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**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

4. The acts and practices of respondents in the advertising and selling of *Grand Theft Auto: San Andreas* to consumers as alleged in this complaint are acts or practices in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

5. Virtually all video games sold by retailers in the United States are rated by the Entertainment Software Rating Board (“ESRB”). The ESRB is an industry self-regulatory body established in 1994 by the Entertainment Software Association (“ESA”). Most major retailers in the United States will not sell video games unless they have been rated by the ESRB.

6. An important purpose of the ESRB rating system is to provide information to consumers, including parents, about the content of a game to help consumers determine if the game is suitable for themselves, another person, or their family.

7. The ESRB ratings have two parts: 1) rating symbols that suggest age appropriateness; and 2) content descriptors that indicate elements in a game that may have triggered a particular rating and/or may be of interest or concern. The ESRB system consists of the following rating symbols: **EC (Early Childhood)**, **E (Everyone)**, **E10+ (Everyone 10 and older)**, **T (Teen)**, **M (Mature 17+)**, and **AO (Adults Only 18+)**. There are over thirty different content descriptors for game elements, including Blood and Gore, Intense Violence, Lyrics, Mature Humor, Mild Violence, Nudity, Sexual Themes, Strong Language, Strong Sexual Content, Use of Drugs, and Violence.

8. Many consumers use and rely on the ESRB ratings when deciding whether to purchase a video game. In addition, many retailers use and rely on the system. Certain major retailers will not sell games that have been rated **AO (Adults Only 18+)** by the ESRB.

9. *Grand Theft Auto: San Andreas* is the fifth in a series of popular video games developed and marketed with the *Grand Theft Auto* name. Each of the previous four games in the *Grand Theft Auto* series, *Grand Theft Auto*, *Grand Theft Auto II*, *Grand Theft Auto III*, and *Grand Theft Auto: Vice City*, were rated **M (Mature 17+)** by the ESRB for one or more video game platforms. According to the ESRB rating system, games rated **M (Mature 17+)** have content that may be suitable for persons ages 17 and older. Games in this category may contain intense violence, blood and gore, sexual content, and/or strong language. Games rated **AO (Adults Only 18+)**, according to the ESRB rating system, have content that should only be played by persons 18 and older. Games in this category may include prolongedoi.00 0.00 0.00 rywi TD(ted)TjET1.00nmh

unlocking of virtual “Easter eggs” (*i.e.*, messages, graphics, sound effects, features, or actions that are enabled when the user inputs a set of commands on a game console or keyboard). The ESRB’s published requirements did not state that relevant content included unused textures (“skins”) in the game software or content in the game code that was inaccessible and unplayable without modifying the code.

11. On or about September 12 or 13, 2004, respondents submitted materials to the ESRB for the purpose of obtaining a rating for the PlayStation 2 version of *Grand Theft Auto: San Andreas*. Respondents did not inform the ESRB about the existence of unused nude female skins on the game disc or an unfinished “sex mini-game” that had been edited out of game play but was embedded in wrapped form in the game’s computer code. If the game code for the sex mini-game were to be unwrapped, the mini-game could be enabled, permitting the player to control the game’s principal male character, who was clothed, during simulated sexual acts with different clothed female characters. As described in paragraph 10, the ESRB’s published requirements at that time did not state that game companies were required to disclose unused skins in the game software or content in the game code that was inaccessible and unplayable without modifying the code.

12. Based on respondents’ submissions, on September 23, 2004, the ESRB issued a rating certificate for the PlayStation 2 version of *Grand Theft Auto: San Andreas*. The ESRB assigned the game the rating symbol **M (Mature 17+)** and the following content descriptors: Blood and Gore, Intense Violence, Strong Lang

and through numerous magazine advertisements, including ads in Electronic Gaming Monthly, Entertainment Weekly, The Onion, Maxim, Spin, PlayStation Magazine, and PC Gamer. Respondents also advertised the game through thirty- and sixty-second television commercials run on numerous networks and cable television channels, including UPN, MTV, TNT, USA Network, Spike TV, BET, and MTV. They also advertised the game on billboards, posters, point-of-purchase materials, and video displays at major game retailers, through respondents' websites, online banner ads, and in game trailers available for download from www.rockstargames.com/sanandreas. These advertisements contained the following statements and depictions, among others:

- A. PlayStation 2, Xbox, and PC product packaging (Exhibit A):
 - i. Front: “grand theft auto San Andreas™... MATURE 17+... M... CONTENT RATED BY ESRB”
 - ii. Rear: “ROCKSTAR GAMES PRESENTS A ROCKSTAR NORTH GAME... grand theft auto San Andreas™ Mature 17+... M... Blood and Gore... Intense Violence... Strong Language... Strong Sexual Content... Use of Drugs... ESRB CONTENT RATING... www.esrb.org”
 - iii. Game Discs: “grand theft auto San Andreas™... MATURE 17+... M... CONTENT RATED BY ESRB”

- B. Print advertisements (Exhibit B): “ROCKSTAR GAMES PRESENTS... grand theft auto San Andreas™... A ROCKSTAR NORTH PRODUCTION... IN STORES NOW... WWW.ROCKSTARGAMES.COM/SANANDREAS... MATURE 17+... M... Blood and Gore... Intense Violence... Strong Language... Strong Sexual Content... Use of Drugs... CONTENT RATED BY ESRB”

- C. Retailer advertising (Exhibit C):
 - i. Pre-sell gift card for Wal-Mart: “Reserve your copy today... Playstation2... GIFT CARD... grand theft auto San Andreas™... MATURE 17+... M... CONTENT RATED BY ESRB... Available 10.19.04... PlayStation®

Strong Language... Strong Sexual Content... Use of Drugs... CONTENT
RATED BY ESRB”

17. Respondents did not disclose the existence of the unused nude female skins and the wrapped code for the unfinished sex mini-game described in paragraph 11 either in their advertising for *Grand Theft Auto: San Andreas*, or on the product packaging.

18. On or about June 9, 2005, two days after the release of the PC version of *Grand Theft Auto: San Andreas*, a third-party computer programmer posted a software program on the Internet entitled “Hot Coffee.” When downloaded and installed, the Hot Coffee program enables users of the originally released PC version of the game to access the unfinished sex mini-game described in paragraph 11. An updated version of the program was posted on the Internet on June 11, 2005 that further modifies the sex mini-game described in paragraph 11 by rendering the female characters unclothed through use of the nude skins on the game disc.

19. Within weeks of the release of the Hot Coffee program for the PC version of *Grand Theft Auto: San Andreas*, PlayStation 2 and Xbox users were able to access the same content by taking certain steps, such as modifying or adding a hardware accessory to their game console, installing special software, and inputting codes developed by third parties.

20. On July 20, 2005, as a result of, among other t

22. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this _____ day of _____, _____, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: