worldwide meeting of his parent corporation. Another is in Australia for a long delayed meeting there. Another one is on maternity leave. Another is in the middle of an important meeting appointed to a Commission by the Governor of California. And I had one who would be here, Stacy Snyder. But at the last minute, she said she did not want to appear by herself.

Later on, on Monday I think it was, I talked to Mr. Buse—who by the way has been most forthcoming and I am grateful to Mark for being so hospitable in all of my clamorous demands. I told him that I lamented and I was sad about this. I felt deeply sorrowful about it. And I said if you would give us maybe five or six weeks' notice, I will produce in front of Senator McCain and whoever else is on the Committee.

The CHAIRMAN. Five or six weeks' notice?

Mr. VALENTI. Well, that is what I told him, Mr. Chairman. And I said I would produce those people and I will. Now, I understand you want to have a meeting in two weeks and people will be there. But I want to say the fact that these people are not here is not because they are ducking and running. Because I told them that is impossible to do. It is because they literally had other things on their schedule that they simply could not erase.

Now, having said that, you can start the clock if it is all right.

The CHAIRMAN. Thank you, sir. Please proceed.

Mr. VALENTI. But I am glad to be in this meeting room and see so many of my friends and so few of my supporters I have asked Mr. Buse to give me a blindfold and cigarette and then I will be very happy. And I am glad Dr. Borenstein is here. Because as soon as this hearing is over, I am going to seek him out for professional counseling.

This is a serious hearing and it should be responded to seriously. Let me tell you precisely what I pledge you I will do. And I think some of the people in this room like Senator Hollings and Senator Inouye know that in all my long years when I pledge something to a Senator or a Congressman or to a committee, I redeem that pledge. This is what I pledge you. I am immediately going to California tomorrow and begin a series of meetings with our studios in California to address seriously the three recommendations that have been made by the Federal Trade Commission which I think

is an objective and non-strident report. And I also want to confer with my colleagues on the National Association of Theater Owners who are our partners in the rating system and who are responsible for enforcement. And we will from those meetings give you and your members a catalogue of what we intend to do. Though I think we are doing a lot right now.

It appears from the report that some marketing people stepped over the line where reasonable becomes unacceptable. And I am talking specifically about 10 and 12-year-olds in a focus group. That is wrong. It is unassailably wrong. And there is no excuse to sustain it.

But I wanted you to know that when we draw lines in the creative world, those lines are ill lit and hazily observed. We are not dealing here with Euclidian geometry where the formulas are explicit and pristine. We are dealing with the irregular passions of what I call subjective judgments. And I promise you and you know subjective judgments vary widely.

I think this Committee ought to understand the rostrum which springs our movie rating system. All R-rated movies are not alike. You made mention of that today. And what I meant was not for marketing. I am talking about the range, the "R" range and the "PG–13" range and the "PG" range, the ranges within those categories. The "R" rating does not mean for adult only. That is the province of the NC–17 rating.

What the "R" rating says is Mr. & Mrs. Parent, we are giving you an advance cautionary warning. We are telling you that before you take your children to see this movie—and children are admitted to R-rated movies if accompanied by a parent or adult guardian—before you do that, find out some more about this film. Because there may be some violence or sensuality, language or theme that you may not want your young children to see. Many parents take their children to R-rated films. Many parents allow other adults to take their children to R-rated films.

So again, what the "R" rating says, it is an advanced cautionary warning. We are giving it to you in advance, Mr. & Mrs. Parent. But the decision making authority of whether or not your children enter that theater is yours and yours alone to make.

Now, I happen to believe that the movie industry is probably more attentive to the needs of parents in this country than any other business enterprise. Now, let me count the ways when I say that. For almost 32 years, we have had a rating system that tells parents in advance cautionary warnings so that they can make judgments on their own about what movies they want their children to see or not to see. It is their duty to exercise that power and their duty alone. For almost 32 years, we have been monitoring the reaction of parents to this movie rating system. We have a national survey that is taken every year since 1969 under strict market research protocols. Just two weeks ago, this latest survey was unveiled. Eighty-one percent of all the parents in this country with children under 13 say this rating system is "very useful" to "fairly useful" in helping them decide what movies their children ought to see.

Two things to glean from that. One, nothing lasts 32 years in this volatile marketplace unless it is providing some kind of a benefit to the people it aims to serve—in this case parents.

And number two, I do not think that only a few members of Congress who have an 81 percent voter approval. It is a pretty high endorsement.

Now, something else I think I ought to bring up. I know that—or maybe you do not know that is it not a fact that American movies are hospitably enjoyed and joyfully received by every nation, creed and culture on this earth. Is it also not a fact that American movie industry is viewed by expanding envy of every developed and undeveloped country on this earth.

And finally, it is also the fact that the intellectual property returns to this country, billions of dollars in surplus balance of payments at a time when this nation is hemorrhaging from trade deficits. I think that needs to be brought to this Committee's attention.

And finally, I really think the Congress ought to feel an immense pride in this unique creative asset and of the contributions that the movie people make to this nation's art and commerce and to being attentive to the needs of parents.

Now, I am rather enchanted with what I am saying up here. But I am going to stop at this point and I thank you very much.

The CHAIRMAN. Thank you, Mr. Valenti.

[The prepared statement of Mr. Valenti follows:]

PREPARED STATEMENT OF JACK VALENTI, PRESIDENT AND CEO, MOTION PICTURE ASSOCIATION OF AMERICA

The FTC Report is both objective and non-strident for which Chairman Pitofsky and his colleagues deserve much applause. The Report makes three recommendations, one, entertainment companies should not target the very young in their advertising, two, enforcement of ratings should be strengthened at the retail level and, three, more information should be offered to parents about ratings.

It is my intention to meet one on one with each of my member companies, as well as the National Association of Theater Owners, so that we can address each of the FTC's recommendations.

Do we make mistakes in the movie industry? Of course we do. We are not perfect, nor is anyone else, in public or private life. The person who declares himself to be innocent does so with reference to a witness and not his own conscience.

Is it suitable to 'target' very young children in advertising R-rated films as reported in the FTC study of movie advertising. No, it is not. But if I have one regret about the Report it is this: It makes no claim to distinguishing between different kinds of movies for different audiences, nor does it specify why certain TV programs are certified by the FTC as "youth oriented."

The FTC cites TV programs which it claimed "were most popular among the under-17 group," such as *Xena: Warrior Princess*, and *South Park*. For example, *Zena: Warrior Princess*'s audience is 77% "18 and over." *South Park*'s prime audience is 79% "18 and over." Which means that the percent of audience "under 17" is quite small. Indeed of all the TV programs catalogued by the FTC as "popular among teenagers," all of them (save one) have an "18 and over" audience ranging from 79% to 63%. Therefore, with only one exception, not any of the cited TV programs, from which flows the FTC's charges, can by any stretch be labeled "for under-17s." Yet, this description of "popular for under-17s" programs is the platform on which the FTC places much of its case and is at odds with the realisms of the TV marketplace. (One interesting item in the FTC citation of "popular for under-17s" is that the show which has the second highest under-17 audience of all the TV programs mentioned in the Report is WWF Wrestling! See Appendix 1 of the Report). A TV program with 70%+ viewers 18-and-over may attract young viewers under 17. The reality is that in a TV/cable/satellite landscape avalanched with available programming, it is well nigh impossible to exile young viewers from any of them.

Perhaps marketing people stepped over that line where "reasonable" becomes, to some people, "unacceptable." But the location of that line, where what is right becomes wrong, is ill lit, hazily observed. Who among the critics has a magic surveyor's rod to precisely say "this is the place where the line is drawn?" We are not dealing with Euclid's geometry where the equations are pristine and explicit. Not at all. We are dealing here with the irregular passions of subjective judgments, which vary widely.

Every creative work is brimming over with subjectivity. Each person who watches or reads or listens absorbs the essentials of that creative work through his or her personal prism. Therefore there can be no irretrievable finality about what is good and what is bad creatively. The nature of the human condition is that we don't all use the same gauge to measure music or paintings or poetry or novels or films or TV programs. What some account to be unwholesome and unworthy, others may judge to be innovative and inventive. There is no all-seeing, elite, self-designated authority in art, movies, music, literature, TV programs, etc. who can, with Olympian clarity, say "this is suitable, this is not, this is alright, this is not." I believe that every citizen in this free and loving land understands with great clarity that the government cannot enter where the First Amendment stands guard, for that Amendment is the guarantor of the Constitution itself.

In 1999, there was a total of 461 films released in the marketplace. Of this total, the seven major studios distributed 133 films. Their subsidiaries (many of which operate with full creative autonomy) released 85, for a total of 218 for the major studios and their subsidiaries. The non-major distributors released 243 movies. Not all of these films merited the designation "a very fine film." Between the idea and the finished print so much can go wrong and often does. And with so many movies entering the marketplace, is it not conceivable that some mistakes were made, in the script, in the actual production, in the distribution and marketing design?

The Committee must understand the rostrum from which springs our voluntary movie rating system. Not all R-rated films are alike. We are not dealing here with bananas or canned beans. Some R-rated movies are 'hard' R's, that is at the top of the R scale, and others are 'soft' R's, at the bottom of the scale.

Moreover, the "R" rating does not say "for adults only," which is the province of the NC–17 rating. It plainly states that children are admitted to R-rated pictures if accompanied by a parent or adult guardian. Therefore, if children see or read an ad for an "R" film, it is not a violation of the rating system. Not at all. Many parents go with their children to "R" films. Other parents allow their children to see such a film with other adults. The "R" rating offers an advance cautionary warning to parents, with the clear understanding that the decision-making choice belongs to parents and *parents ONLY.*

The men and women who inhabit the movie and television industry are mostly parents, who love their country and their community, who care deeply about their children, who work hard every day to teach their children God's commandments so that their future will be furnished with all the assets which provision the life of good and decent citizens. They try harder to be more attentive to the needs of parents than any other enterprise in the fifty states.

Let me count the ways.

For almost 32 years, through our voluntary movie rating system, we have been offering advance cautionary warnings to parents about individual films so that parents can more watchfully and carefully make their own decisions about the films they want their children to see or not to see. Only parents should have that power and it is their duty to exercise it.

For almost 32 years, we have been monitoring parents' reaction to movie ratings. In the latest of annual surveys conducted by the Opinion Research Corporation of Princeton New Jersey, with 2,300 respondents, the rating system got *an all-time high in parental endorsement.*

This year some 81% of all parents with children under 13 found the movie rating system "Very Useful" to "Fairly Useful" in helping them choose the films they want their children to see or not to see. Nothing lasts 32 years in this volatile marketplace unless it is providing a benefit to the people it aims to serve.

Moreover we make ratings available to parents in many different locales. All advertising carries the rating and a legend that defines that rating category. We have web sites: (1) 'filmratings.com' which allows a parent to get specific reasons for ratings, (2) 'parentalguide.org' which offers to parents a guide to ratings systems for movies, TV programs, videogames and music, (3) 'MPAA.org' gives specific reasons for ratings, (4) 'Moviefone.com' gives specific reasons for ratings, (5) Weekly bulletins which catalogue movies rated that week along with reasons for the ratings are sent to magazine, newspaper and TV movie critics. Reviews of just about every

movie released appear in publications and on television. There is no scarcity of ratings advice for parents. But we are going to try to do more.

For almost 32 years the movie industry has been the only segment of our national marketplace, including all business enterprises, that voluntarily turns away revenues in order to redeem the pledge we have made to parents. No other non-entertainment American enterprise can make that statement.

But the question before this Committee is one that has not been asked, and therefore not answered. The Question is: Is there a problem?

Is it the moral decay which critics insist that entertainment inflicts on the American family? If the critics are correct then crime in America should be mightily on the rise. That has to be the melancholy result if the experts are right.

Yet what the critics offer is vastly different from the facts. *The latest FBI statistics reported last week revealed a 10% drop in crime last year.* Crime is down all over the country, a decline which has been on a descending line over the past seven years, and is now at the lowest point since the FBI began recording detailed crime data.

During the last five years there has been a 28% drop in juvenile crime! Today, 16/100 of one percent of all juveniles in this country are involved in serious crime though not necessarily convicted, and of that percentage almost half are recidivists, chronic criminals. That means that 99-and-84/100 percent of all juveniles are NOT involved in serious crime.

Is it a fact that American movies and TV programs are joyously and hospitably received by every other country, creed and culture in the world? The answer is YES.

Is it a fact that our movie and TV industry is viewed with expanding envy by every nation on this planet? The answer is YES.

Is it a fact that intellectual property is America's greatest trade export, the largest jewel in America's trade crown, returning billions of dollars in surplus balance of trade while our nation bleeds from trade deficits? The answer is YES.

Indeed the Congress should feel an immense pride in this unique American creative asset and the daily contributions of the movie and television industry to this nation's art and commerce and the endurance of its responsibility to American parents.

To conclude:

We are going to continue to honor our obligation to parents, an obligation which we publicly pledged to redeem almost 32 years ago. To this very hour we have demonstrably kept our promise.

We are going to examine how we advertise and conduct research so that we do not deliberately seek out the very young in the promotion of "R" rating films.

We are going to work closely with the National Association of Theater Owners, our long-time partners in the voluntary movie rating system, to increase the effectiveness of ratings enforcement. I might add it is my judgment the theater owners have done and are doing a good job in a most difficult area.

All this we pledge.

The CHAIRMAN. Mr. McIntyre.

STATEMENT OF JEFF McINTYRE, LEGISLATIVE AND FEDERAL AFFAIRS OFFICER, AMERICAN PSYCHOLOGICAL ASSOCIATION

Mr. MCINTYRE. Thank you. Good afternoon, Mr. Chairman and Members of the Senate Commerce Committee. I am Jeff McIntyre, the Legislative and Federal Affairs Officer for the American Psychological Association. I am honored to be here to represent that group before you.

I have years of work on children and the media as a negotiator for the development of a television ratings system, as an advisor to the Federal Communications Commission's V-Chip Task Force, as a member of an informal White House Task Force on Navigating the New Media, as a member of the steering committee for the upcoming Decade of Behavior Conference on Digital Childhood, and most importantly, as a representative of the research and concerns of the over 161,000 members and affiliates of the American Psychological Association.

With the issuance of Monday's Federal Trade Commission report on the marketing of violence to children, we come to the heart of a matter long addressed by psychological research—the detrimental effects of the repeated exposure of children to violence.

Foremost, the conclusions drawn on the basis of over 50 years of research by American Psychological Association members—including the Surgeon General's report in 1972, the National Institute of Mental Health's report in 1982, and the industry funded, three-year National Television Violence Study in the 1990's—shows that the repeated exposure to violence in the mass media puts children at risk for:

- increases in aggression;
- desensitization to acts of violence;
- and unrealistic increases in fear of becoming a victim of violence, which results in the development of other negative characteristics, such as a mistrust of others.

If this sounds familiar, it is because this is the foundation upon which the public health community, in coordination with the leadership of Senator Brownback, issued a joint consensus statement on what we absolutely know to be true in the public health community regarding children's exposure to violence in the media.

While the industry has sought refuge in obscure arguments over the semantics of methodological language, certain psychological facts remain well-established in this debate. As APA member Dr. Rowell Huesmann stated before this Committee in May of last year—just as every cigarette you smoke increases the chances that someday you will get cancer, every exposure to violence increases the chances that, some day, a child will behave more violently than they otherwise would.

Hundreds of studies have confirmed that exposing our children to a steady diet of violence makes our children more violence prone. The psychological processes here are not mysterious. Children learn by observing others. Mass media and the advertising world provide a very attractive window for these observations.

The excellent children's programming (such as *Sesame Street*) and the pro-social marketing (such as that around bicycle helmets) that exists is to be commended and supported. It is, however, the basic psychological principles in quality children's programming that raises the concerns here today. Psychological research shows that what is responsible for the effectiveness of good children's programming and pro-social marketing is that children learn from their media environment. If kids can learn the positive behaviors via this medium, they can learn the harmful ones.

The role of ratings systems, in this discussion merits attention. The APA has supported valid efforts such as Senator Holling's "Safe Harbor" bill, and continues to advocate for more accessible content information to be made available to families. There continues to be consistent concern over the ambiguity and implementation of current ratings systems. It appears now that ratings systems are being undermined by the marketing efforts of the very groups responsible for their implementation and their effectiveness. That, Chairman McCain and Members of the Committee, is a significant lack of accountability and should be considered when proposals for industry self-regulation are discussed.

Also undermined here are parents and American families. As the industry has shown a lack of accountability in the implementation of existing ratings system, parents have struggled to manage their families' media diet against misleading and contradictory information. (For instance, marketing a rated R film to children under 17.) While the industry has made some information regarding the ratings available, more information regarding content needs to be made more accessible. As with nutritional information, the content labeling should be available on the product and not hidden on web sites or in the occasional pamphlet.

Generally speaking, most adults see advertising as a relatively harmless annoyance. However, advertising directed at children, especially at young children, that features violence generates concern. The average child is exposed to approximately 20,000 commercials per year (this is only for television and does not include print or the Internet). Much of this is during the weekend morning or weekday afternoon programming. Most of the concern stems not from the sheer number of commercial appeals but from the inability of some children to appreciate and defend against the persuasive intent of marketing, especially advertising featuring violent product.

The recent Federal Trade Commission report heightens these concerns. Recently as a result of the "Children's On-Line Privacy Protection Act," the Federal Trade Commission ruled that parents have a right to protect their children's privacy from the unwanted solicitation of their children's personal information. We would argue that, based on the years of psychological research on violence prevention and clinical practice in violence intervention, parents also have the right to protect their children from material that puts them at risk of harm. With the considerations in place for children's privacy, the precedent for concern about children's health and safety is well-established.

In conclusion, parents have the right to not have their children specifically targeted by those selling violent product. Decades of

psychological research bear witness to the potential harmful effects on our children and our nation if these practices continue. Chairman McCain and Committee Members, thank you for your time.

The CHAIRMAN. Thank you.

[The prepared statement of Mr. McIntyre follows:]

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In conclusion, parents have the right to not have their children specifically targeted by those selling violent product. Decades of psychological research bear witness to the potential harmful effects on our children and our nation if these practices continue. Chairman McCain and Committee Members, thank you for your time . . .

The CHAIRMAN. I think it is worthy to note before we turn to Mr. Dyson that representatives in the American Psychiatric Association, the President of the American Academy of Pediatrics, the American Psychological Association, all are in agreement that the present ratings system is both inadequate and not sufficient information to parents. That is a pretty strong indictment of the present system in my view. And I think the respect with which these three professions are held by the American people might be instructive to the industry.

STATEMENT OF DR. MICHAEL ERIC DYSON, PROFESSOR, DEPAUL UNIVERSITY

Dr. DYSON. Thank you, Senator McCain. I am Dr. Michael Eric Dyson, the Ida B. Wells Barnette University Professor at DePaul University. And I am honored to be here. Senator Brownbeck and I have shared time on "Meet the Press." And though we disagreed, we are committed in common to the future of our children. And, Mr. McCain, you with your blistering brilliance on the campaign trail really won the imagination of many Americans even like myself to the left of you. But we appreciate the fire and plainspokenness with which you negotiated your time in the spotlight.

The CHAIRMAN. Thank you.

Dr. DYSON. So I would like to, taking a cue from Mr. Valenti, ask for 15 minutes to preach my sermon. And then on the official 5 minutes spread the hat to collect money for my sermonizing here today. I am an ordained Baptist minister as well, but do not hold that against me.

The CHAIRMAN. Thank you, Mr. Dyson. And you make a compelling argument. Take the time you need, sir.

Dr. DYSON. Thank you, sir. That is dangerous, but I will do so. I think what we have heard today is very compelling in terms of

the necessity for an equally shared responsibility about the violence of American society and how that violence is packaged, shaped, redistributed on the open market. And the marketing of violence, the seduction of violence, the titillations that are associated with violence, the erotic sheen that often accompanies violence is something that is deeply problematic to many of us who are parents, like I am of three children, who are concerned about shaping the egos, shaping the mindset, shaping the perspectives of young people in order to deter them from a life that is fruitless and to redirect them into paths and channels that are very productive.

But the problem I have with so much of the discourse surrounding this issue of violence is that implicitly there is a function of censorship. We know that there is no explicit censorship. We know that all of us share in common the development of responses that defend the First Amendment. But there is an implicit censorship that goes on when we begin to give the voice and microphone to some groups of people and not to others.

So what I am concerned about—I will make three very quick points and end here. What I am concerned about is the necessity to hear from those young voices, those very powerful voices, sometimes admittedly angry voices, sometimes bitter voices, sometimes voices that are dipped into the deep pools of profanity, sometimes vulgarity. But I am not so much concerned about the curse words as the cursed world they occupy and what hurt they experience in order to produce some of the deeply reflective, deeply self-critical and also deep problematic lyrics that they put forth.

So I think first of all, what is important about hearing from those young people—a disproportionate number of whom, by the way, happen to be African American and Latino voices. First of all, is that they tell truths about their situations that are avoided in textbooks and schools and, we dare say, in the United States Senate at some points, in synagogues and so on.

The reality is that the violence is old and it has been around a long time. But the reality also is that we have not really attacked certain forms of violence as equally as we have done others. So that the Duke, John Wayne, would not be brought before a Senate Committee to, in one sense, give a mea culpa for the way in which he romanticized and idealized this kind of romantic western machismo that dare we say has informed even the Senate careers of some of our colleagues here today. But at the same time, Snoop Doggy Dog is brought front and center rhetorically and symbolically, if not literally, to talk about why it is that he chooses to make a living by telling the truth about what he understands. So violence in John Wayne is acceptable. Violence in Snoop Doggy Dog is not acceptable.

Number two. Violence matters most when it occurs in the mainstream and not so-called outside of the mainstream. This is why we applaud President Clinton for having the FTC put forth this report after Columbine. But the reality is violence pervaded America way before Columbine. It struck Latino and African American communities in disproportionate numbers. And yet, the reality is that rapper L.L. Cool J, by no means a hard core rapper, released an album yesterday that contains these lyrics: "I don't mean this in a dis-

respectful way. But Columbine happens in the ghetto everyday. But when the crap goes down, you all ain't got nothing to say.''

Now, this is from a person who is well-received as an actor and as an entertainer in society, but he understands that there has been a targeting of vicious specificity locating itself within African American communities when it comes to violence, and Latino communities. Those forms of violence are seen to be much more pathological and naturalized in a way that is destructive. And the violence of the larger society is not taken seriously until that violence happens in a mainstream white community where now it becomes a national problem and a public health problem and a plague. And the reality we have to ask then is that why is it that these voices that have been locked out, that have been marginalized, see as a necessity to articulate their understanding of the world and sometimes violently so to make a point, and a very powerful point.

Number three. If we are really concerned about the lives of kids, then we have got to not shred the safety net in terms of welfare reform. That targets poor, black and Latino and poor white kids in very specific ways. Because if there is diminished capacity for providing health care and providing child care for your children, that is much more destructive than a rap lyric that may or may not lead to a violent behavior.

Number four. We have got to stop this war on drugs that really has translated, as Lani Guinier said, into a war on black and Latino youth. And as you know, Mr. McCain, the reality is that a report was issued earlier this year that the human rights of many African American and Latino youth are being violated in an international report from Amnesty and other forces unleashed this report saying that the American government ought to be ashamed of itself for the way in which it has stigmatized black and Latino youth in disproportionate fashion, leading to their imprisonment and their arrest and therefore stigmatizing their lives for the duration of their time in this nation.

Furthermore, I heard this morning about the Senator expressing outrage about the video game that deals with the electrocution of a human being. And as repulsive as that is, the reality is that in Texas 130 some odd people have been legally executed on capital punishment and a capital crime. And the reality is a disproportionate number of those people happen to be black and Latino men. So I do not want to get rid of a game that may push our buttons in very problematic and provocative ways until we get rid of the practices themselves that the game points to.

Finally, I think that——

The CHAIRMAN. Mr. Dyson, I would agree with you if we still held public executions.

Dr. DYSON. Well, it is not about public executions. It is about if we do it in private, Senator McCain. The reality is that the horrible shame that is going on in private that is not publicly talked about, the horrible shame is not simply the exposure of the executions. It is the numbers of black and Latino men who are being subjected to this form of I think racially motivated legal lynching so to speak. So I think that you are absolutely right in terms of the publicity. But the reality is that it is more shameful that it is not made more public so that more people can be outraged by it.

Two more points and thank you so much for your indulgence. Another reason that these young people have to be heard from, and we ought to hear their voices, is that they bear witness to the invisible suffering of the masses. And this is what I mean by publicity. We have to hear what they are talking about. We have to be confronted with what they are talking about. Even if we find it personally repulsive and reprehensible.

So that for me stigmatizing blacks and avoiding the collective responsibility for the drug war is something that needs to be talked about. Master P said "I don't own no plane. I don't own no boat. I don't ship no dope from coast-to-coast." So we know that the flooding of black communities, whether intentionally or not, inadvertently and Latino communities with drugs is not talked about as deeply and systematically as it needs to be. And yet, the stigmatization of those who abuse drugs who happen to be non-violent offenders who end up in jail need to be talked about as well and it is talked about much in rap music.

Finally, in terms of racial profiling, the late rapper Tupac Shakur said, "You know, just the other day I got lynched by some crooked cops. And to this day, those same cops on the beat getting major pay. But when I get my check, they taken tax out. So we paying the cops to knock the blacks out."

Now, here is a problem for Commerce. The subsidization of your own oppression through tax dollars that lead to the imprisonment of your own people. That is something that needs to be talked about. And were it not for these R-rated lyrics that, yes, contain repulsive narratives about rape, murderous fantasies that really are deeply destructive. But what is even more destructive is the environment in which they operate, the world in which they exist and the world that curses them in a very serious and systematic fashion.

I will end here. We need to hear those voices because as Mr. Goldberg said earlier, and as you have already alluded to very brilliantly, Senator McCain, many of these young people are disaffected from the political process. And one of the reasons they are disaffected from the political process, we can look here today. They are not being represented. We can look here today. They are not being represented. With all due respect to the ingenuity of the Senate, for the most part, Mr. Inouye and others to be exceptions, this is a white male club. And if those people felt that they could have their own viewpoints, perspectives and sensitivities respected in a profound way and a kind of empathy that says that the person sitting across the board from me is really concerned about me because he or she has been through what I have been through. And therefore, they know the circumstances under which I have existed, then we would have much more faith in the political process that would at least alleviate some of the suffering and the pain.

So for me, the reality is that many of these young hip hoppers certainly need to be talked to and talked about, but more importantly we should listen to them. Because the messages that they often put in our faces that we do not want to hear because they make us uncomfortable are the messages that we need to hear.

The political process can only be enhanced. The American democratic project can only be strengthened. And the citizenship of

America can only be deepened with a profound engagement with some of the most serious problems that these young people represent and they tell us about.

This is why—and I will end here—Nah said—a young rapper—"it's only right that I was born to use mikes. And the stuff that I write, it's even tougher than Dice." Absolutely true. And the reason it is tougher than dice because they are rolling their dice in a world where they are taking a gamble that their voices can be heard, that their viewpoints can be respected, and that their lives can be protected. Thank you very kindly.

The CHAIRMAN. Thank you very much for a very strong statement and a very eloquent one, Mr. Dyson. It is the intention of this Committee to try to get testimony from and representation from young Americans, especially when we are talking about some issues that are coming up such as this business of MP3, Napster and the music and who is going to get what, and what accessibility are young people going to have to that music.

But again, I would argue to you these young people do not have the $500,000 to buy a ticket—by the way, Mr. Valenti, even though at least one of your witnesses could not be here, I notice that he is able to host a big multi-million dollar soft money fundraiser, had the time to do that, but not to appear before this Committee. And these young people will not obviously think it matters whether they would take the time or effort if there is no resonance to their views and their hopes and their dreams and their aspirations.

And you mentioned my presidential campaign. The one thing I heard from young Americans all over this country, they do not feel they are represented here. So why should they be involved? Why should they take the time to come and testify before this Committee? When it is the money, the $18 million that Mr. Valenti's industry has already contributed to political campaigns. Well, obviously they are going to keep giving because there are three major fundraisers scheduled in the next few days. So I do not think they want their money back or they would not be attending these. Go ahead, Mr. Dyson.

Dr. DYSON. I think that not withstanding—and, of course, I have been a severe critic of corporate capitalism and the way in which it has disproportionately affected the American political process. And I think that we would not simply point our finger at Hollywood. My God, if we are going to talk about the way in which corporate capitalism has undermined the best interest of the citizenry, we have got to start with the United States Senate. And I think that what these young people understand is that—and not just the Senate, but Congress and local municipalities and governments—Because justice is being bought. I think your point is absolutely right in bringing it and brave by the way.

But this is what I want to say. They are not concerned about—they do not even know about a $500,000 per ticket soiree that might be held.

The CHAIRMAN. I disagree with you. I disagree with you, sir. I talked to them. They know there is something wrong.

Dr. DYSON. No, no. I agree with you.

The CHAIRMAN. They know there is something wrong, Mr. Dyson.

Dr. DYSON. They do. They do. But I am saying that about the soiree.

The CHAIRMAN. They may not know that it is $500,000, but they know there is something wrong.

Dr. DYSON. No, they know. Absolutely right, Senator McCain. I do not disagree with you. I am just saying that they do not know specifically the details about a $500,000 soiree. But they do know, as you have said, that money is corrupting the political process. But they do not just simply look at Mr. Valenti. They do not simply look at the recording industry.

The CHAIRMAN. Well, I do not allege that they do.

Dr. DYSON. Because the recording industry has given them an opportunity to express their viewpoints with the United States Senate with the exception of Ed Brooke and Carol Moseley Braun has not given much opportunity for young African American people to have a political career at the highest levels and echelons of representative democracy.

The CHAIRMAN. Thank you, Mr. Dyson. And I appreciate our exchange.

Dr. DYSON. Thank you, sir.

[The prepared statement of Dr. Dyson follows:]

PREPARED STATEMENT OF DR. MICHAEL ERIC DYSON, PROFESSOR, DEPAUL UNIVERSITY

The contentious debate about the relationship between music lyrics and societal behavior is surely controversial. The assertion that violent lyrics cause violent behavior is neither convincing nor conclusive. The obvious causes of social violence—economic inequality, racism, and racial profiling—are all but ignored when the focus is on the music of (minority) youth. Often the efforts to "objectively investigate" the roots of social violence amounts to little more than racial scapegoating of black and latino youth. In order to avoid such a measure, it is necessary to explain the origins of the most influential—and controversial—contemporary form of popular culture: hip-hop music. By examining the racial sources, social uses and musical roots of hip-hop culture, I hope to underscore how simplistic it is to blame music lyrics for social violence. And while it is most likely illegal to commercially curtail artistic expression, in light of the racial subtext of much of this debate, it is certainly unjust.

For many black and white Americans, hip-hop culture crudely symbolizes the problems of urban black youth. The list of offenses associated with hip-hop culture is culled from rap lyrics and the lifestyles they promote. The list includes vulgar language, sexism, misogyny, homophobia, sexual promiscuity, domestic abuse, parental disrespect, rejection of authority, and the glorification of violence, drug use, rape, and murder. And it's true that even a casual listen to a lot of hip-hop will turn up these and other nefarious attitudes. At least if you listen to the style of hip-hop known as gangsta rap. The gangsta rap genre of hip-hop emerged in the late '80s on the West Coast as crack and gangs ruled the urban centers of Los Angeles, Long Beach, Compton, and Oakland. Since hip-hop has long turned to the black ghetto and the Latino barrio for lyrical inspiration, it was inevitable that a form of music that mimicked the violence on the streets would rise.

It was just as predictable, though not to the degree that it has happened, that a huge backlash against gangsta rap and black youth would emerge. Among the factors that made black youth culture ripe for such an attack is a general ignorance about the range and depth of hip-hop culture. Ironically, this ignorance helped make gangsta rap an economically viable music. Anti-rap crusader C. Delores Tucker can shout as loud as she wants, and she's certainly earned the right, but she was nowhere to be found when rap group Public Enemy was at its revolutionary height calling for a united black nation to fight racism and the powers that be. True, their brand of hip-hop brushed too closely to anti-Semitism and they certainly could have used a few lessons in feminist thought. But few people quit listening to Sinatra's "Fly Me to the Moon" (it was really named "In Other Words", but Sinatra's Billie Holiday-inspired phrasing was so impeccably memorable that he shifted the song's emphasis) because of his occasional racism or his denigration of women as broads.

It's clear that the rise of hip-hop culture has provoked a deep black nostalgia for a time when black communities were quite different than they are now. When children respected their elders. When adults, not young thugs, ruled over neighborhoods. When the moral fabric of black communities was knit together by a regard for law and order. When people shared what they had, even if it was their last crust of bread or drop of soup. When families extended beyond blood or biology to take in young people in need of rearing. When communication between blacks on the street was marked by courtesy more than cursing. When black folk went to church, and even if they didn't, respected the minister as a source of moral authority. And on and on.

A cure for such nostalgia can be found in works like *Morals and Manners Among Negro Americans,* edited in 1914 by W.E.B. Du Bois and Augustus Dill. Du Bois and Dill surveyed hundreds of leading blacks about the "manners and morals" of black youth. Wouldn't you know it? Many black leaders lamented the negative impact of popular culture on black youth. One leader blamed moral decline on movies, which "have an unwholesome effect upon the young people. Roller skating, ragtime music, cabaret songs, and ugly suggestions of the big city are all pernicious. The dancing clubs in the big cities are also vicious." Another leader worried that black youth "hang around the corners in great numbers, especially the boys. Many of them are becoming gamblers and idlers." Keep in mind that these degenerate black youth make up a generation now praised for its high morals. That should stop us from writing the epitaph of what has been mislabeled a lost generation of black youth. (Even here, racial distinctions prevail. If white kids are demonized as "slackers", at least they're seen to be slacking off from a Protestant work ethic they can recover through hard work. What can you do when you're lost? Often, you get written off. That happens to too many black youth.)

The relation of nostalgic blacks to hip-hop culture can be viewed in the following way: there is a perception of *aesthetic alienation* and *moral strangeness* in black youth. Both of these perceptions, I believe, depend on a denial of crucial aspects of history and racial memory. Amnesia and anger have teamed up to rob many blacks of a balanced perspective on our kids. With such balance, we might justly criticize and appreciate hip-hop culture. Without the moderating influence of historical insight, joined to what might be called the humility of memory, we end up mirroring the outright repudiation our kids face across this country.

The aesthetic alienation of hip-hop has partly to do with perception. Rap is seen as wildly differing from the styles, themes, and tones of previous black music. Well, that's true and not true. Certainly the form of hip-hop is distinct. The skeletal rap crew is composed of a DJ (disc jockey), a producer, and an MC (master of ceremonies, or rapper). (Technology has enhanced, occasionally blurred, and sometimes redivided the crew's labor over the last fifteen years.) In many cases, there are at least a couple of rappers. In some cases, there are several. The DJ commands a pair of phonograph turntables. Among other functions, the DJ plays fragments of records through a technique called scratching: manually rotating a record in sharp, brief bursts of back and forth rhythmic movement over isolated portions of a song, producing a scratching sound.

The producer has several devices at her command, including a beat box and a digital sampler. The beat box, or drum machine, is an electronic instrument that simulates the sound of a drum set. A digital sampler is a synthesizer that stores in its computerized memory a variety of sounds (a James Brown scream, a TV theme song, a guitar riff, a bass line) that are reproduced when activated by the producer. The DJ and the producer work together in laying down backing tracks for the MC. The tracks consist of rhythms, scratches, beats, shrieks, noise, other sound effects, and loops, which are fragments of existing songs reworked and repeated in new musical contexts.

The MC, or rapper, recites lyrics in a rhythmic, syncopated fashion. The rapper's rhetorical quirks, vocal tics, rhyme flow, and verbal flourishes mark his or her individual style. In the early days of rap, MC's often simulated sonic fragments with their voices, causing some rappers to be dubbed human beat boxes. Rappers can use a variety of rhyme schemes, from couplets in tetrameter to iambic pentameter. Their rhyme schemes can employ masculine and feminine rhymes, assonantal and consonantal rhymes, or even internal rhymes. Rappers may use enjambment, prosody, and sophisticated syncopations to tie their collage of rhymes into a pleasing sonic ensemble.

But hip-hop's form joins features of black oral culture, especially toasts (long narrative poems) and dozens, to a variety of black musical styles. As Gil Scott-Heron once remarked, hip-hop fuses the drum and the world. Blues music is the style of black artistry most closely associated with hip-hop. The blues spawned stock characters within its lyrical universe, including the hoochie-coochie man, the mojo work-

er, the lover man, and the bald man bluesman. Their relation to hip-hop's (and '70s blaxploitation flicks') macks, pimps, hustlers, and gangsters is clear. Plus, the rhetorical marks and devices of blues culture, including vulgar language, double entendres, boasting, and liberal doses of homespun machismo, link it to hip-hop, especially gangsta rap. And in case you're thinking, "Yeah, but the blues and early jazz weren't nearly as nasty as rap," think again. There are lyrics contained in the songs of the great Jelly Roll Morton, for example, that would make Snoop Doggy Dogg wince in embarrassment. You can read Morton's lyrics in their most distinguished place of storage, the Library of Congress. (Does this mean in the next century that that august institution will house the Dogg's Magnum Snoopus, "Doggystyle" for future generations to lap up or howl at?) Modern technology, together with the urban and secular emphases of black culture, has helped expose localized traditions of vulgar black speech—including agrarian blues, signifying, toasts, and the dozens—to a worldwide audience. And millions of blacks are angry and ashamed.

If black nostalgia has distorted the relation of postmodern black youth culture to a complex black past, this is nowhere more powerfully glimpsed than in comparing hip-hop with a high point of black modernism: jazz music and culture. Critics like Stanley Crouch and musicians like Wynton Marsalis have relentlessly attacked hip-hop culture for its deficits when compared to jazz. In conversation—in truth, they were herculean arguments between us that raged for hours at a time—neither of these gifted gentlemen has had anything good to say about hip-hop culture.

Crouch maintains that hip-hop is, in a memorable phrase comparing rap to the infamous, racist 1915 D.W. Griffith film, "*Birth of a Nation* with a backbeat". Marsalis thinks rap reflects a fascism that mars humane art. Plus, rap is rooted in a banal, mindless repetition of beat, signaling a lack of musical imagination and invention. Inspired by the likes of Ralph Ellison, but especially by Albert Murray, Crouch and Marsalis argue that the artistic possibilities of jazz—its heart pumping with the blood of improvisation, its gut churning with the blues—embody the edifying quest for romantic self-expression and democratic collaboration that capture Negro music and American democracy at their best. For Crouch and Marsalis, hip-hop negates everything jazz affirms.

Many fans of black music, including stalwarts of soul and R&B, most certainly agree. They simply add their music of preference, and perhaps their own string of modifiers, to Crouch and Marsalis's list. (That's because Aretha ain't about democracy. She's about the imperious demands of gospel genius as it baptizes and is transformed by secular sentiments. I'm not so sure that Crouch and Marsalis stand ready, however, to reciprocate. Whether Aretha, Sam Cooke, Otis Redding, Marvin Gaye, Donny Hathaway, or Al Green counts in their reckoning as much as, say, early Miles or middle Coltrane, Sarah Vaughan or Ella Fitzgerald, or Ellington or Armstrong, is highly doubtful.) Despite the issues that separate black musical purists of any sort, their shared disdain for hip-hop culture's claims to art unite them as citizens of the Republic of Nostalgia.

The only problem is that, like hip-hop, jazz has a history of cultural attack. That history has been buried under an avalanche of nostalgia that hides jazz's grittier roots. For instance, during the Jazz Age and the Harlem Renaissance, the response to jazz by a large segment of the black bourgeoisie, black intellectuals, and black artists anticipated the attack on rap. Such responses reflected, and were partly driven by, the negative response to jazz of large segments of white society. Jazz was viewed as a cultural and artistic form that compromised decency and morality. It was linked to licentious behavior and lewd artistic gestures. With its "jungle rhythms," its blues base, its double entendre lyrics, and its sexually aggressive dancing, jazz, like hip-hop today, was the most widely reviled music of the 1920's and '30s. Headlines in respectable publications asked questions like: "Did Jazz Put the Sin in Syncopation?". According to the *Ladies Home Journal*, jazz was responsible for a "holocaust" of illegitimate births. A Cincinnati-based Catholic newspaper railed against the "sensuous" music of jazz. It said that "the embracing of partners—the female only half dressed—is absolutely indecent." Blues pioneer W.C. Handy's daughter, Lucille, was sternly admonished by the Colored Girls' Circle of an elite school for "making a fool" of herself by singing and dancing her father's blues and jazz. "It [continuing to sing and dance] will be under the peril of death and great danger to yourself," the letter concluded.

Many Harlem Renaissance intellectuals detested "gin, jazz, and sex." The publications of black organizations, from the NAACP's magazine, *Crisis*, edited by W.E.B. Du Bois, to the Socialist Party supported magazine, *Messenger*, edited by A. Philip Randolph and Chandler Owens (with assistance from George Schuyler), expressed opposition to jazz as well. For many Harlem Renaissance intellectuals, jazz was not viewed as a serious artistic achievement on par with European classical music. The

great irony of blacks worshiping European music is that European composers such as Richard Strauss were, at the same time, expressing profound admiration for jazz. In 1926, one of the most important debates about the relation of black intellectuals to black mass culture took place in the pages of the *Nation*, between George Schuyler and Langston Hughes. In his essay, "The Negro Art Hokum," Schuyler argued that there was no such thing as a distinct Negro art apart from American art. Schuyler said that Negro art occurred in Africa, but to "suggest the possibility of any such development among the ten million colored people in this republic is self-evident foolishness." Schuyler argued that "slave songs based on Protestant hymns and biblical texts" and "secular songs of sorrow and tough luck known as the blues" were "contributions of a caste" in certain sections of America that were "foreign to Northern Negroes, West Indian Negroes, and African Negroes." For Schuyler, defining art in racial terms was "hokum".

Hughes's response, which ran a week later, became one of his signature essays. Entitled "The Negro Artist and the Racial Mountain," Hughes's essay lamented the veiled desire of some black artists to be white. Such artists feared their own racial identity. Hughes argued that the black middle class was denying a crucial part of its heritage by denying the "beauty of [its] own people" and that Negroes should stop imitating "Nordic manners, Nordic faces, Nordic air, Nordic art." In their stead, he urged Negroes to embrace "the low-down folks, the so-called common element, and they are the majority—may the Lord be praised." Hughes argued that the "common people will give to the world its truly great Negro artist, the one who is not afraid to be himself." For Hughes, the racial mountain was the inability of the black bourgeoisie to accept Negro art from the masses, Hughes exhorted his fellow Negroes to let "the blare of Negro jazz bands and the bellowing voice of Bessie Smith singing blues penetrate the closed ears of the colored near-intellectuals until they listen and perhaps understand." Hughes's words are still relevant.

By rehearsing this bit of jazz history—one that is conveniently overlooked by Crouch and Marsalis as they attack rap and proclaim jazz as America's classical music—I am not arguing that we should romanticize black folk culture. Neither am I equating black folk art and pop culture. The big business of how black culture is packaged as a commodity to be bought and sold in the marketplace with billions of dollars at stake prevents such an easy equation. I'm simply arguing that all forms of black music have been attacked both within and beyond black culture. Blues and jazz, rhythm and blues, and soul have been viewed as indecent, immoral, and corrupting black youth. To be nostalgic for a time when black music offered a purer aesthetic or a higher moral vision is to hunger for a time in history that simply doesn't exist. (Of course, another way of stating this is to say that all black music has an aesthetic appeal, and a moral vision, that will at first be assailed, but whose loss will one day be mourned and compared favorably with the next form of hated black music to come along.) When Marsalis, Crouch, and other critics perched aloft the wall of high black culture throw stones at hip-hop, they forget that such stones were once thrown at their music of preference. Bebop was once hip-hop. Ragtime was once rap. Bluesmen were once b-boys. What is now noble was once notorious.

Crouch, Marsalis, and other critics have argued against hip-hop even being called serious music. Of course, these critics hold the same grudge against latter-day Coltrane, Eric Dolphy, Ornette Coleman, Cecil Taylor, Albert Ayler, Archie Shepp, Don Cherry, and almost any avant-garde jazz artist who championed unorthodox harmonies, departure from chord-based improvisations, atonal "noise", and dissonant melodies. Neither Ellington nor Armstrong, heroes for Crouch and Marsalis—and for me, too—would be today what they were when they played. To be sure, they'd still be geniuses. But the character of their genius would be greatly altered. Their relentless reach for the edge of experience pushed them to keep growing, experimenting, and improvising. Conservative advocates of jazz end up freezing the form, making jazz an endless series of explorations of already charted territory. It's a process of rediscovering what's already been discovered. Such a process led someone to remark that the problem with so much of contemporary neotraditionalist jazz is that Thelonius Monk couldn't even win the annual contest that's sponsored in his name! The very spirit of jazz—its imperative to improvise, which can often lead into dangerous, unmapped territory—is thus sacrificed in the name of preserving the noble, heroic traditions that grow out of a specific time in jazz's history. What's really being preserved is the product, not the process, of improvisation. But that's another story.

At base, the perception of the aesthetic alienation of hip-hop culture is linked to a perception that black youth are moral strangers. I mean by "moral strangers" that black youth are believed to be ethically estranged from the moral practices and spiritual beliefs that have seen previous black generations through harsh and dangerous times. The violence of black youth culture is pointed to as a major symptom

of moral strangeness. Heartless black-on-black murder, escalating rates of rape, rising incidents of drug abuse, and the immense popularity of hip-hop culture reinforces the perception of an ethical estrangement among black youth. In arguing the moral strangeness of black youth, many critics recycle bits and pieces of old-style arguments about the pathology of black urban culture. Widely popularized in Daniel Moynihan's famous 1965 study of the black family—whose pathology was partially ascribed to a growing matriarchy in black domestic life—the notion that black culture carries the seeds of its own destruction is an old idea. The argument for black cultural pathology is really an updated version of beliefs about black moral deficiency as ancient as the black presence in the New World.

Still, there's no doubt that terrible things are happening to black youth. To pretend otherwise is to ignore the obvious. Black youth are killing and being killed. Crime and violence go hand in hand. High unemployment is entrenched. Teenage pregnancy is epidemic. How can we explain these facts? I think we've moved from a theory of moral strangeness to a theory of how power has shifted away from adults to young people in many urban homes and communities. Highlighting such a shift by no means sidesteps issues of morality, values, or responsibility. It simply gives us a handle on specific changes in black youth culture that have had a vicious effect on black life.

I think there is a *juvenocracy* operating in many urban homes and communities. For me, a juvenocracy is the domination of black and Latino domestic and urban life by mostly male figures under the age of 25 who wield considerable economic, social, and moral influence. A juvenocracy may consist of drug gangs, street crews, loosely organized groups, and individual youths who engage in illicit activity. They operate outside the bounds of the moral and political economies of traditional homes and neighborhoods. The rise of juvenocracy represents a significant departure from home and neighborhood relations where adults are in charge. Three factors are at the heart of such a shift.

The first is the extraordinary violence of American life. As historian Richard Slotkin has argued, the frontier myth at the base of our country revolves around "regeneration through violence." America renews itself at the altar of devotion to violence as a rite of national identification. It is important to remember this rite as cries go up about the exceptional violence of black youth. Black youth are viewed as innately inclined to violent behavior. The lyrics and images of hip-hop are used as proof of such a claim. Well, as strong and pungent as hip-hop is, as offensive as it can be, it is still art. It isn't life, no matter what some hip-hoppers claim about its "realness." Indeed, without making too strong of a point of it, hip-hop's existence may be keeping a lot of black youth away from drugs, crime, and life on the streets because they get to rap about such things in the sound booth. Thank God for what other hip-hoppers derisively refer to as "studio gangstas."

It is simply dishonest to paint black youth as the primary source of violence in America. In fact, more often than not, black youth are the victims, not the perpetrators, of violence. Although they are only 5.9 percent of the population, black males account for 40 percent of homicide victims. Black men over 24 are the victims of homicide at a rate of 65.7 per 100,000. For white males in that age group, the figure is 7.8 per 100,000. Youth between the ages of 12 and 17 are the most common victims of crime in America.

There were 33,651 Americans killed in the Korean War. There were 47,364 Americans killed in the Vietnam War. There were 37,155 Americans killed with firearms in homicides, suicides, and accidents in 1990. In 1991, 45,536 Americans were killed in motor vehicle accidents. The same year, 38,317 Americans died from gunshot wounds. Now firearm incidents surpass motor vehicle accidents as the most likely way Americans will die. Among white Americans, 28.4 per 100,000 die from motor vehicle injuries; 15.2 per 100,000 die from firearms. For Latinos, 28.7 per 100,000 die from motor vehicle accidents; 29.6 per 100,000 die from firearms; 140.7 out of 100,000 black males between 20 and 24 were killed by firearms in the same year. One in 28 black males born in the United States is likely to be murdered; 93 percent of black murder victims are killed by other blacks. Firearms in the hands of young black and Latino men has clearly altered the urban landscape. Firearms have given juvenocrats the ultimate weapon of death.

The American addiction to violence, the political economy of crack, and this nation's fetish for firearms account for the rise of a violent juvenocracy. Of course, there are ethical dimensions to juvenocracies as well. Are juvenocracies corrupt? Yes. Are the people who participate in juvenocracies often morally vicious? Yes. Should the destruction that juvenocracies leave in their wake, especially in black and Latino communities, be opposed? With all our might. But unlike the culture of pathology arguments, or even arguments about black nihilism, my theory of juvenocracy doesn't locate the source of ethical erosion and moral corruption at the

heart of black communities. Why? Because the behavior of juvenocrats can be explained by generic, or better, universal principles of human action. Murder, robbery, assault and battery, and drug dealing are not peculiar to black culture. They occur everywhere. A theory of black pathology or nihilism confuses the matter by asking us to believe that these problems are endemic to black communities. They are not.

Moreover, rap highlights undervalued problems. One of the most intriguing and undervalued aspects of contemporary rap is its struggle with the problem of evil. In formal theological circles, the branch of thought that addresses this question is called theodicy. Theodicy attempts to understand and explain why bad things happen to good, or at least, innocent, people. It also tries to understand human suffering in the light of asserting that God is good. How can a good God allow evil to exist and to harm her children?

Hard core rappers, including Notorious B.I.G., 2 Pac Shakur, and Snoop Dogg have all, in varying ways, grappled with the problem of evil. Interestingly, this salient dimension of hard-core rap has been overlooked, perhaps because it is hidden in plain sight. In addressing evil and hard-core rap, it is helpful to remember that theodicy also has a social expression. One of sociology's towering thinkers, Max Weber, conceived theodicy as the effort gifted individuals to give meaning to the suffering of the masses. Indeed, the appeal of King and Malcolm X rested largely on their abilities to make sense of the suffering that their followers endured. Of course, King's and Malcolm X's theodicies had vastly opposed orientations. King argued that the unearned suffering of blacks would redeem American society. Malcolm believed in mutual bloodshed: if blacks suffered, then whites ought to suffer as well. More recently, black leaders as diverse as Colin Powell and Louis Farrakhan have urged blacks to take more responsibility in dealing with the suffering in their communities. Hard-core rappers, by contrast, dismiss such remedies. They celebrate the outlaw as much as they denounce the institutions they view as the real culprits: the schools, churches, and justice system that exploit poor blacks. Paradoxically, the fact that rappers are struggling with suffering and evil proves that in fact they are connected to a moral tradition, once championed by King, that they have seemingly rejected. Moreover, the aggressive manner in which rappers deal with evil—putting forth images that suggest that they both resist and embrace evil—is disturbing because it encourages us to confront how we resist and embrace evil in our own lives.

The suffering masses that concern hard-core rappers are almost exclusively the black ghetto poor. According to many gangsta griots, the sources of this suffering are economic inequality, police brutality, and white racism. These forces lead to a host of self-destructive ills: black-on-black homicide, drug addiction, and the thug life that so many rappers celebrate and, in a few cases, embrace. For instance, in his "The Ghetto Won't Change," hard-core rapper Master P expresses the widely held belief among blacks that the carnage-inducing drug trade flourishes in the ghetto because of government complicity and white indifference. On "Point Tha Finga," Tupac Shakur gives voice to the rage many blacks feel when they realize that their hard-earned wages are subsidizing their own suffering at the hands of abusive police. For Shakur, the ethical line drawn between cops and criminals is even more blurred by the police's immoral behavior.

But blurring the lines that divide right from wrong is what seems to set these urban theodicists apart from their colleagues in traditional religious circles. Even Martin Luther, who shook the foundations of the Catholic church, dropped his moral anchor as he launched his own theodicy in the form of a question: "Where might I find a gracious God?" As Luther understood, the purpose of a theodicy is, in Milton's words, to "justify the ways of God to men." This is especially true when a God whom believers claim to be good and all-powerful allows evil to occur. The problem with most thuggish theodicies is that their authors are as likely to flaunt as flail the vices they depict in music. Unlike traditional theodicists such as King, hard-core rappers maintain little moral distance from the evil they confront. Instead, they embody those evils with startling realism: guns, gangs, drugs, sexual transgression, and even murder are relentlessly valorized in the rhetoric of gangsta rappers. Although gangsta rappers are not the only popular cultural figures to do that, their words provoke a special outrage among cultural critics. For instance, although the 1996 film *Last Man Standing*, starring Bruce Willis, was filled with gratuitous violence, it was not denounced nearly as much as Snoop Doggy Dogg's equally violent 1993 album, *Doggystyle*. Neither did the Arnold Schwarzenegger vehicle *True Lies*, which was swollen by crude ethnic stereotypes, come in for the bitter attack aimed at Tupac Shakur's "2Pacalypse Now." When it comes to guns, we still feel safer when they are in the hands of white men, even if they are thugs.

Moral ambiguity is at the heart of hard-core rap's struggle with evil. When it comes to dealing with that idea, hard-core rappers are treated far differently by critics than are the creators of gangster films. In *The Godfather*, for example, Francis

Ford Coppola's characters pay lip service to a code of respect, loyalty, and honor. Still, they are ruthless murderers. Coppola is considered a brilliant artist and his characters memorable creations. The hard-core rapper and his work are rarely credited with such moral complexity. Either his creations are taken literally and their artistic status denied, or he is viewed as being incapable of examining the moral landscape. It is frightening for many to concede hard-core rap's moral complexity.

With that, we end up where we began: the rise of juvenocracy has been complemented by the cultural fascination with, and revulsion to, the pop culture of black youth, especially hip-hop. For many critics, the two go hand in hand. But that's a mistaken perception. That's not to say that gangsta rappers, for instance, don't identify with real gangsters. That they don't feed off one another. That their styles and social aspirations are not easily confused. Still, most real gangsters don't listen to gangsta rap for inspiration to do what they do. They check out old-school grooves. Too many of them have said so for us to ignore it. A lot of gangsters prefer Al Green to Snoop Doggy Dogg. Too often, then, black youth are all lumped together—in the media, in discussions by black intellectuals, in the analyses of cultural critics, and in the public imagination.

Unlike Ralph Ellison's character in his famous novel, and the bulk of black folk for a long stretch of our history, black youth suffer, not from invisibility, but from *hypervisibility*. The surplus sighting, and citing, of young black bodies—in crime stories on the news, in congressional hearings about demeaning imagery in pop music, in shopping malls where they hang out, in police profiles where they are stigmatized, in suburban communities where they are surveilled—has draped paranoia and panic around their very limbs. In all wrong ways, black youth are overexposed. (Is it any wonder, then, that they dress in oversize clothing to hide their demonized bodies, to diminish the measuring of their alleged menace?)

And unlike James Baldwin and generations of black folk, black youth don't suffer from namelessness. They suffer from *namefulness*, from too many names. The sheer nameability of black youth, the ease with which they are mislabeled, promotes young black youth a negative solidarity, a unity produced by the attacks they have in common. Like Thomas Hobbes, black youth understand that human beings wield power through calling names and avoiding names. As Hobbes knew, black youth also know that names venerate and vilify. Names influence events. Hip-hop culture has provoked the naming, really the misnaming, of black youth: sadistic, self-destructive, violent, brutal, narcissistic, nihilistic, pathological, immoral, and, for some, evil. Hip-hop has fought back. It uses strategies of naming, renaming, unnaming, and overnaming its own culture and the cultures—racist, rich, elite, bourgeois—against which it strives.

Instead of nostalgia, we need serious, rigorous analysis and critical appreciation of black youth. Instead of attacks on hip-hop culture, we need sharp, well-informed evaluations of its artistic statements and ethical imagination. Black nostalgia must be replaced by an even stronger force: the historic black determination to remain undefeated by pessimism from within black culture, and paranoia from beyond its borders. We must not be prisoners of our present circumstances, of current events. We must be prisoners of faith.

The CHAIRMAN. Dr. Borenstein, Dr. Cook and Mr. McIntyre, if the present rating system is not satisfactory—first of all, I do not know if you have seen this piece that is put out by the entertainment software rating board. Have you seen it, Dr. Cook?

Dr. COOK. No, I have not.

The CHAIRMAN. Would you pass it down? And Mr. McIntyre. Not only would I like you to glance at that, but what changes need to be made to the ratings system to make it more effective and more informative for Americans? Maybe I could begin with you, Dr. Borenstein. I am not recommending that. I am just noting that there are some ideas out there. What do we need to do?

Dr. BORENSTEIN. Senator, I am not prepared at this moment to tell you in detail what more needs to be done.

The CHAIRMAN. I do not expect that.

Dr. BORENSTEIN. But I think this is a good beginning. However, as I think about individual movies, for example, you could have the *Private Ryan* movie, and it shows the horror of war and the pain

of war. Then you can have glorified violence showing in a war movie, but it is glorifying the violence. And that is a very different thing. And I think we can begin to make some distinctions between movies that show violence in one way or violence in a different way. An historical piece is one thing if it is done properly. Many movies do not show that people are actually hurt when they—the pain and suffering that is involved with the violence. They tend to glorify it and things like that. And I think we can make those kinds of distinctions, and we are willing to work with the entertainment industry and others to do so.

The CHAIRMAN. Dr. Cook.

Dr. COOK. I feel that we need to continue to work to see if we cannot simplify this so parents can understand it better. It is fairly simple now. But many people do not understand what it is. But I am not sure how we can get people to basically react to it and learn what these symbols mean. But I think we have something lacking in the system now. Parents cannot always tell by looking at the symbol that is there exactly what they are going to find in the movie or in the video or whatever it is. And I think that is what concerns them more than anything not being able to read what is there when they see the ratings. We need to be a little more careful about getting that explicit enough so that they can understand.

Mr. LOWENSTEIN. Mr. Chairman, can I make a brief comment on that?

The CHAIRMAN. Yes, sir.

Mr. LOWENSTEIN. Since this is the video game rating system that you passed out, the Entertainment Software Rating Board. I think it is an important point to note that this rating system does provide very simple information on age appropriateness and content. Moreover, a video game is very different from a movie or a CD in terms of how it is marketed. The packaging is a primary component of the marketing. It is very difficult to pick up a video game package and not have a pretty good idea of what the content of the game is. That is supplemented by a rating that says the age appropriateness and indicates the content, whether it is animated violence, realistic violence, suggestive themes, and so on.

So this system is very simple. It has been tested extensively. And the research suggested nearly 80 percent of Americans think it is helpful in making decisions. And I would just very briefly add that we approached some of these medical groups on this panel last fall and asked them for their help in getting information out about this rating system. We cannot do it alone. And I would reiterate today—unfortunately they were not able to help last fall. We will once again offer to work with them, to try to get information. I am not asking for them to endorse the system. But I think it is, in virtually everybody's opinion, a helpful tool for parents to use. And we would like to get it out in as many people's hands as we possibly can.

The CHAIRMAN. Mr. McIntyre.

Mr. MCINTYRE. I think the point actually that Mr. Goldberg from Artemis Records made on this morning's panel that all children are different and all families are different is an important one to consider in the consideration of rating systems. All children are different. We know based not only on individual situations, but also

based on developmental levels. In that instance, it is the parent's duty and the parent's power, and the parent's power only, to be able to make the decisions for healthful habits for their individual children. As such, they should have as much information as possible so they can make their own decisions for them. Having a ratings system that ultimately is based on age categories does nothing if I have a young child that is having tendencies towards violent actions, is getting into fights in school and whatnot.

I may have liberal attitudes about language or sexuality or whatnot, but I absolutely want to protect that child from violence. When I go in and see a "PG" or "PG–13" movie or see a teen rating on a video game, although there are some qualifiers if you take the time to dig into it, it does not tell parents the amount of information that they need in order to take the actions that they and they alone should be taking.

The CHAIRMAN. Thank you. Mr. Valenti, I know that you know that I have great respect for your distinguished career, including very honorable service during a very difficult time of transition in the history of this country you served for many years.

I am also concerned as I said, about this cynicism that pervades the country now. We are looking at the lowest voter turnout perhaps in history in this upcoming presidential election. According to *The New York Times* yesterday, Mr. Valenti dismissed the Democrat's proposal as carefully calibrated political posturing. "Frankly," he said, "if I were running for office, I would be trashing the movie industry myself." What does that mean, Mr. Valenti?

Mr. VALENTI. It means exactly what it says, Mr. Chairman.

The CHAIRMAN. So there is no sincerity.

Mr. VALENTI. No, I am saying to you that realistically—and I have been in politics all my life—I know that when you trash the entertainment business, your poll numbers go up. I have talked to a number of pollsters in this town. And I am not being critical, because I would be doing the same thing. But that is not the issue. I am as concerned as you are about what is going on in this country. And I yield to no man in my respect for you, Senator. As I have told you sitting across the dinner table, you are one of the few Americans I know, you and Senator Inouye, who really define what the word sic means. So there is nothing you could say that would ever get me mad at you. That is for sure.

But I would like to discuss what we are doing. There has been a dismissal of our rating system. These three gentlemen say the rating system is not working. That chart shows a record of 31 years of polling in this country. We have an all time high in parental endorsement. And it is swept away with casual regard. I do not understand that. We are going right to parents with children under 13. Nobody at this table—with maybe Doug's exception—has children under 13. I am saying to you that parents are saying we think what you are doing is useful, very useful. Do you think that anything would last that long?

And by the way, we are the only enterprise in the entire country of all business enterprises, not just entertainment, that deliberately and voluntarily turns away revenues in order to redeem this obligation that we have to parents. I am not saying you have

to love us, but somebody ought to say, you know something? That is not a bad job.

Dr. BORENSTEIN. Chairman McCain, I must apologize. I have to leave to catch an airplane and get back to patient care. I thank you very much for the opportunity to appear.

The CHAIRMAN. Thank you for being with us. And I want to apologize to you for the delay in your appearance. And I appreciate you taking the time and effort to be here. Maybe if there is good news in the inconvenience, it is that we have forced on you that there is obviously great interest in this issue. And your testimony is very important to us.

Dr. BORENSTEIN. Thank you.

The CHAIRMAN. Thank you. Senator Hollings.

Senator HOLLINGS. Thank you, Mr. Chairman. I have hung back because the office is filled up. We are all behind in our schedules. But I wanted out of respect for Mr. Valenti to tell him that I would persist in the TV violence measure that we will markup here on next Wednesday. There is no one that I have greater affection for or respect. Jack Valenti is the smartest fellow that I have met up here in 34 years.

The CHAIRMAN. I agree.

Senator HOLLINGS. He is literate. I read his books. And he does a hell of an outstanding job for an industry that in a sense ought to be trashed because they trash themselves. We (Congress) would have to stand in line to trash them. Look, you are a wonderful performer. However, in the history of broadcasting, producers said to put in murder and get some more violence. We have been knowing this now for 50 years. And to come in here and have the unmitigated gall to try to take credit for the lowering of the crime rate in this country. Whoopee! As I said, I just have to stay back with that statement of yours.

Let me tell you the put offs I have had to go through. Because back there when Pastore started, exactly the arguments about Euclidean geometry and it is imprecise and there is no real causal connection or anything else of that kind. All of that is true. It is hard to prove, but we all know it. We all know it when we see it as a Supreme Court Justice said.

In this case, we have had the Surgeon General. We got a Surgeon General report. We have had the psychiatric, the pediatric, the American Medical, the psychological, all of these studies have been, Professor Huron of Michigan has written a book. The Institute of Mental Health made a ten year study.

So that was all during the early 1970s and 1980s. By 1995 when we finally got to a bill—and incidentally, you put me off with Paul Simon. I have got the fellow you spotted already on this Committee. I know you, and you know me. It was suggested then that a study should be conducted. We have got to study. If we only give the industry added trust exemption, violence would go down and the violent movies would stop for children and that kind of thing. Instead, we have got the FTC study saying they are marketing it.

Now, we had that. And in 1995, you asked about the constitutionality. We had to get the Attorney General and all the law professors because I am sorry Dr. Borenstein just left because it has to be very carefully couched in the legislative language in the sense

that we have got to strand the strictest review by the court itself. So it has got to be not just violence, but it has got to be gratuitous violence, not necessary to the plot. And even then, it has got to be excessive gratuitous violence. And incidentally, that does not only work in Europe. A Senator from California came and said, well, wait a minute. They go from Detroit over to Windsor, Canada and they do not seem to have that trouble. So the problem is somewhere else. So Windsor, Canada has got the Safe Harbor Practice—right, which is similar to my bill.

But the ratings. You have got the V-chip and the ratings. In Canada, I know that the ratings are no good—I mean, the ratings might be accurate or whatever it is, but they do not respond to reality. And the V-chip does not. The evidence this morning is 97 percent have never used the V-chip, only two or three percent ever will. So that is not going to help us.

So you say they love their children, and I know they do. But they love money and that is the competition. That is the argument we have got on the floor. They love their country, but they like to produce overseas. They could care less about the jobs overseas. And going over there. Because they make a bigger profit. This is the China bill. I am not against China. I am against the United States because we do not have a policy.

It is not mistakes, Mr. Valenti. You say it is mistakes. Those mistakes will happen. They have got an affirmative action policy to distribute, market and include violence and market that violence to children. There is no question in my mind watching this thing over the many years. I have got to continue to insist, and I wish I could do something to help you because you deserve it. You are one of the most talented, deserving individuals I have ever known. I say that in all fairness. But this has got to continue. We have got to do what we found works and that is have a safe harbor bill. I would be glad for you to respond.

Mr. VALENTI. Mr. Chairman and Senator Hollings, thank you for the kind words and thank you for what I think are probably some other truths that you talk about. I had no idea to be honest with you—before I answer your question about safe harbor—that our companies were actually putting 10- and 12-year-olds in a focus group. I did not know that. Now I do. And I can guarantee you, that is not going to happen anymore.

On the Safe Harbor bill, I do not know how you define gratuitous. The great professor of philosophy, Garnett Hardin, said that how do you define enough? And he said, well, enough is when it is more than enough. Gratuitous means that there is more than enough. But I would think that the courts would have as much difficulty doing that, as you pointed out, that Justice Potter Stewart said I cannot define pornography, but I know what it is when I see it.

I would think that before you can have such a bill, there has to be written down with some precision. Because if you are going to employ sanctions against somebody, you ought to know what they are being sanctioned for. And it has to be defined clearly. Whereas you and I both know, I think the courts would not find that congenial.

So I think that is one of the things that has to be done. And we are trying desperately to do what we think is right. I have tried to lay before you a rating system. But a rating system only works if parents use it. Now, you were involved in the organization, the TV ratings. We went with all these child advocacy groups and we had D for dialogue, L for language, S for Sex, V for violence. And we have a rating system. But you cannot force parents to use it. About 40 to 50 million television sets are equipped today with a V-chip. How do you say, Mr. & Mr. Parent, damnit use that V-chip? I do not know, Senator.

Senator HOLLINGS. Well, if the Chairman will indulge me, number one, with respect to precision, that would be a mistake. Gratuitous means not necessary to the plot and not necessarily under the circumstances of that particular film. Let us say it since we are talking about movies. You would allow the Federal Communications Commission as they have determined about obscenity from time-to-time on an ad hoc basis.

So generally, we know what is gratuitous violence. We had the CBS Vice President come up when you were there one time before and were testifying. They had a little bit of violence at the bar. But then it became totally gratuitous because it was not necessary to the plot. And that is all it was is just throwing people through windows, breaking windows over their heads, hitting them in the head with a hammer and everything else like that. And it was supposed to be a calm show.

But in any event, you are not going to have that precision. Do not ask us to legislate precisely, because we will never legislate. You know that. You are smart. That will never happen. So we will never get that law. Otherwise, you say how are you going to get through to parents? We live in the real world. I have got five grandchildren. I have got five TVs upstairs, downstairs, down in the workroom and everything else. You think I am going to follow the child all the way around the house and everything else? I really would be an athlete if I did that.

So you cannot depend on the ratings and the parents. That has got to be said. Somebody ought to say it because everybody who is a parent around here knows it, you just cannot catch up with the children. And the rating, if you got that rating here that says VAO, oh, boy. I am a 14, 15-year-old, 12-year-old, and I can read that. That is for adults only. That is the one I am going to find. I am going to get that one quick. I can tell you that right now. So you are advertising. You are upgrading.

And the V-chip, Hollywood says, well, you have got the V-chip. Now you can put as much violence as you want because we can depend on the parents to use the V-chip. So really the V-chip has had a counter-productive effect in the sense that they put on more violence and come up here and testify. Well, you have got the V-chip. It is up to the parents. That is not going to work. We have got a real national problem with respect to violence in our society. It is not in these other societies. We know how they control it. It is worth a try here.

Mr. VALENTI. But, you know, Senator, if I may respond. It is just like in the political world—and I keep coming back to that because I spent my life in it. Two candidates in my home state of Texas——

The CHAIRMAN. Could you summarize? Really, we have three other Senators.

Mr. VALENTI. I am sorry. Thank you very much.

The CHAIRMAN. Go ahead. Go ahead. Please.

Mr. VALENTI. I was just going to point out people have different views. I might say my opponent is indulging in negative advertising. And he says, no, I am not indulging in negative advertising. Somebody might say there is too much violence. Somebody said, no, there is not too much violence. I only point out the incongruity of trying to precisely say this has too much violence. That does not. It is a problem of human logistics, Senator.

The CHAIRMAN. Thank you, Mr. Valenti. Senator Inouye.

Senator INOUYE. Thank you. Sitting here and listening to the witnesses, one can conclude that everyone agrees that exposing a child to violence will have a negative impact upon a child's development. No one disagrees with that.

Having said that, I would just like to note a few things. About a month ago, I had the privilege of addressing a high school class. And in the question and answer period, one of the students stood up and said can you suggest some of the best movies you have seen? So I said, "Yes. I would recommend *Saving Private Ryan*." I would recommend *Schindler's List*. And recently I saw *The Patriot*. And the same thing was echoed here on the panel. Several witnesses pointed out that Hollywood does good work. And they cited specifically those three, *Schindler's List*, *Saving Private Ryan* and *The Patriot*.

And here I am, I recommended these three monumental films. I just learned today—because I was just curious. I asked my staff sitting in the back here, by the way, what ratings do these three get, *Schindler's List*, *Saving Private Ryan* and *The Patriot*? She had no idea. So she had to go out and check. You know, I had committed a crime. They are all "R". I recommended to young kids, 14, 15, 16, that they should watch these three R-rated movies.

I cite this to suggest that what we are confronting here is not easy obviously. I do not know what the answer is. I hope we do not come to a situation like tobacco where we will require a retailer to set aside a private room where all our video cassettes are going to be displayed and only adults may enter the doorway. What would you suggest?

Mr. VALENTI. Well, Senator Inouye, you know we have an adults-only rating. It is called "NC–17" where children are barred from attending the movie. And most video stores will have a separate place. If they do sell or rent those, they will do it separately. And no child can rent it or no child can buy it. The Blockbuster stores and others are very, very serious in enforcing that.

I am saying to you we are dealing with some vagueries of the human condition that is beyond the power of any one or two people or any one or two groups or any one or two industries to be able to fix in somebody's mind how they should react to a particular situation.

I think Mr. Goldberg was talking about that all children are different because they come from different backgrounds. And all parents are different. I do not believe anybody that is a mere mortal can make these judgments about other people. So all we do in this

free and loving land is to try to give people some advance information about what it is they eat, what it is they do, what they see, what they read. And then let them make those judgments, much as we do in an election booth. We offer candidates and we say choose one that you like to vote for. That is the only way I know to deal with it. It is imperfect. It is clumsy and it is awkward. And sometimes it causes frustration, makes us vexed. That is part of being a free republic.

Now, if I were an enlightened despot, I could deal with this. And, by the way, that is a thought that is kind of congenial to me as a matter of fact. But we do not have that kind. When the Soviets were in power, you did not have anything on television that the Kremlin did not want.

You pay a price for that though. And so I am saying to you that I do not know of any way that you can inflict upon others your own judgments. And your, I mean, the Congress or a group or an association, whatever. You cannot do it any more than the majority/minority leader can fix upon the members of his party how to vote on a particular thing or how to respond. You cannot do it.

Dr. DYSON. Can I add something to the response if I may, Senator? You know, what strikes me as intriguing and at least worthy of the same sort of intense scrutiny to which we subject this whole rating system and about music or videos and movies is the fact when we think about television, you know, we cannot calibrate the intensity of the psychic violence that was done when say back in the 1950s when father knew best, when America generally through the haze of nostalgia has a claim that is the golden age of television and cinema and filmmaking and so on. The reality is that there was so much stuff that was done to devastate the minds of the average American, including young black kids, young poor white kids, Latino kids, Asian kids, minority kids, gay and lesbian kids, my God.

And during the era of father knew best, the rates of domestic violence that were intensely expressed in American society were never reflected on television. And what happened through the haze of nostalgia, we romanticize the American family as the kind of locus classicus of everything that was good. When indeed there was so much pathology going on.

Number two. When you think about that era of father knew best and black and white that we now romanticize, Lassie had a television program and Nat King Cole could not stay on for a year. Now, what does that say to a young person growing up? I can look at a dog, look at Timmy and Lassie, Sister June and everybody else who was on the show—because I checked it out—the dog had a program and Lassie was worthy of being followed. Bow wow wow. What you saying, girl? Bow wow wow wow. Let us follow her out. But a black man of enormous talent, on whose back Capitol Records was built, could not stay on television because of the revulsion for black skinned skill and talent in one segment.

And I am saying look at the psychologically violent consequences to young people. So I am saying all that to say this. That when you begin to try to calibrate, it is not only about the resistance of a Euclidian geometry or an Archimedean point of objectivity from

which we can look at television and say and radio and say and lyrics and say and movies and say that stuff is bad.

Of course, we have common sense. We know when stuff is destructive or not. But the reality is there is so much more that is destructive that never shows up on the radar screen. There is so much more that does violence to young people who are growing up that has nothing to do with whether somebody said damn or hell or some other word. It is about the realities that they confront and the inability to make those realities visible and to make the United States Congress take those seriously. I think we have to put those in context as well as these other things about which we eloquently discourse here today.

Senator INOUYE. Mr. Chairman, I'm happy I was hear to listen to this panel here. Dr. Cook, is there a difference in violence, say in the three movies that I cited, and other R-rated movies? When is violence real violence?

Dr. COOK. No. No, it is not. There is varied—many different grades of violence, and some are intentional, some violence is intended to harm, some is unintentional. There's many different types and grades of violence, and so violence isn't violence isn't violence.

Actually, something that no one has mentioned here today, there has been a slight decrease in the amount of violence in the United States in the last few years. This is particularly true, except in 15- to 24-year-olds. And in that group, the violence hasn't decreased. So some of the things we're doing somewhere are working. We just need it to work better and more effectively so the rate will continue to drop. But the violence rate increased up until about 1992 or 1993 and then has begun to come down slightly since that time.

So I think that's important. There are things out there that are happening that are positive to make that occur.

Senator INOUYE. Dr. Cook, I want to thank you for your contribution. The statistics that you cite among African Americans can be duplicated in the Native American——

Dr. COOK. Yes, sir.

Senator INOUYE. —population of the United States——

Dr. COOK. Yes.

Senator INOUYE. —in some cases, worse.

Dr. COOK. Uh-huh, absolutely.

Senator INOUYE. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, sir. I'm unaware of whether Senator Breaux or Senator Kerry arrived first. Senator Kerry?

Senator KERRY. Mr. Chairman, thank you very much. It's been very interesting listening to a lot of this. I apologize that some of us have not been able to be here throughout the hearing.

I mean, as I said earlier today, there's some really tricky aspects to this that I know Senator Inouye was particularly sensitive to, and others, I think, have been.

And Mr. Dyson, I was particularly struck. I came in—I didn't hear all of your testimony, but I couldn't agree with you more strongly about the perceptions of young people and the difficulties of our trying to amass judgment on some aspects of what we hear. Certainly one person's profanity can easily be another person's protest.

Dr. DYSON. Uh-huh.

Senator KERRY. And that's always been true. It has always been true. And I can remember, during the turmoil of the 1960s and early 1970s in this country, there was an awful lot of profanity that was part of the political protest. And obviously, it would be sanctioned by the court under the First Amendment.

And if I were black or Latino or some other minorities in America, I could find a lot of four-letter words and a lot of other kinds of words of powerful alliteration with which to describe this institution and the political system's lack of response. I mean, after all, 48 percent of the kids in New York City don't graduate from high school.

Dr. DYSON. Yeah, right.

Senator KERRY. There are more African Americans in prison today than in college.

Dr. DYSON. Uh-huh.

Senator KERRY. And if I were a young black person growing up in those circumstances in this country, notwithstanding the extraordinary opportunities that there are, and there are—I mean, there are just amazing opportunities for people. And you look at a person like Devall Patrick in Massachusetts, who came out of the south side of Chicago, happened to get a great scholarship, went to Harvard, became——

Dr. DYSON. Yeah.

Senator KERRY. —Assistant Attorney General for Civil Rights. I mean, there are people of enormous distinction who've made it. But the problem is, systemically there is a sense still of much too great a set of hurdles and too many barriers.

And you look at what was in the paper—I think it was yesterday or today—that the reports are now—the surveys they're doing on the application of the death penalty——

Dr. DYSON. Yes.

Senator KERRY. —that is showing the same kind of very disturbing trend lines with respect to race and otherwise.

Dr. DYSON. Uh-huh.

Senator KERRY. So I would caution my colleagues a little bit with respect to sort of a blanket statement with respect to what we hear. Music has always been a form of expression, from the beginning of time, and an enormous political tool, I might add.

Dr. DYSON. Right.

Senator KERRY. And, in many cases, it is. Now, that being said——

Dr. DYSON. Right.

Senator KERRY. —it is really hard to find any excuse and certainly any political redemption——

Dr. DYSON. Uh-huh.

Senator KERRY. —in some of the lyrics that we see. There is, in fact, a particularly onerous aspect of the anger that is expressed in some of the lyrics. It's a kind of anger of domination that is particularly violent against women. And I am a parent, though my kids have now made it through college and seem to be okay, but I would have—I had serious reservations about that. And I think any parent has to have serious reservations about what they hear.

And my question to any of the panelists who can answer this adequately—and then I want to ask Mr. Valenti something about the movies, per se. And, of course, there's a distinction between some of the music, between the software, between the video games, between movies. I mean, there's a lot of gradation here, and we have to also be thoughtful about that—but with respect to the music, it does strike me that some of what we've heard in the last ten years goes over a line that any responsible corporate entity ought to have second thoughts about sponsoring notwithstanding some desire in the public at large to perhaps buy it.

I can understand, maybe, pirate companies selling it. I could understand an underground network that makes some of it available. I find it very hard to understand why the most upright, upstanding, respected corporate entities in the country are advertising it are—or are in on it, supporting it, investing in it. And I wonder if—I mean, isn't there some measure—short of legislation and overreach by a legislative body, isn't there some way for a more adequate and responsible level of restraint to be exercised from the industry itself, or is that simply, after all these years, asking too much?

Ms. ROSEN. Well, Strauss Zelnick and Danny Goldberg earlier talked a little bit about, as executives, how they evaluate a record as it comes across their desk. And there are complicated measures that are not always definable, but they start with artistic integrity, they start with who the artist is, how they're saying what they're saying, how the music affects their messaging, and sometimes it really has nothing to do with trying to make a point; sometimes it's really just entertainment.

And I think that, to be frank, Senator, it probably is expecting too much to think that, at any given point, music is somehow going to be acceptable. You know, I've heard, over the last few days, this, sort of, "Well, you have six months to clean up your act." And with respect to the marketing practices and the FTC report and things, that's going to be looked at carefully, but I don't make any promises to this Committee, and I don't think anyone in the music industry would or should somehow suggest that music is going to change, that artists will change, that artists are not going to continue to seek out their own voice and their own possible distribution for that voice.

And some artists like being on the edge. That's how they—that's how they experience their emotions, and that is how they express their emotions. Other artists don't go there. But I wouldn't even know where to suggest that somebody draw the line as an abstract occasion. That's why——

Senator KERRY. Well, it's a self——

Ms. ROSEN. —executives have to do that every day, and they do.

Senator KERRY. Well, I guess it's a self- —I mean, obviously, it's a self-drawn line, but there are certainly lyrics—and I'm not going to go into them here and now—but, I could—I mean, there were some that I just find—I mean, I'm pretty open-minded and pretty willing to accept anybody's right to be edgy and sometimes even over the edge, but it's hard to find any social redemption of any kind—or artistic redemption—I mean, yeah, there's a beat, there's—you know, you can find that.

But even in some of them, there seems to me it's very hard to find that rationale that I know you can always articulate.

Ms. ROSEN. Well redemption is a lofty goal. I think it's sometimes asking too much when you're just talking about entertainment. I agree with you——

Senator KERRY. Well, lots of things are entertaining, but they're not always allowed by the law.

Ms. ROSEN. Well, I understand. But in the case of speech, that is allowed by law, but what you heard this morning from some articulate guys, I thought, was not, "We'll do anything because we can." Yes, the First Amendment does allow——

The CHAIRMAN. Obscenity is not allowed by law, Ms. Rosen.

Ms. ROSEN. I'm sorry?

The CHAIRMAN. Obscenity is not, according to the United States Supreme Court——

Ms. ROSEN. I understand. I was just going to get there. I'm not making a First Amendment argument, and I don't think the executives today made a First Amendment argument. I think what they said was, we take responsibility for what we put out in each piece. It's individually examined. And some piece of it has value to those who create it and has an audience, and so they put it out.

So I don't think that there is just sort of this blind attachment to free speech. I think it is a sincere desire to have a diversity in the marketplace and to pursue that with all possible artists.

Dr. DYSON. Can I add very briefly in regard to that point, Senator Kerry? I think that—take for example—what Ms. Rosen is saying—take, for example, the album—the first album by Notorious B.I.G.—Biggie Small's. Now, on that album, you would find stuff, I would find stuff, all of us, most of us would find stuff that's pretty repulsive.

His song celebrating his girlfriend is called, "Me and My B——," and we can fill in the blanks there. Now, even though he means it as a term of affection, he goes on to iterate how this woman has really helped him, and so on and so forth. On that same album, he's got many other songs, like "Things Don't Change." "Back in the days our parents used to take care of us, look at 'em now. They're even blankin' scared of us, calling the city for help because they can't maintain. Darn things don't change. If I wasn't in the rap game, I'd probably have a key, a kilo, knee deep in the crack game, 'cause the streets is a short stop. Either you sling and crack rock, or you got a wicked jump shot. Damn, it's hard being young from the slums, eatin' five-cent gums, not knowing where your meal's coming from. What happened to the summertime cookout? Every time I turn around, a brother's being took out."

Now, if you restrict because of vulgarity and profanity and misogyny and unwarranted sexism, the commercial viability of a particular album—on that same album is an eloquent exhortation——

Senator KERRY. But that's not what I'm——

Dr. DYSON. —(inaudible crosstalk)—to deal with.

Senator KERRY. —that's not what I'm talking about. That——

Dr. DYSON. And I'm saying on the same album, though, the complex amalgam——

Senator KERRY. That's not——

Dr. DYSON. —of the good and the bad together.

Senator KERRY. Sure, but that's not what I'm talking about. That's a powerful statement. I mean, at easy blush—someone would say there's a—I mean, there's a whole lot contained in that. I don't think that's what I'm talking about, but I don't want to get bogged down here.

Dr. DYSON. Right.

Senator KERRY. I think most people—it's exactly what Jack Valenti said, you know, when—you can't necessarily define pornography, but you know when you see it. People know when they are reading a lyric or a paragraph——

Dr. DYSON. Sure.

Senator KERRY. —that has absolutely no value except for shock value.

Dr. DYSON. Right.

Senator KERRY. And I think people can do that pretty well. And somehow that stuff finds its way into mainstream marketing. And, in many cases—and I think you have to recognize this—we all know how celebrity works in America, and we know how the marketing and——

Dr. Dyson. Yeah.

Senator KERRY. —and sort of, build up is.

Dr. DYSON. Sure.

Senator KERRY. You can create a demand for it.

Dr. DYSON. Yeah.

Senator KERRY. One can create a sense of acceptability to it and build it into something than any, sort of, real movement has created or—

Dr. DYSON. Yeah.

Senator KERRY. —legitimacy. So again——

Ms. ROSEN. But that——

Senator KERRY. —I don't want to get into this——

Ms. ROSEN. —that's not really true, with all due respect. You can't buy popularity. I mean, artists get popular because people are attracted to what they say. If you could buy popularity, 85 percent of the records that we put in the marketplace wouldn't fail or——

Senator KERRY. Let me say——

Ms. ROSEN. —or, you know, or something——

Senator KERRY. —let me say that—you know, you and I are good friends. We don't disagree on a lot, but I will disagree on the notion that, number one, you can't buy popularity. Witness some political races in this country. Number two——

Ms. ROSEN. Well, in our business, you can't.

Senator KERRY. Yes, indeed, in your business, you can.

Ms. ROSEN. You can——

Senator KERRY. Remember when the Monkees——

Ms. ROSEN. —you can buy attention.

Senator KERRY. —the Monkees were completely created out of whole cloth——

[Laughter.]

Senator KERRY. —completely created out of whole cloth——

VOICE. Oh, no, not the Monkees.

[Laughter.]

Senator KERRY. —and they were given a creation and an existence that had no——

Ms. ROSEN. But they——

Senator KERRY. —relationship—built on the popularity of the Beatles, correct?

Ms. ROSEN. No, but they were sustained because people were——

Senator KERRY. 'Cause it mimicked——

Ms. ROSEN. —attracted to what was offered. There is a difference between buying popularity and buying attention.

Senator KERRY. Of course, because it was pure mimicking of what was already there, and I can give you—I can create some mimicry and put it out there. That doesn't mean it has legitimacy, in and of itself. The original does. But then you create—I mean, I don't want to get lost in this argument, because it's a——

Dr. DYSON. Because Mickey Dolenz did have skills.

[Laughter.]

Senator KERRY. Let me just ask one last question on a different subject. Mr. Valenti——

The CHAIRMAN. Can I make a point, John, very quickly? This hearing is about marketing and an FTC report about marketing. If we want to have a—hearing about content and whether or not it's obscene or not and all that, that is not the subject nor the focus of this hearing. This hearing is not about censorship. It's about marketing and the conclusions reached by the FTC. That's what this is all about. I want to——

Senator KERRY. That's what I'm——

The CHAIRMAN. —emphasize that again.

Senator KERRY. —trying to get to, and I agree with that, Mr. Chairman, which is why I wanted to ask you, Mr. Valenti, in terms of the marketing, the ads that appear in the newspaper on a number of movies that have—almost all have some sort of a rating, you know, box—very small, usually. But what you can't find in this anywhere is sort of a description of the rating. I mean, you see the "R," but you don't know if it's rated "R" for violence or "R" for sexual explicitness, et cetera.

And the question is, when asked, in the FTC report, I believe the industry said, "Well, we don't have space to be able to do that." Now, even when you go to the Web site advertised, again, in extraordinarily small print on these, and you try to—you can get the trailer, and you can get some information about the movie, but you don't get any linkage to the film ratings dot-com site, you don't get any indication of, again, what—there's no greater tool, if you will, for a parent to be able to understand what the movie might be about.

And when you look at the ads themselves—I mean, this is, you know, a *New York Times* advertisement—it's pretty hard to understand where the space problem is in that ad. And this is a *Washington Post* ad for "The Watcher"—again, pretty hard to understand why there isn't space.

And I asked my staff to go in and look at the Web sites on the marketing and see if they could find any explanations of what this might be about. And the best they could find out, it was—you know, it seemed to be about the strangulation of a woman, but no

further kind of light shed on the nature of the—on the nature of the rating itself.

I wonder if the industry, I mean, could not be spontaneously encouraged to sort of come out and say, "Well, we can do a better job of making certain that people really have an explanation at their fingertips."

Mr. VALENTI. Point's well taken. In fact, that's one of the omissions that we're going to fill, that every Web site, I think, ought to carry the reasons for the ratings and have linkage to parentingguide.org, to filmrating.com, to Moviefone and all—and the MPAA Web site, as well, so that they're all interconnected by linkage.

Now, Senator, one of the things that—you saw a full-page ad there. Those full-page ads are only in the large newspapers. Maybe 80 percent of the country doesn't get full-page ads. It would break a company. And when you get into quarter-page ads, there's not any room, because that ad—the size of type in that ad is all worked out with creative rights committees between the writer's guild, director's guild, actor's guild, and the producers, so that there is a—there's literally kind of an architecture of that ad mutually agreed upon.

So that if we placed those ratings reasons in the full-page ad and somebody—and there will be people say you've got to make them bigger, now we've got to go through that whole process, because that ad is carefully textured with both the creative community and the producers.

As far as making rating reasons visible, I think you hit a point that I've already put down on my notes that I'm going to take up with each of the companies. We're going to have rating reasons.

Now, to go beyond violence——

The CHAIRMAN. I'd ask you to summarize your answer, Jack.

Mr. VALENTI. Well, but that's——

The CHAIRMAN. We're in the fifth hour of this hearing.

Mr. VALENTI. —that's all I need to say, Senator.

The CHAIRMAN. Thank you.

Senator KERRY. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Brownback?

Senator BROWNBACK. Yes. These are specific and direct to Jack, if I could. And I have a great deal of respect for you, as well, and your great talents. In the report, on page 13, the industry itself, your industry, the MPAA, takes the view that children are appropriate targets for such films—these are "R" and "PG–13"—so long as parental accompaniment or guidance is provided. Marketing documents reviewed by the Commission indicate extensive marketing and, in many instances, explicit targeting of violent "R" films to children under the age of 17, and of violent "PG–13" films to children under 13. That's in the report. It's on Page 13 of the report.

Mr. VALENTI. I have it right here, Senator.

Senator BROWNBACK. My question to you—just really, as an industry—we've got a third of our children out there being raised by single parents. Do you feel this is appropriate industry policy to target market these types of films to that audience? This is a policy statement, as I understand, of your industry.

Mr. VALENTI. With all due respect to the FTC, that's simply wrong. We don't make policy statements about how marketing is done. We just make the ratings system, which is not connected to the movie industry at all.

I'm the only person that is connected to the movie industry that has any power over the ratings system. I hire the people there, and no one can get to that ratings system without knocking me down, and they haven't done so in 32 years. This is a wrong statement.

Senator BROWNBACK. You are saying that you do not target market "R" and "PG–13" films?

Mr. VALENTI. I'm saying the ratings system doesn't. We just give a rating. Now, what happens after that——

Senator BROWNBACK. But I'm—well, let me sharpen my question, then. Maybe I'm not asking it——

Mr. VALENTI. All right.

Senator BROWNBACK. —appropriately. These are "R" and "PG–13" films.

Mr. VALENTI. Right.

Senator BROWNBACK. The study says that there's extensive marketing to audiences of children under the age of 17 and children under 13 of "R" and "PG–13" rated films, and that your industry thinks that's okay.

Mr. VALENTI. Well, now——

Senator BROWNBACK. Is that correct or incorrect?

Mr. VALENTI. —it says here that the "MPAA takes the view." Well, I—are they speaking for all seven companies? Are they speaking for me? They're not speaking for me, 'cause I don't take that view at all.

Senator BROWNBACK. Okay, so you say you disagree with this view.

Mr. VALENTI. I'm saying this, Senator. I think that all "R" ratings films are different, as I said when I first made my statement; and that, therefore, I went on television saying I thought children 13 and 14 ought to go see *Saving Private Ryan*—that's an R-rated film—because I thought it would—I wanted to let them know where the gift of freedom came from. I'm saying to you that we have—we, the MPAA, has no——

Senator BROWNBACK. But the——

Mr. VALENTI.—authority over that.

Senator BROWNBACK. —*Fight Club*, then, I would presume you'd say that's inappropriate for children under the age of 17.

Mr. VALENTI. I do not think—this is my judgment—I do not think we ought to target under 17 for any picture that's R-rated.

Senator BROWNBACK. Will you be working toward that in your association?

Mr. VALENTI. I said it—yes. The answer is yes——

Senator BROWNBACK. Thank you.

Mr. VALENTI. —that we ought not be targeting under 17.

Senator BROWNBACK. Very good. I'll look forward to working with you on that. Now, Ms. Rosen, we had two of the executives in earlier, and they said that they would be willing to work on providing lyrics easily to parents, which has been something that has been very difficult. And I would like to work with you on two items. Number one is getting these lyrics readily, easily available to par-

ents. And the second is to have the parents involved in the ratings system, which they're not currently involved in. Will you be willing to do this, and to work your industry forward towards both of those topics?

Ms. ROSEN. Well, I was delighted to have something I could finally agree with Lynne Cheney on. I thought it was a productive suggestion, and I think that it exactly makes the point that if lyrics are available, people can make their own determination.

Senator BROWNBACK. So you will work with us to do both of these items?

Ms. ROSEN. No, not the second—tell me the second one again, sir?

Senator BROWNBACK. Parents involved in the rating——

Ms. ROSEN. Yeah.

Senator BROWNBACK. —process.

Ms. ROSEN. No, I don't support that. I think that the current system, as a voluntary system, works. We have virtually, in my four years as president of the RIAA, I've never had a phone call from a parent saying, "This record should have been stickered, when it wasn't." You know, that part of the system, I think, works.

But I do agree that there are some innovative ways we could look at to make lyrics available. I'm for that.

Senator BROWNBACK. Well, I would hope that you would take it to your industry to discuss having parents involved in the ratings systems and, if you could, to bring that up to your board, to have them discuss that very issue. My hope would be that they would not be objectionable—object to having parents involved in the ratings system.

Ms. ROSEN. Involved in——

Senator BROWNBACK. If you could do that——

Ms. ROSEN. —what way, Senator?

Senator BROWNBACK. What's that?

Ms. ROSEN. Involved in what way?

Senator BROWNBACK. In helping to set the ratings.

Ms. ROSEN. Oh, 74 percent of parents in the FTC's own report, which was quite critical in many areas, said that parents are satisfied with the system, so I don't think that's going to change. I don't want to—I'm certainly willing to discuss it with anybody, but I don't want to raise false expectations with you.

Senator BROWNBACK. Well, if you would be willing to discuss it with anybody, I would appreciate you discussing it with your board.

Ms. ROSEN. Sure.

Senator BROWNBACK. Thank you. I would note, to Mr. Valenti, that your ratings system, while received well by parents, on Page 11 of the report, the last question the FTC asked was, "How does the ratings system do in informing you about violence?" Good or excellent, 48 percent; fair or poor, 50 percent.

I think that probably applies some across the board to your ratings systems of the various industries here. So, I would hope you would look at that as saying, "Here's a way we need to work harder to get more of this information out and available to parents—similar to the lyrics issue."

Mr. Lowenstein, I want to applaud your industry for putting forward a code of conduct. I appreciate you at least setting forward and saying, "Okay, we're going to put some standards here," so that the rest of the country can measure you by the standards you set for your own industry. I would hope you could set them higher than a low bar, but I appreciate the willingness of you to come forward.

The problem is, as I've noted so far, it appears very few members of the industry are complying with the code, as this report documents. What steps can we expect that the IDSA will enact to ensure compliance with the code, and will there be consequences for your members if they don't comply with the code?

Mr. LOWENSTEIN. Let me make two comments on that, Senator. First, understand that the code is far broader than simply the target marketing provision. So when you talk about compliance, we're talking about ratings on packaging, we're talking about content information on packaging, we're talking about ratings in advertising. We recently required members to put content information in advertising, as well.

There is a whole range of provisions in this code, most of which are complied with at a very high level. The target marketing issue clearly is a problem, and the FTC identified it.

As I indicated in my testimony, we took the initiative last September to create a new self-regulatory body within the independent ratings board to more aggressively police and monitor the advertising practices of our industry.

The sanctions in there are quite strong—the way this will work is that when you ask—when you apply for a rating from the ratings board, you sign a document that obligates you to a set of terms and conditions, including compliance with the advertising code.

If, in the judgment of the ESRB, you have violated the advertising code, it has a range of sanctions it can bring against you, including revoking the rating, which would be commercially disastrous; you would basically lose your shelf space. They can proceed against you on trademark grounds, for fraudulent use of and misrepresentative use of a trademark. They can even refer the matter to the FTC under their own rules and regulations.

So we think we have built some teeth in. I want to make sure you understand that the ARC unit really began its operations in June or July, so it is, I freely admit, a work in progress. We are committed to making sure it's effective, and our board, as I said, in September, well before we even knew where the FTC was going to come with its findings, moved forward to try to address the advertising issues.

Senator BROWNBACK. I look forward to working that more with you. And I would just ask all three of you, as representatives of industries that are powerful, important, and key in influencing the hearts and minds and souls of young people, to think about this: we've got now the entire public health community saying that the level of intake of violent entertainment in this country is harmful. The entire public health community is saying that, and that it's causation—not just correlation; they're seeing causation now.

I would hope that would cause each of you pause as you think about your defense lines of basically saying, "Look, it's the parent that has to stop this stuff," and that you would say to yourselves, "Do I want to be a part of an industry that's freely and willingly pushing products that the entire public health community is saying are harmful to children? And do I want to push those knowing that about a third of our children in the country are in a single-parent household that struggles in the first place anyway?" These single parents are really trying to fight back, but you're cramming it down there with millions of dollars of advertising money.

So you make it pretty tough on two parents. You make it extraordinarily difficult on one. This is an issue the entire community says is harmful. So I would hope that you would take those thoughts and statements to heart. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Breaux?

Senator BREAUX. Thank you, Mr. Chairman. I thank you for your patience and for being here all day long and also for this particular panel for being the last, but not least, panel to be heard. I have just a couple of points that I'd like to explore.

If—and maybe Ms. Rosen and Mr. Lowenstein and Mr. Valenti could perhaps decide who might respond to this—if next week in the Senate Finance Committee I offered an amendment to the tax code that said no company can deduct the cost of marketing or advertising a product to underage children that the company itself has rated as unsuitable to underage children, would you all be able to support that amendment?

Mr. VALENTI. Well, first, we don't, in any of our ratings systems, say anything is unsuitable. We say it may be inappropriate, but the parent makes that judgment on "R", "PG–13", and "PG". On "NC–17", we say flatly, "No child should go into this movie." The children would be barred.

Senator BREAUX. So if there is advertising that is used to promote that product to underage children under the age that you have rated it as being unsuitable, would you be able to support an amendment that said if any industry does that, that they would not be able to deduct the cost of that marketing and advertising under the tax code?

Mr. VALENTI. Well, what I'm—I guess my answer, Senator, is that the "R" rating we don't say is unsuitable. That's a parent that makes that judgment. We say there's violence in here, there's some sensuality, there's some language, and you may not want your child to see it, but you may want your child to see it. It's your decision.

Senator BREAUX. The problem I have, Jack, is it seems that the FTC report indicates that there is, in fact, advertising and marketing of entertainment products to people that the industry itself has recommended that a certain group of young people not see. And my point is if that's the industry's determination, this is not proper for young people to see, then if you advertise to that group of children, is it fair to get a tax deduction for that advertising?

Mr. LOWENSTEIN. Senator Breaux, may I just make a brief comment? I think it's very important to look at this on a number of levels. First of all——

Senator BREAUX. I have a very simple question.

Mr. LOWENSTEIN. Well, no—except the proposal isn't simple. For example, the FTC——

Senator BREAUX. My proposal is very simple. You don't get a tax deduction for marketing to children.

Mr. LOWENSTEIN. Well, we need to define "marketing with children," Senator. The FTC——

Senator BREAUX. Advertising——

Mr. LOWENSTEIN. Well, the FTC would say that if you advertise in a publication where 50 percent or fewer of the readers are—or more of the readers are under 18, that constitutes target marketing. I'm not sure I would agree with that standard, because, in fact, you have half the population of a publication, or even a majority of a publication, which is appropriately targeted—the products are properly targeted to——

Senator BREAUX. Well——

The CHAIRMAN. Let me, if I could, interrupt my colleague to say—let me simplify it for you. The FTC has said the following outlets in the Kansas City market were targeted with flyers and/or posters for the films: Campfire Boys and Girls, YMCA of Greater KC, Boys and Girls Club of Eastern Jackson. Does that simplify it for you?

Mr. LOWENSTEIN. Well, I—you know, I can't—it simplifies it in a specific example, but——

The CHAIRMAN. Specifically distributed flyers to young people urging them to see a film that was rated "R" or NC–17.

Mr. VALENTI. Let me respond, Senator, by saying——

The CHAIRMAN. I don't want to—I'm sorry, Senator Breaux——

Senator BREAUX. That's all right. That's fine.

The CHAIRMAN. —but let's not complicate this, as Senator Breaux says. This is pretty simple. They advertise directly to young children.

Senator BREAUX. And your argument, Mr. Lowenstein, is that—how do you define advertising to young children? I'm asking the principal question.

And if we can determine how—that the company is, in fact, advertising to children—maybe advertising in teen magazines in which mostly people under 17 read—you know, is that—if you advertise a product that your own company has said is not suitable for that group of people that you're advertising to, is it proper to continue to get a tax deduction for that marketing and advertising expense?

You apparently say, "Well, it may not be advertising to those children." Let's find out where you, in fact, are. Is it still proper to get a deduction for advertising to that group?

Mr. LOWENSTEIN. Well, to be very honest, you know, I don't—I want to reserve judgment on that, because——

Senator BREAUX. Okay, that's good. Ms. Rosen?

Ms. ROSEN. I have a simple, but unpopular, answer. And the answer is no, I wouldn't support it. Although we don't have an age-based system, so it wouldn't affect it directly, but I think what you will do is put yourself in a constitutional Catch-22.

Senator BREAUX. Well, the point I would make is that this is not Congress determining that it's unsuitable.

Ms. ROSEN. No, no. That——

Senator BREAUX. This is a——

Ms. ROSEN. —that's my point.

Senator BREAUX. —this is the industry itself——

Ms. ROSEN. I get it.

Senator BREAUX. —that has made the ratings system that determines that this product——

Ms. ROSEN. Let——

Senator BREAUX. —is not——

Ms. ROSEN. —let me just finish my point——

Senator BREAUX. —suitable for a particular——

Ms. ROSEN. —my point.

Senator BREAUX. —group of people and yet apparently continues to advertise to the group that the industry itself says is not suitable to see this product.

Ms. ROSEN. If Congress enacted that——

Mr. VALENTI. Senator, I'm——

Ms. ROSEN. Let me finish, Jack. If such a statute were enacted, regardless of what anyone at this table said, any guideline that had an age-based recommendation would be withdrawn, because you would be taking away the voluntary incentive in the marketplace to create an age-based rating.

And the constitutional Catch-22 that Congress would be in, unfortunately, is that you couldn't impose an age-based rating system, because that would be unconstitutional. So you——

Senator BREAUX. So the industry would withdraw their age rating recommendations?

Ms. ROSEN. If you created—whether it was a tax issue or criminal sanctions that people are talking about the FTC should do, whatever it is, that creates disincentives for voluntary systems, people are going to react. And it——

Senator BREAUX. It just seems——

Ms. ROSEN. —doesn't make any sense.

Senator BREAUX. —it doesn't—I mean, the inconsistency of the FTC report seems to me to be this—they find that companies apparently market to the very people that the companies have said are unsuitable to view the product. I mean, that is a huge inconsistency. Jack, I think you——

Mr. VALENTI. Senator——

Senator BREAUX. I said——

Ms. ROSEN. I'm not saying it's right——

Senator BREAUX. —it earlier, that the marketing——

Ms. ROSEN. —I'm just saying that'll be the response.

Senator BREAUX. —department must not be listening to the executives who rate the movies.

Mr. VALENTI. Senator, I've got to respond. I think this is one of the most important questions that you—anybody's asked. Now, I want to tell you——

Senator BREAUX. It could be the last question, too.

Mr. VALENTI. —let me tell you about what we say, that an "NP"—"R", restricted, under 17 requires accompanying parent or adult guardian; signifies that the rating board has concluded the filM-rated may contain some adult material. Parents are urged to learn more about this film before taking their children to see it. An "R" may be assigned due to, among other things, language, theme,

violence, sex, or a portrayal of drug use. That's what we say. We don't say "unsuitable."

Senator BREAUX. How about NC–17?

Mr. VALENTI. I beg your pardon?

Senator BREAUX. How about NC–17?

Mr. VALENTI. NC–17 signifies that most parents would feel that this film is patently adult, and children 17 and under should not be admitted to it, period. That is——

Senator BREAUX. But isn't it inconsistent to say that we, as an industry, feel that this is something a certain category of people should not view, but yet we're going to spend advertising dollars to encourage them to see it?

Mr. VALENTI. Senator, I don't know how to make it simpler. I've read to you what our rating category is. It doesn't say "unsuitable." It doesn't say you can't go. Parents make that judgment. We say "it may"—that parents might—"it may contain." That's not "unsuitable," Senator, not at all.

Senator BREAUX. Okay, let me use another line in a different area. We have warning labels in this country on everything. We have warning labels on drugs—how you use them; please take them with food—if you don't, it's going to make you sick. We have warning labels on food products—how to cook the food, how to prepare it so it's still safe. We have warning labels on machinery—how to use it so you don't injure yourself. We have warning labels on cigarettes.

They've been out there for a long period of time saying, in fact, "If you use this product, it can kill you," in effect. Warning labels, in my opinion, are only effective if people read them, understand them, and follow them.

Now, the question I have—it seems to me that we've had these warning labels established by Congress, working with the industry. Mr. Valenti, you've established it for the motion picture industry. The disturbing thing that I have that I think that—I don't know how Congress solves this problem—is the fact that a recent study indicates that 92 percent of young boys play the video and electronic games. They understand the industry's ratings system, but 90 percent of these kids say the parents never check the ratings systems or what they buy and what they bring home.

On the V-chip issue, which we had hearings on and made a great deal to do about the V-chip on televisions, that 91 percent of the broadcasts and cable televisions are rated by the age-based system. This is the Kaiser Foundation study, and it went on to say that nearly one in ten parents, 9 percent—only 9 percent of children ages two to 17 now has a television with a V-chip. And one third of these parents, which is 3 percent of all the parents in the country have programmed the chip to block shows they deem unsuitable for their children.

That tells me that 97 percent of parents are not using the tools that we gave them to block out objectionable material that they themselves would determine unsuitable based on the ratings for their own children.

The reason I bring this up in this capacity is that it seems to me that the ratings systems, no matter how we write them, are only going to be good if people use them. And I think—and maybe our

psychologist friends, Dr. Cook or Mr. McIntyre, can comment on this.

I mean, apparently, what I'm hearing from the Kaiser Foundation study is that parents are not really doing what they should be and are coming to Congress to tell us to do more than perhaps we are capable of doing under the Constitution of this United States. I mean, if 97 percent of the families with teenage children don't use the V-chip, isn't that a great deal of their fault why this is being viewed by underage children?

Dr. COOK. Absolutely. And I would agree with those figures. I'd never seen them before, but just knowing what we see parents do many times, I think those are probably correct figures. It's appalling that, you know, people don't use the tools we give them to protect themselves, but, unfortunately, it's the truth, and I believe that.

Senator BREAUX. Mr. McIntyre, any comment on that?

Mr. MCINTYRE. I think that the burden of being—the burden of parenting in today's society is one that is loaded with a lot of potholes to have to work around. I think the——

Senator BREAUX. Isn't a V-chip a major way of getting around watching every television in your house? You say you plug it in and say, "You'll never watch this series," period.

Mr. MCINTYRE. I'm sorry, can you repeat that, please?

Senator BREAUX. That was what we tried to do with the V-chip, so you didn't have to run around and look at five television sets in your house and say, "Don't watch this, don't watch this, don't watch this." You use the V-chip, and you block out anything that's rated a certain rating that you don't want your children to see.

Mr. MCINTYRE. Absolutely. And we think that the V-chip and the ratings systems that Jack and I actually hammered out after several weeks of contentious negotiations is something that will still prove to be helpful to parents of this aged——

Senator BREAUX. But what does it say to you that 97 percent of the families apparently don't bother to use them?

Mr. MCINTYRE. I do not necessarily ascribe that to the burden of the parents to—to that. I think that the V-chip and the ratings system has not necessarily been advertised in the ways that it could be to be most profitably used.

There have been some ventures out there. We have certainly ventured, as an association and as the signatories to the V-chip agreement, to lobby and to try to teach this to our parents and their families, but it is not the end all and be all. It also has to be met with better implementation, and it also has to be met with better accountability when ratings are not assigned appropriately. We have, as I understand—and I'm not a member of the——

Senator BREAUX. 91 percent of broadcasts in cable television is age related—age rated——

Mr. MCINTYRE. That's right.

Senator BREAUX. 91 percent—and yet 97 percent of the people who are parents with teenage children don't bother to use it.

Mr. MCINTYRE. Well, I think that also speaks to the inability of an age-based ratings system to be able to truly address the needs of today's parents.

Senator BREAUX. They're not using it no matter what the rating is, is what I'm saying.

Mr. MCINTYRE. How do we know that, sir? We don't have a——

Senator BREAUX. The Kaiser Foundation study. If you have something better than that, I'll listen to the numbers.

Mr. MCINTYRE. Dr. Roberts of the Kaiser Foundation is an APA member. I'm very well associated with the study, sir.

Senator BREAUX. Well, I mean, does that—is there a study that says that more than three percent of the American parents are using it?

Mr. MCINTYRE. We see—no, sir—point-blank.

Senator BREAUX. All right, the final question—I mean, it seems to me that ratings can be confusing. If we have ratings on labels, on records, or on video games, or on movies—and there's an awful lot of things we rate—I mean, I would just mention all the warning labels we've got on every other product that we use as consumers in this country—can you have a uniform ratings system that would make any sense? Could you implement something like that? Would it work? Is it a good idea to have all entertainment products rated under one ratings system? Is that possible? Anybody?

Mr. VALENTI. I'll respond to that, and then my colleagues can, also. All of these ratings systems are based on different ways to come to a rating.

We have 13 parents in California who see every movie—466 of them last year—and they put a rating on it. The music people have a mature label they put on it, and I think that's done by the record labels, or the—and the video games people have their own rating. I think they have three people who rate every video game. And the television, as Mr. Dyson and I can tell you, we work together with child groups, PTA, and everything else, and come up with a ratings system on television, but those ratings systems are applied by the producer or the distributor of the program. So you have four methods of determining ratings.

Another thing, if you don't have a universal ratings system that totally duplicates television, then you have demolished the use of 50 million V-chip television sets in America, because the manufacturers cannot change the circuitry. So, therefore, if you have a universal system, it would have to be a duplication of the television system, and you don't have an "NC–17" rating in television.

And by the way, Senator, we don't market "NC–17" movies. I want you to know that.

Having said that, I believe that you cannot have that kind of a rating system to fit one-size-fits-all. It can't be done. And I will tell you this, I would be reluctant to abandon a ratings system that has a 32-year record. I just don't think we ought to do it with 81 percent—and by the way, that's exactly what the FTC finds—and satisfied people, 81 percent of parents.

