

FEDERAL TRADE COMMISSION

MARKETING VIOLENT ENTERTAINMENT TO CHILDREN:  
A WORKSHOP ON INDUSTRY SELF-REGULATION

Wednesday, October 29, 2003

9:11 a.m.

Federal Trade Commission  
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Washington, D.C.

FEDERAL TRADE COMMISSION

I N D E X

Introductory Remarks:

By Chairman Timothy Muris --

By The Honorable Frank Wolf --

By The Honorable Joe Baca --

Morning Session:

An Overview of the Rating and Labeling Systems --

Dialogue Among Industry, Consumer and Research  
Groups: Discussion of Rating and Labeling  
System --

Afternoon Session:

Cross-Marketing and Merchandising of Branded  
Products --

Retailers' In-Store and Online Practices --

Next Steps --



1 done.

2 When I testified last spring before the House  
3 Subcommittee on Commerce, Justice, State, the Judiciary  
4 and related agencies of the Committee on Appropriations,  
5 chaired by Congressman Frank Wolf, who is with us today,

1 whether entertainment is rated or labeled as  
2 inappropriate for children in adopting sales policies.

3 Again, I'd like to welcome you all here and  
4 thank our panelists for their contributions, to what we  
5 expect will be a productive and enlightening day.

6 Now, it is my privilege to introduce  
7 Congressman Frank Wolf. He represents part of Fairfax  
8 and Loudon Counties just across the river in Virginia and  
9 was the first member of Congress I met with after my  
10 confirmation as Chairman of the FTC in 2001. I'll let  
11 you decide if the fact that he was our appropriator had  
12 anything to do with the fact that that was my first  
13 meeting. At that meeting and on several occasions since,  
14 we discussed Congressman Wolf's strong commitment to  
15 protecting children from the marketing of violent  
16 entertainment products.

17 I know he has followed our reports on this  
18 topic closely. On this and many other issues, the  
19 Congressman has been very supportive of the FTC and its  
20 mission through his position as Chairman of the Commerce,  
21 Justice, State Subcommittee. He's a good friend of the  
22 FTC's and we are very pleased to have him with us today.

23 Mr. Chairman.

24 CONGRESSMAN WOLF: Thank you, Tim. Good  
25 morning, Chairman Muris. Thank you for holding this

1 important and timely workshop, and I appreciate the  
2 opportunity to discuss a serious and a growing problem in  
America today, the marketing of violent video games to  
our children.

It is becoming nearly impossible to shield  
minors from graphic violence. Exposure to these images  
is taking a toll on our society. Now, children who --  
for whom we are all responsible, are seeing acts of  
violence and then acting out what they see in the media  
and in video games. The problem has grown so severe that  
lawsuits are beginning and being filed against the  
creators of some of these violent video games because  
children are mimicking the violence they're watching.

I want you to watch a short video clip. We've  
taken out most of the violence and, I think, the more  
offensive stuff. You will see more of these images from  
another speaker later today, but I thought you needed to  
see a taste of what is being peddled to our children  
today.

20 Could we see that short video?

21 **(Video segment played.)**

22 CONGRESSMAN WOLF: These images are hurting our  
23 children. Some say there is no correlation between  
24 viewing these images and committing acts of violence. I  
25 disagree. It has been said, garbage in, garbage out.







1 36 percent were able to buy tickets for R-rated movies.  
2 The FTC survey shows the system is failing our children  
and failing society. Young people are obtaining adult-  
oriented games and studies show they are committing  
violent acts at a higher rate than those who do not see  
the games.

I know we will hear this. Some will say that  
there are no marketing rules in place to shield children  
from adult-themed violent entertainment. But, frankly,  
10 the industry is doing a poor job at self-regulation when  
11 it comes to our children.

12 Think about it as yourself and those from the  
13 industry. How long will our society that says it cares  
14 about our children permit this to continue? Many of the  
15 children and grandchildren of people right here in this  
16 room -- in this room -- may very well get caught up in  
17 the violence of this or be the victims of the violence.  
18 Labeling may be a start, but much more needs to be done.

19 If we cannot come up with some way to put the  
20 brakes on violent entertainment, then frankly the only  
21 option that parents may have left will be to do as  
22 they're doing now in greater numbers, to turn to the  
23 courts and continue to sue and sue and sue and sue and  
24 sue the industry and have this go the way of tobacco.

25 What are you going to say to the parents of the

1 children who were killed at Columbine, Paducah or  
2 Jonesborough? What will you say?

3 In my region, have you been following the  
4 stories down in Virginia Beach of the sniper case? What  
5 would you say to those families? Some people say that  
6 one or both of those snipers had looked at video games  
7 and had trained on video games. Do you remember, those  
8 of you who live in this region? You were afraid to go to  
9 the gas pump to buy gasoline. You shielded yourself.  
10 One was killed in my district. As I drove today coming  
11 down Route 50, I thought as I passed the Home Depot where  
12 the FBI employee was killed. What do you tell those  
13 families with regard to what took place?

14 This forum, hopefully, today offers a chance to  
15 make a positive difference in the lives of our children.  
16 The challenge is to step forward and come up with a plan,  
17 a plan that everyone can be agreed on to protect the very  
18 future of our society and our children from the violence  
19 that they are being bombarded with daily through the  
20 media.

21 I wish you the wisdom and courage necessary to  
22 address this problem and my commitment to the parents, as  
23 a father of five children and seven grandchildren and two  
24 more that are coming, as long as I stay in Congress,  
25 we're going to stay on this issue. And I may be a slow

1 starter, but I finish fast.

2 I ran for Congress in 1976 and lost. I was a  
3 Government employee. I ran for Congress in 1978 and lost  
4 again. And, finally, through the good offices of  
5 grabbing Ronald Reagan's coattails, he pulled me across.  
6 We're going to stay with this issue until we solve it in  
7 each and any way we possibly can because it is  
8 unacceptable for our society to continue the coarsening  
9 that we're seeing and the impact that it is having on our  
10 children.

11 Thank you very much and thanks for having me  
12 here, Tim.

13 **(Applause.)**

14 CHAIRMAN MURIS: Thank you very much, Mr.  
15 Chairman. Next, I'd like to introduce Congressman Joe  
16 Baca. Congressman Baca represents Southwest San  
17 Bernardino County in California and we're especially  
18 appreciative of him being here today. All members of  
19 Congress are very busy and he's especially busy as some  
20 of the fires in Southern California are in his district.

21 Like Chairman Wolf, Congressman Baca has shown  
22 a strong interest in the issues we are exploring today.  
23 He's the chief sponsor of the Protect the Children From  
24 Video Game Sex and Violence Act of 2003. We're honored  
25 to have Congressman Baca here with us this morning.

1 Sir.

2 CONGRESSMAN BACA: Thank you. It's a pleasure  
3 to be here attending this workshop on marketing of  
4 violent entertainment to children. I want to thank  
5 Chairman Muris and Congressman Frank Wolf for taking the  
6 leadership because this is a very important workshop.  
7 It's really about protecting our future, it's about  
8 protecting our kids. And I say our future and our kids.

9 It's important that we come together,  
10 Democrats, Republicans. This is not an issue that  
11 pertains to one party or another. This is an issue that  
12 affects all of us together. That is why we will be able  
13 to prevent games of violent and sexual content from  
14 getting into the hands of our children, from getting into  
15 the hands of our children because the effects, as  
16 Congressman Wolf said, that it has on a lot of our  
17 children in our society and how it changes.

18 Let me explain why I'm here. Last year, I  
19 received a call from a parent in my district concerned  
20 about the newly released video game, Grand Theft Auto  
21 III. They were concerned about its sexual violence  
22 contents, about how easy it was for kids to buy it. How  
23 easy it was for kids to buy it. To buy it. How easy.

24 Sony's own game description says that these  
25 games contain violence, blood, gore in gleeful

1 abandonment of moral responsibility. Let me repeat that,  
2 that's violence, blood and gore of moral responsibility.  
3 These are the values our children learn when they play  
4 these type of games. When they play these type of games,  
5 the aggressive behavior that they begin to get involved  
6 in because when they play it they're assimilating the  
7 action. It's like not watching TV, not watching a movie,  
8 but actually playing the game itself. It's like they've  
9 taken a part of that person when they're there. It's  
10 like they're hypnotized and they're working on the video  
11 game. There's a whole difference.

12 When I learned that four out of five children  
13 today could buy these games on their own -- four out of  
14 five children can buy it, I knew that we had to do  
15 something about it and Congressman Wolf knew that. That  
16 is why I've introduced Protect Our Children from Video  
17 Game Sex and Violence Act last year, HR-669. I state,  
18 HR-669.

19 I have been amazed by the support we have  
20 received from parents, public health groups and others.  
21 We have worked closely with groups, such as Lion and Lamb  
22 Project, to make sure that parents everywhere know the  
23 kind of content that are in these games. It is wrong  
24 that our children are being exposed to this kind of  
25 violence at an age when their minds and values are still

1 being formed. When their minds and values are still  
2 being formed. They play these games when many cannot  
3 distinguish fantasy from reality. Today, it's an  
4 important popular game and is full of senseless acts of  
5 sex and violence and brainwashing of our children.

6 Grand Theft Auto III and Grand Theft Auto and  
7 Vice City show people having sex with prostitutes,  
8 carjacking soccer moms, using illegal drugs, killing  
9 police officers.

10 Postal 2 allows players to decapitate police  
11 officers. Police officers. This is our law enforcement  
12 that are positive images and models in our communities.  
13 And kill innocent people as they beg for mercy. Points  
14 are even awarded -- and I say points are even awarded for  
15 burning and urinating on black police officers or a  
16 drive-by shooting in some of these videos that are going  
17 on, so we look at the violence that has affected us.

18 If that isn't enough, Games like BMX, XXX even  
19 show live video footage of naked strippers. Live  
20 footage. And these are available to our kids. Is that  
21 what we really want our kids to be watching? I ask you,  
22 is that what we want our children to be watching? I know  
23 you're shaking your heads saying no. That's right. We  
24 don't want our children to be watching these kind of  
25 video games.

1 We need Federal law helping our parents to  
2 monitor what games their children should play. Let me be  
3 clear. It is the responsibility of parents to raise  
4 their children and determine what kind of games they are  
5 buying. We know that. Yes, it is the responsibility of  
6 the parents. But the industry also has a responsibility  
7 and I know that very much in our society right now with  
8 two working families, many individuals out there,  
9 latchkey kids, the kids have an opportunity still to go  
10 out and buy these and many times the parents don't even  
11 know that the kids have even bought it. And many times,  
12 they don't even know the content of what's in these video  
13 games.

14 For those parents that are getting educated  
15 now, they're saying, I'm appalled, I didn't know that  
16 this was the kind of a video game that was being shown.

17 FTC Secret Shopper survey released just a  
18 couple of weeks ago revealed that 69 percent of children  
19 -- 69 percent of children between the ages of 13 to 16,  
20 unaccompanied by parents are able to purchase video games  
21 with graphic and violent and sexual content. Sixty-nine  
22 percent. That is seven out of ten children that purchase  
23 games like Grand Theft Auto, BMX, XXX, Postal 2 and  
24 others.

25 Smaller sting operations across the country

1 show that same thing. Whether it's a store online, it is  
2 too easy for our kids to get these games. A retail  
3 tracker recently estimated that four million children 17  
4 and under purchased M-rated games last year.

5 Some would tell you that early exposure to  
6 violence has no harmful effect, but a growing body of  
7 academic research tells us a different story. Several of  
8 the nation's most respected public health groups have  
9 found that viewing entertainment, video games, can lead  
10 to aggressive attitudes and values and behaviors,  
11 particularly in our children. Aggressive behavior,  
12 attitudes in our children.

13 But we have to go beyond the facts and figures.



1 think it is all of our responsibility, all of us coming  
2 together, and I think we all can. But we've all got to  
3 take the responsibility.

4 The video game industry is a \$10 billion  
5 industry. But this can't be about money. It's about our  
6 children and that's what Congressman Wolf talks about.  
7 It's about our children. It's not about money. It's  
8 about values. It's about morals.

9 As an adult, I can shoot a gun, I can drink  
10 beer, I can smoke a cigar or a cigarette. But if I gave  
11 any of these to a child, I'm a criminal. I'm violating  
12 the law. When it comes to video games with violent and  
13 sexual content, the same should be true, isn't that  
14 right? It should be. The gun industry, the tobacco  
15 industry, the alcohol industry all accept regulations on  
16 the products when it comes to kids. They accept those.  
17 And so must the video game industry. And so must the  
18 video game industry.

19 We cannot let stores that are only looking to  
20 make a profit undermine the nation's parents. If parents  
21 want to buy these games for their children, that's their  
22 choice. But parents, not stores, should make those  
23 decisions. Parents, not stores, should make those  
24 decisions.

25 The sad fact is that our stores are not

1 enforcing their own policies. There are some that are,  
2 but there are many that are not and some do not even have  
any policies, and that is why I've introduced this bill  
and will continue to fight for our children. And will  
continue to fight for our children.

That's why I'm also creating a Congressional  
sex and violence in the media caucus. I state, that is  
why I am creating a Congressional sex and violence in the  
media caucus. I will be joined by Congressman Tom  
10 Osbourne who will be my Republican co-chair. Congressman  
11 Wolf will also be a member of our caucus. We will be a  
12 strong voice with Congress to reduce sexual and violent  
13 content in the media. We hope that other members of  
14 Congress and the public will continue to work to protect  
15 our children from these harmful materials. And I state,  
16 we hope that other members of Congress and the public  
17 will continue to work to protect our children from these  
18 harmful materials.

1 This is just the beginning of a long and  
20 difficult battle to protect our children. We are not  
21 alone in this battle. Washington, Minnesota, New York  
22 and other states are following our lead. In a few weeks,  
23 Assemblyman Leland Yee, in my home state of California,  
24 will be introducing legislation to keep these games out  
25 of the hands of our children. These are encouraging

1 signs.

2 I know with your help, we can pass this  
3 legislation, HR-669, and make this country safe for our  
4 children. But we've all got to do it together. It's not  
5 about me, it's not about Congressman Wolf, it's about all  
6 of us coming together to protect our children.

7 I want to thank you. I look forward to working  
8 with each and every one of you, and I believe in today's  
9 important workshop. That we can look and hear what's  
10 going on to make sure that our children continue to be  
11 protected. I thank Chairman Muris for taking the  
12 leadership and caring about our communities and caring  
13 about our children.

14 Thank you very much.

15 **(Applause.)**

16 CHAIRMAN MURIS: If we could now get our  
17 panelists for the first panel, which Mary Engle will  
18 chair. Thank you.

19 **(Whereupon, there was a brief pause in the  
20 proceedings.)**

21 MS. ENGLE: Good morning. My name is Mary  
22 Engle and I'm the Associate Director for Advertising  
23 Practices here at the FTC. Probably one of the more  
24 interesting assignments I've had since I've been at the  
25 Commission has been to head up the Commission's study of

1 the marketing of violent entertainment media to children,  
2 which culminated in the Commission's report and  
3 subsequent Congressional hearings three years ago in  
4 September of 2000. One thing I learned there, and it  
5 continues to be true, is that people feel really  
6 passionately about this issue, and I'm sure we'll hear  
7 more about that today.

8 Anybody who has children knows that kids are  
9 avid consumers of entertainment media. Parents and  
10 others are naturally concerned about what their children  
11 are exposed to. All three of the industry segments  
12 represented here today, the motion picture, music  
13 recording and electronic game industries, have developed  
14 voluntary rating and labeling systems to provide parents  
15 with information about the content of their products so  
16 that parents can make informed choices about what their  
17 kids see and hear.

18 The first panel today will lay the foundation  
19 for the subsequent discussions. We will hear from  
20 representatives of the Motion Picture Association of  
21 America, the Recording Industry Association of America  
22 and the Entertainment Software Rating Board.

23 The panelists will generally describe how each  
24 industry rates or labels its products to provide  
25 information to parents about the product's content. We

1 will be particularly interested in hearing about changes  
2 to their systems that may have occurred since the  
Commission issued its first report three years ago.

A couple of housekeeping items, if you have  
cell phones or pagers, please turn them off and, also,  
please wear your ID badges at all times for security  
purposes.

Following the workshop, we will be accepting  
written comments. If you're interested, you can email  
comments to violenceworkshop -- that's violenceworkshop,  
one word -- @ftc.gov and your comment will then be placed  
on the public record of this proceeding and be available  
for viewing on the FTC's website.

And now, it's my pleasure to introduce the  
members of the first panel. Jack Valenti. Mr. Valenti  
is President and CEO of the Motion Picture Association of  
America, a position he has held since 1966. Mr. Valenti  
developed the motion picture ratings system, which went  
into effect in 1968, and he has presided over its  
implementation and occasional modifications since that  
time.

Mitch Bainwol. Mr. Bainwol is Chairman and CEO  
of the Recording Industry Association of America, a  
position he assumed last month. Before joining RIAA, he  
led the Bainwol Group, a lobbying firm here in

1 Washington, D.C. He previously served as Chief of Staff  
2 for Senate Majority Leader Bill Frist and over the years  
has held several leadership positions on the Hill.

Patricia Vance. Pat Vance is President of the  
Entertainment Software Rating Board, a self-regulatory  
body established in 1994 to apply and enforce ratings,  
advertising principles and online privacy principles.  
Ms. Vance came to the ESRB last year from the Princeton  
Review where she served as Executive Vice President and  
General Manager for Admission Services. Previously, she

1 loving land.