So I would be reluctant to abandon something that has worked and is working for some mystical one-size-fits-all that's not going to work because of the different ways that these things are gauged.

Senator BREAUX. Can I ask one short question of Dr. Cook, Mr. Chairman?

The CHAIRMAN. Whatever you'd like.

Senator BREAUX. It's the last one. Dr. Cook, you had indicated some statistics on violent crime and crime among teenagers, in particular.

Dr. COOK. Yes.

Senator BREAUX. Some of the facts that I've seen, and some of the testimony that's been here today, it seems to be contrary to what you indicated. And I'd give you a chance to comment on that.

Between 1993 and 1998, according to the National Crime Victimization Survey of the Justice Department, violent crime rates fell 27 percent, and property crime rates dropped 32 percent. That represents the lowest level recorded since the survey's inception, in 1973.

And in particular to what we were talking about, violent crime committed by children and teens is at its lowest since 1987 and has fallen 30 percent from 1994 to 1998. The arrest rate for weapon violations among juveniles also saw a 33 percent drop between 1993 and 1998. And school violence—fights, injuries, and weapons carried through the door—has been steadily falling since 1991, according to studies by the Centers for Disease Control and Prevention.

It seems that is contrary to what I think I heard you say about it spiking up.

Dr. COOK. No. No, I don't think so. I said that the general rate of violence in the country has decreased since 1992 or 1993, and the figures that I have—and I must admit that the last figures I have I got out of *The Denver Post*, which isn't necessarily maybe the most accurate thing in the world—but they indicated that the figures for the 15- to 24-year-old age group had not decreased like the rest, that it had continued on a slightly upward rate.

Senator BREAUX. Yeah.

Mr. VALENTI. Actually, it's gone down.

Dr. COOK. Yeah. Well, that——

Mr. VALENTI. It fell 28 percent in the last five years—juveniles under 17.

Mr. MCINTYRE. Mr. Breaux, if I may——

Dr. COOK. That doesn't jibe with what I——

Mr. VALENTI. That's the FBI statistics.

Dr. COOK. —you know, with what I have.

Senator BREAUX. Those were Justice Department figures. I'm sorry.

Mr. MCINTYRE. Senator Breaux?

Mr. VALENTI. FBI, sir.

Mr. MCINTYRE. Senator Breaux?

If I may interject just a moment.

The CHAIRMAN. Could I——

Mr. MCINTYRE. I'm sorry. Go ahead.

The CHAIRMAN. —could I ask, Senator, Mr. McIntyre to respond, and then anyone else who wishes to respond? Go ahead.

Mr. MCINTYRE. Thank you, Mr. Chairman. I'm quoting from the Centers for Disease Control and Prevention Report on Youth Violence in the United States that violent injury and death disproportionately affect children, adolescents, and young adults in the United States. And homicide is the second leading cause of death for persons 15 to 24 years of age. It is the leading cause of death

for African Americans. Homicide is the second leading cause of death for Latino youths.

If that does not—is considered a problem, sir, I would like to——

Senator BREAUX. No, that's not what I——

Mr. MCINTYRE. —have an evaluation of the criteria there.

Senator BREAUX. Don't try and put words in my mouth, McIntyre. What I said was that—what I quoted was from the Justice Department, saying violent crime rates among teenagers and juveniles and school crimes had been consistently dropping since 1992. I'm not saying that homicides among teenagers is not disproportionately higher than other parts of the country.

What you've cited is totally consistent with the figures I've cited. They're not inconsistent in any way. I'm talking about—violent crimes among juveniles, school violence in schools, arrests among juveniles have all dropped. Homicides among teenagers are disproportionately higher than the rest of the public. That statement is totally consistent with what I read initially.

Mr. MCINTYRE. It is my belief, sir, since 1977, we've had an average of 17 youth homicide victims per day in the United States. If, in fact, this is consistent with what you've said, then we are in agreement that this constitutes a problem. And regardless of anything——

Senator BREAUX. The point I'm asking Dr. Cook was—he said it was—violent crimes among teenagers was increasing as media violence increased. That is not what the statistics showed from the Justice Department and the Center for Disease Control. Those numbers have consistently, over the last seven years, been declining at a pretty steady rate. Is it still too high? Of course it is; but it's not increasing, it is decreasing. And that, I don't think can be contradicted.

The CHAIRMAN. Could Dr. Cook respond?

Dr. COOK. Senator Breaux, I think what we're doing is using different age groups when we're talking about our statistics. Those that I talked about, the one group, if you lump them together, are the 15- to 24-year age group that have not dropped.

Now, the U.S. crime rate, I think which is the FBI rate, says that this is dropping, under age 18. So we're really talking about two different sets of statistics.

But generally, I agree with you a 100 percent, that overall violence has dropped in the United States since 1992 if you put everybody together in one thing. It's just a small sliver that hasn't gone down yet.

Senator BREAUX. I thank all the——

The CHAIRMAN. Senator Breaux, I think——

Senator BREAUX. —members of the panel.

The CHAIRMAN. —I think Mr. Lowenstein wanted to respond.

Mr. LOWENSTEIN. I just want to make one comment, not on this issue. You asked what can be done to get parents to use the systems, and I don't have a magic answer to that. But one thing I come back to, it's in the FTC report, it's something I think everybody at this table can continue to work together on, and that's public education.

We, for example, had a PSA that Tiger Woods filmed for us telling people to use the video game ratings system, last fall. We could

barely get that on network television, I will tell you. It was very difficult to get that PSA on.

I would hope that these medical groups here will take a proactive effort and work with us to get word out to their members and out to consumers about these ratings systems. I think we can start to make a difference, but we need to continue the public education effort.

The CHAIRMAN. Thank you, Senator Breaux.

This hearing is approaching its sixth hour, so I want to thank the witnesses for their patience, for their input. We will be having another hearing in a couple of weeks. Thank you for your cooperation, and I obviously appreciate the spirited dialog and exchanges that we had. I think all of us are better informed.

This hearing is adjourned.

[Whereupon, the proceedings were adjourned at 4:25 p.m.]

APPENDIX

PREPARED STATEMENT OF HON. PATRICK J. LEAHY, U.S. SENATOR FROM VERMONT

In the wake of the tragic Columbine High School shootings in Littleton, Colorado, where 14 students and a teacher lost their lives on April 20, 1999, public concern about the causes of violent acts by children in our country reached an all-time high. The President and the Congress tried to respond to this concern.

Within two months, both the House and the Senate took up and passed juvenile justice legislation, which included studies proposed by Senator Lieberman, and others, on the marketing practices and guideline systems used by the entertainment industry and on the causes of and ways to prevent youth violence. These proposals never become law, however, because the Republican majority in Congress has refused to proceed with the juvenile justice conference for over a year.

Senate and House Democrats have been eager for more than a year to reconvene the juvenile justice conference and work to craft an effective juvenile justice conference report and law. Indeed, on October 20, 1999, all the House and Senate Democratic conferees wrote to Senator Hatch, the Chairman of the juvenile justice conference, and Congressman Hyde, the Chairman of the House Judiciary Committee, asking that the conference be reconvened immediately. In April 2000, Congressman Hyde joined our call for the juvenile justice conference to meet as soon as possible in a letter to Senator Hatch, which was also signed by Congressman Conyers.

Months ago, the President of the United States took the extraordinary step of inviting House and Senate members of the conference to the White House to urge us to reconvene and proceed to final enactment of legislation before the anniversary of the Columbine tragedy. The Republican majority has rejected his pleas for action, as they have those of the American people.

The Clinton-Gore Administration did not wait for the Congress to act. Instead, the White House energized a number of federal agencies to convene experts and examine the issue of youth and school violence. On June 1, 1999, the President ordered the Department of Justice and the Federal Trade Commission to conduct a joint study of the marketing strategies and practices of the motion picture, recording, and video game industries to determine whether these industries are marketing to children violent material rated for adult viewing. This comprehensive study of major record companies, Hollywood studios and video game manufacturers was released earlier this week and contains important findings and recommendations. This is the report, requested by the President, that is the subject of these hearings.

But that is not all the Clinton-Gore Administration did to respond to the concerns of the American people on the issue of youth violence. On May 10, 1999, the President ordered the United States Surgeon General to prepare a report on the causes of youth violence and ways to prevent it. The Surgeon General is bringing together experts to review and evaluate existing research on the root causes of youth violence, with special emphasis on media that have emerged since previous reports. We anticipate this report by the end of the year.

Moreover, the President directed the Department of Education and the Department of Justice to develop a guide to help school personnel, parents, community members and others identify early indicators of troubling and potentially dangerous student behavior. This guide, called *Early Warning, Timely Response: A Guide to Safe Schools*, was prepared by an independent panel of experts in the fields of education, law enforcement and mental health and completed and released in the summer of 1998 free of charge to every school in the nation.

In addition, the Department of Justice has provided important financial assistance through the COPS in Schools Grant Program throughout the last two years. The Department of Justice, the Department of Education and the Surgeon General have promoted a Safe Schools/Healthy Students Initiative to provide 50 communities with up to $3 million per year for three years to link existing and new services and activities into comprehensive community-wide approaches to promote healthy childhood development, prevent school violence and juvenile drug abuse.

This is a constructive way to alert everyone in a community to available resources for addressing youth violence and crime prevention.

Most recently, the Department of Justice has made available a threat assessment perspective on school violence developed by the Critical Incident Response Group and the National Center for the Analysis of Violent Crime of the FBI. Just last week, components of the FBI made available a study entitled "The School Shooter," pointing out a number of factors that contribute to violence.

We all recognize that there is no single cause and no single legislative solution that will cure the ill of youth violence in our schools or in our streets. Focusing exclusively on violence in entertainment as a cause of youth violence would be ineffective and misleading.

Yet all of us as parents, and many of us as grandparents, are frustrated by the violence, obscenity and other inappropriate material available to children in multiple media, on film, on TV, in video games or on the Internet, and parents are looking for help in protecting their children. The easy way out for both parents and eager-to-please legislators would be to adopt some form of government censorship that simply banned inappropriate material. The Congress has taken the easy way out before—for example, by broadly banning so-called "indecent" material over the Internet.

We have to remember that films like *The Patriot, Saving Private Ryan, Schindler's List* and *The Hurricane* are among those receiving "R" ratings that invite parental permission before a teenager sees them. Many parents chose to have their teenagers see those films, although they include graphic scenes, and to consider the important values, lessons and human history those motion pictures involve.

Our Constitution, thankfully, does not allow the easy way out, as the Congress learned when the Supreme Court unanimously struck down the Communications Decency Act. The First Amendment rightly restricts Congressional efforts to dictate what others may say or believe and leaves to parents the responsibility for helping their children choose appropriate entertainment.

Interestingly, the FTC report noted, in parents' responses to who selects and purchases movies, that an adult or an adult and the child together do so almost 97 percent of the time. To the extent that there are gaps in the enforcement of the various ratings systems adopted by the entertainment industry, this report should serve as a wake-up call to all.

PREPARED STATEMENT OF HON. BART PETERSON, MAYOR, CITY OF INDIANAPOLIS

Mr. Chairman, Senator Hollings, and distinguished Members of this panel, I would like to thank you for calling this hearing and presenting me with the opportunity to share my views and experiences with you regarding the marketing of violent materials to our nation's youth by the entertainment industry. In the wake of the conclusions reached by the Federal Trade Commission in its recently released report, I am pleased to share with you a step that we have taken in Indianapolis to help reduce children's exposure to violent video games.

We live today in a culture steeped in violence. From movies and television to music and video games, violent images so pervade American popular culture that many of us feel immune to their effects.

But recent studies show we are anything but immune. Even more disheartening, violent media—including violent video games—is especially popular with the most impressionable and the least mature consumers of popular culture: our children. As the Federal Trade Commission's recent investigation found, the home video game industry has marketed its products to children under age 17, despite ratings indicating the games are unsuitable for children that young. In another disturbing trend, many of the school shooters of the past few years were avid violent video game players. Investigators have attributed several of the shooters' accuracy to the "training" they received from playing realistic violent video games.

Studies show that playing violent video games increases people's aggressive thoughts and behaviors. In a study published in the April 2000 issue of the *Journal of Personality and Social Psychology*, Drs. Craig A. Anderson and Karen E. Dill found that repeated exposure to violent video games increased players' aggressive thought patterns, which can lead to increased aggressive behavior. Drs. Anderson and Dill also noted that the active nature of violent video games may well make them even more dangerous than other forms of media violence, such as TV and movies. Likewise, in a joint statement on the impact of entertainment violence on children, the American Medical Association, the American Psychiatric Association, and several other prominent health organizations concluded that viewing violence can

desensitize children, possibly leading them to engage in real life violence, and that the effect of violent video games and other interactive media may be "significantly more severe" than other forms of violent media.

In my own experience, I have found that when I share excerpts of popular violent video games with concerned parents, they are generally shocked at the level of violence in them. The days of Pac-Man are long over, but even the most conscientious parents often seem unaware of the kinds of games their children play and how violent these games actually are.

Nonetheless, nothing generally stops an unsupervised child from walking into an arcade and playing horribly violent video games. Parents can control whether their children play violent video games at home or watch violent TV shows; they should also be able to control the kinds of video games their children play outside the home.

That's why I proposed a city ordinance to restrict children under age 18 from playing video games with graphic violence or strong sexual content without parental consent. The ordinance—which is widely considered to be the first of its kind in the nation—requires businesses to label all games that contain graphic violence or strong sexual content. In addition, video arcades must erect a partition to separate these games from other games. Recently, the Indianapolis City-County Council passed the ordinance unanimously, with the support of a broad coalition of citizens and community groups.

I believe this ordinance puts parents back in the driver's seat when it comes to violent video games. It enables parents—not video game marketers—to decide whether their children should play a particular game. As studies show, violent video games affect different children differently. Some parents may decide certain violent video games are suitable for their children, but the choice should lie with them. Regardless of whether parents allow their children to play these games, this ordinance will both raise their awareness about the games and encourage them to play more active roles in monitoring their children's activities.

The recent report released by the Federal Trade Commission clearly shows that the entertainment industry, including video game manufacturers, is not effectively regulating themselves. Alternative solutions are needed to allow parents to make informed decisions regarding their children's access to violent materials. I firmly believe that a small amount of local regulation, such as the ordinance recently passed in Indianapolis, can play a large role in reducing a problem that is increasingly plaguing our society.

I would like to again thank the Chairman and distinguished Members of this panel for allowing me to express my views. I would be happy to answer any questions, and to assist the Committee in any way in its efforts to address this important issue.

PREPARED STATEMENT OF HON. JENNIFER DUNN, U.S. REPRESENTATIVE FROM WASHINGTON

Mr. Chairman,

With the release of the Federal Trade Commission report on marketing violence to teens, serious damage has been done to the relationship between the entertainment industry and American families. Parents in America have come to depend on the voluntary ratings system used by the industry as a marker for what they will and will not let their children read, see, and listen to. By intentionally advertising materials to children that are inappropriate for their viewing, this industry runs the risk of government intervention to monitor their marketing practices.

As the Co-Chair of the Bipartisan Working Group on Youth Violence, I want to bring the work we have already done on this issue to bear. After careful deliberation and consultation from outside experts, the 24 Republicans and Democrats on the Working Group agreed that "ultimately parents are on the front line in trying to protect our children from violent images. But Congress can play a role in encouraging our schools and communities to help educate parents about the resources that are available." These resources include the V-Chip and TV ratings to help parents limit their children's access to inappropriate content on TV. In addition, many television stations are airing Public Service Announcements to educate kids and parents about the connection between youth violence and intolerance.

Nevertheless, it's unconscionable that at the same time parents are using the industry rating system to gain more control over what their children see and hear, the entertainment industry is undermining these systems by advertising adult images during TV shows intended for general audiences. For instance, why advertise for the excessively violent movie *The Way of the Gun* during an episode of the teen

drama *Dawson's Creek*? The Working Group on Youth Violence recognizes the efforts of the entertainment industry to monitor itself. By deliberately appealing to young people with their violent material, however, the industry dissipates the good will extended for their voluntary deeds. I do not approach the issue of government regulation lightly. Yet when the private sector fails to provide the necessary leadership to protect children from inappropriate materials, parents have a right to demand accountability.

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