2 But I found out quickly that nature, politics  
and the movie industry abhor vacuums and two motion  
pictures then intruded on my young tenure. One was,  
Who's Afraid of Virginia Wolf, directed by Mike Nichols,  
Burton and Taylor the stars, and for the first time you  
heard on the screen language which had never been heard  
during the Hayes Code, which literally governed what you  
could and could not do.

10 For example, in the Hayes Code it says, if a  
11 couple were married and in bed and they wanted to become  
12 affectionate, they would have to each put one foot on the  
13 floor which means you had to be Nadia Comaneci, the  
14 Olympic gymnast, in order to show affection for spouses.  
15 But Virginia Woolf had the language.

16 And then the next picture which burst on the  
17 scene was by the celebrated film maker, Michelangelo  
18 Antonioni. The film was called BlowUp, starring Vanessa  
19 Redgrave and David Hemmings, and you saw for the first  
20 time, for about 30 seconds, two teenyboppers naked  
21 running around on the screen. And I realized that I had  
22 to do something in order to try to find some way to find  
23 a middle ground. And I tried to think of -- I wanted to  
24 be sure that the screen was free for film makers.

25 I do not believe anybody -- anyone ought to

1 intrude on the right of a creative person to compose a  
2 song, tell a story, do a visual image the way he or she  
3 chooses to do it. The First Amendment says I have a  
4 right to speak my mind, but it also says you have a right  
5 not to listen or to watch.

6 And so, I thought we also had an obligation to  
7 parents, to make sure that we gave parents advance  
8 cautionary warnings so they could make their own  
9 judgments about what movies they wanted their children to  
10 see and not to see. I raised three children, my wife and  
11 I, under that precept. Not my neighbor or my government  
12 telling me how to conduct the lives of our children, but  
13 my wife and myself.

14 And so, on November 1st, 1968, in partnership  
15 with the National Association of Theater Owners, we  
16 unveiled the voluntary motion picture rating system. It  
17 is unconstitutional for the Government, under the cloak  
18 of all of its strength, to have any kind of compulsory  
19 rating systems of any kind. So, we made ours voluntary  
20 which gives us legal strength. No one is compelled to do  
21 anything. Therefore, if you don't want to rate your  
22 film, you don't have to. But about 98 percent of the  
23 films are rated.

24 This rating system started in -- it will be 35  
25 years old on November 1st, 35 years old. I don't believe



1 anything lasts that long in this brutal and explosive  
2 marketplace, unless it is providing some kind of a  
benefit to the people that it aims to serve, in this  
case, parents of America.

So, what we have today, after all these years,  
are five categories and we give reasons for the ratings.  
It's usually in ads a fourth of a page larger. We have  
the reasons for the ratings at filmratings.com, which is  
-- the theater owners of America put out various little  
10 folders as you come in. We have what we call point-of-  
11 sale displays about the rating system, and let me just  
12 show you something. I hope I can show you one chart.  
13 That's not it.

1 I need one chart that shows every year since 19  
-- there we go. Let me just -- I want you to see -- I  
1 think you can hear me now. I want you to know, this is  
1 1969. This line is people who have never heard of the  
1 ratings system. At one time, it was almost 40 percent.  
1 Today, only 2 percent of all the people in America have  
20 not heard of the ratings system. Ninety-eight percent  
21 recognition. Unbelievable.

22 This is the line that says, I don't think the  
23 ratings system is worth it, and here is 21 percent of  
24 the people believe that. On the other hand, this is  
2 what's -- by the way, this is for -- actually it's for

1 parents with children under 13. This survey is 2,600  
2 people under rigorous market research protocol, randomly  
3 sampled socioeconomic levels, and you can see at the top,  
4 of all the parents in America with children under 13, you  
5 have here -- for the last -- I think for the last 20  
6 years, it's been in the 70 level. Now, it's 76 percent  
7 of all parents with children under 13 say this ratings  
8 system is very useful to fairly useful in helping me  
9 decide what pictures my children ought to see.

10 I just believe that if someone is to condemn  
11 something in the marketplace, whatever it is, there ought  
12 to be some substantive evidence behind your declarations.  
13 I said, the Opinion Research Corporation of Princeton,  
14 New Jersey has conducted these surveys and it will be 35  
15 -- well, 34 years because we didn't conduct it in the  
16 first year. We started one year after the system was in  
17 effect.

18 So, what I put before you is as follows: We're  
19 trying to help parents make their own judgments about  
20 what movies they want their children to see or not to  
21 see. We give them advance cautionary warnings. And when  
22 we say an R picture, we say this picture should not --  
23 you should not bring your young children and they can't  
24 get in unless they're accompanied by a parent or a  
25 guardian. You say, well, they slip in. The Federal

1 Trade Commission, just a week ago, complimented and  
 2 lauded the National Association of Theater Owners, of the  
 36,000 screens in this country, and they said, you're  
 doing a good job. I think about 65 percent in their  
 secret surveys, or 66 percent, something like that, are  
 really enforcing this ratings system.

There is no law passed by man or woman that is  
 perfect. We have drug laws. People violate them every  
 day. We have speeding laws. People violate them every  
 10 day. And the newspapers are full of the sordid stories  
 11 of the avarice of corporate chieftains, who lied and  
 12 cheated their stockholders and their employees, and I  
 13 think they all ought to be put not in jail, but under the  
 14 jail.

1 So that nothing you do -- nothing you do is  
 2 perfect. With the possible exception of my three nearly  
 3 perfect-children, I don't know that anything ever

11 days1,dasIwe e--agth. Wi35thder the12

13



1                   So, how do they get their music? They get it  
2 from their friends and they get it from the internet.  
3 Increasingly kids will get music from one or more of the  
4 new internet sites that have popped up. A dynamic  
5 competition has taken off right now and that's great  
6 news.

7                   For instance, over the last five months, Apple  
8 iTunes has sold something like 14 million downloads.  
9 There's a new and legitimate Napster that's in the news  
10 today. Other sites include Music Now, Rhapsody, Music  
11 Watch, Music Match, buymusic.com and AOL's MusicNet, more  
12 on the way from great American brand names like Wal\*Mart,  
13 Amazon, Dell and Microsoft.

14                   But for now, as a practical matter, the music  
15 kids get most often comes not from stores and not from  
16 these great new legitimate sites. Rather, kids are  
17 getting their music by downloading from P2P networks by  
18 Kazaa and Grokster, iMesh, Morpheus and Blubster. Lots  
19 of downloads, some say 2.6 billion -- billion with a B --  
20 downloads per month. At a zero price point, it turns out  
21 that demand is pretty high, especially for kids.

22                   According to an independent analysis by  
23 Palisades, 99 percent of the audio files downloaded are  
24 either copyrighted works illegally downloaded or  
25 pornographic. Ninety-nine percent. Forget for the

1 moment, though, the lesson that gets learned from theft  
2 of intellectual property on the internet and forget, for  
3 a moment, also, the computer security and privacy issues  
4 that arise from going onto these P2P networks. Let's  
5 focus instead only on content questions and three issues  
6 pop up.

7 First, there is no labeling on Kazaa or the  
8 other P2P networks, no parental advisory, nothing. With  
9 billions of downloads occurring each month, that blows a  
10 gaping hole through the labeling regime that we're  
11 talking about today. Some say it's almost irrelevant.

12 Second, there is no point of sale and,  
13 therefore, no one or nothing poses a barrier to the  
14 acquisition of the product. No parent, no clerk, no  
15 retail establishment thinking about a community standard,  
16 nothing.

17 And third, in the P2P world, anyone can attach  
18 anything to any file by any artist, and they do that in a  
19 big way and they deceive kids in that fashion. As the  
20 GAO observed this spring in their stunning report, when  
21 you type in Britney Spears or Pokemon or the Olsen Twins,  
22 more than half of the product you get is pornographic.

23 Let's look at slide two and as we call it up,  
24 why don't you digest that a bit? I apologize. It's  
25 pretty graphic. This was a search that was done last

1 Friday afternoon at 4:56 in the afternoon, so it's  
2 contemporary. This has not been doctored in any way  
3 other than to make some of the language a little less  
4 offensive. It demonstrates very powerfully how our  
5 artists are being highjacked, their reputations are being  
6 highjacked and they're being used to lure kids.

7 I'd also like to point out that this is music  
8 that in the physical world would not be stickered. So,  
9 it's really a huge problem.

10 Let's call up slide three. Slide three  
11 compares the online world, which is how kids are getting  
12 music -- and in the green zone you'll see the legitimate  
13 sites. In the red zone, you'll see the illegitimate  
14 sites like Kazaa. And look at the vertical columns.  
15 Column one is, is there a parent filter; column two, is  
16 there a parental advisory; column three, are the edited  
17 versions of the music readily labeled for the parent; and

1 businesses must be brought under the policy, regulatory  
2 and legal microscope. They've got to be. The folks who  
3 make money by driving advertising with a zero cost  
4 structure have an obligation to match their fancy words  
5 with deeds.

6 It also means as my industry, the music  
7 industry, continues to refine, enhance and improve how we  
8 administer the parental advisory system, we are missing  
9 an enormous piece of the puzzle.

10 In contrast to P2P businesses, for almost two  
11 decades, the music industry has helped parents make the  
12 right judgments for the kids. The voluntary parental  
13 advisory program was established in 1985, about 20 years  
14 after Jack did his, but nevertheless almost 20 years ago,  
15 and it's been refined and enhanced a number of times in  
16 1990, in 1995, in 2000, and again in 2002.

17 Throughout the years, the motivation underlying  
18 this program has been to provide a clear heads-up, a  
19 heads-up to all consumers that a recording contains  
20 explicit content. By most accounts, the program works  
21 very well, much like the movie industry's. For artists,  
22 for consumers, and for parents, with some 35,000 albums  
23 released each year, about a half a million songs, that's  
24 an enormous accomplishment.

25 Yet, we live in a dynamic world. We know that.





1 The current program is not written in stone and it  
 2 shouldn't be written in stone. We do need to refine it.  
 3 We certainly will continue to listen carefully to  
 4 parents, to the FTC, at workshops like this to make sure  
 5 that what we're doing is appropriate in a world that's  
 6 increasingly moving to a digitally-centered distribution  
 7 model.

8 Accordingly, I'm proud to announce that the  
 9 RIAA will be revising our parental advisory again in  
 10 three ways. First, we'll encourage parental control  
 11 filters. Our revised guidelines will encourage online  
 12 download sites to provide parents with the option to  
 13 filter effectively or prevent the download of works with  
 14 explicit content. Two of the current services do that  
 15 now. I spoke to Steve Jobs yesterday with Apple iTunes.  
 16 They are moving in that direction. We think everybody  
 17 should do that as a matter of course.

18 Two, we will reinforce the importance of  
 19 consistent descriptors for the download sites. As you  
 20 can see from that chart, in the fourth column there's a  
 21 variety of language that's being used, and we think it  
 22 would be useful to harmonize that. So, we've already  
 23 called for that. We will tighten that language.

24 And, three, we're going to work closely with  
 25 the FTC and our partners in the entertainment industry to

1 improve the parental guide website. It's a great  
2 resource for parents. It can be strengthened and  
improved and we intend to do that.

In the interest of time, I'll leave it there,  
and again, I appreciate the opportunity, Mary, to make a  
statement. Thank you.

MS. ENGLE: Ms. Vance.

MS. VANCE: Thank you, Mary. Before I start my  
opening remarks, I just want to make a couple of comments  
10 as a follow-up to the Congressmen's comments earlier  
11 today.

12 First of all, all the games that were shown  
this morning carry prominent labels with rating symbols





1 range from edu-tainment, which describes educational  
2 content in an entertainment setting, to intense violence,  
3 which indicates the presence of graphic and realistic  
4 depictions of physical conflict.

5 Recently, the ESRB took several proactive steps  
6 to ensure that consumers are using the rating system  
7 effectively. One step was to add several new content  
8 descriptors to give consumers greater insight into the  
9 specific type of violence in a product, be it cartoon  
10 violence, fantasy violence or intense violence.

11 A second action was to increase the visibility  
12 of the content descriptors on the back of every game box,  
13 by repeating the rating symbols that's on the front of  
14 the box and placing it next to the content descriptors in  
15 an authoritative seal. All games shipping to stores  
16 today carry the new seal.

17 Another step the ESRB took to ensure that

1 with publishers and apply ratings independently of each  
2 other. Having been in this job for a year, I can tell  
3 you with total candor that we call 'em as we see 'em  
4 without regard to a publisher's desires. Our customers  
5 are consumers of computer and video games, not  
6 publishers, and it's consumer needs we serve.

7 Furthermore, it's important to know that  
8 parents overwhelmingly agree with the ratings that are  
9 applied. Each year, ESRB commissions Peter Hart  
10 Research, a nationally-renowned independent opinion  
11 research firm, to conduct market tests on randomly  
12 selected video games. In a nutshell, we show parents  
13 clips of actual game footage and ask what rating they  
14 would apply. Then, we compare their responses to the  
15 actual rating assigned by the ESRB. Each year, the  
16 research has shown that the majority of parents agreed  
17 with the ESRB, and when they disagree, they're just as  
18 likely to think we're being too strict as they think  
19 we're being too lenient.

20 ESRB ratings will never achieve 100 percent  
21 agreement, considering the breadth of opinions, beliefs  
22 and personal taste of the American public. However, it's  
23 clear that ESRB ratings are well within the American  
24 mainstream, and that's exactly where we want to be.

25 Other opinion polls conducted by Hart Research

1 show that American parents not only agree with specific  
2 ESRB ratings, but 90 percent of them say the ESRB rating  
3 system provides the kind of information they need.  
4 Seventy-five percent say it's an effective tool that  
5 helps parents shield their children from inappropriate  
6 game content.

7 In my final few minutes, I want to move away  
8 from the rating system itself and talk about some of the  
9 other mission critical activities of the ESRB.

10 As the FTC has noted in its recent reports, we  
11 diligently enforce an advertising code of conduct, which  
12 includes not just ensuring that rating symbols and  
13 content descriptors are properly applied to packaging,  
14 but the industry's advertising and marketing practices  
15 are responsible. Responsible means several things.

16 First of all, it means that the rating  
17 information is visible and legible in all advertising  
18 materials. Secondly, it means that advertising is  
19 appropriately targeted, prohibiting publishers from  
20 targeting advertisements of M-rated games to minors. And  
21 thirdly, responsible means the content of the ads must be  
22 truthful and not cause widespread offense to the average  
23 consumer.

24 In the event that a game publisher  
25 inappropriately labels or advertises a product, the ESRB

1 is empowered to force corrective actions and impose a  
2 wide range of sanctions, including levying monetary  
3 fines, relabeling packaging and ultimately revoking a  
4 rating, and this system is strictly enforced.

5 Finally, I want to share with you the extent of  
6 our efforts to raise consumer awareness of the rating  
7 system. ESRB faced, and continues to face, the difficult  
8 task of educating consumers about the rating system. In  
9 its past reports on entertainment industry marketing  
10 practices, the FTC has reported favorably on ESRB's  
11 public education efforts.

12 For example, we recruited such celebrities as  
13 Tiger Woods, Regis Philbin and Derek Jeter for PSAs,  
14 which have been distributed to TV networks and local  
15 stations across the country, as well as to retailers for  
16 in-store display. We've recently renewed this effort and  
17 look forward to getting more air time as we head into the  
18 holidays. And here's a sample of one of those spots.

19 Can we run the video?

20 **(Video segment played.)**

21 MS. VANCE: Our outreach efforts to date have  
22 yielded significant results. When ESRB launched its  
23 public education effort in 1999, fewer than half of all  
24 parents had heard of the system. Today, that awareness  
25 level has increased to almost three-quarters. But that



1 doesn't go far enough. Our goal going forward is not  
2 only to further increase awareness but also to make sure  
3 that parents fully understand how to use the ESRB system,  
4 both its rating symbols and content descriptors.

5 To that end, the ESRB has recently launched a  
6 new print public service ad campaign that will begin  
7 appearing this holiday season in consumer magazines,  
8 especially those that target parents. This public  
9 service campaign has been adapted for retail use with a  
10 broad range of point of sale, training and online  
11 materials that retailers can utilize. Here are a couple  
12 of the new in-store components.

13 In fact, in time for this holiday season, six  
14 major retailers will be installing all new ratings  
15 awareness signage in their stores and more will be  
16 joining them in 2004.

17 I'd like to add that we could use any help we  
18 can get from the FTC and consumer groups to encourage  
19 media outlets to run our PSAs and to distribute ratings  
20 awareness information. In the past, we sought to partner  
21 with groups like the American Academy of Pediatrics to no  
22 avail. I can think of no better place to distribute  
23 ratings awareness materials than pediatricians' offices  
24 across the U.S. I'm hopeful that we can build  
25 partnerships with organizations like the AAP at the

1 workshop today.

2                   Senator Joseph Lieberman has described the ESRB  
3 as the best rating system in existence, and we at the  
4 ESRB consider that high praise. ESRB ratings are  
5 thorough, credible and trusted by American consumers, but  
6 that doesn't mean our work is done. We're always looking

1

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1 Executive Officer of PSV Ratings, which offers a single  
2 content-based ratings system for film, music, games and  
3 television, as well as the internet. Mr. Kinney is a  
4 graduate of Harvard University, where he earned a B.A. in  
5 Economics.

6 Lara Mahaney is Director of External Affairs at  
7 Parents Television Council, where she oversees the  
8 Council's efforts to encourage the entertainment industry  
9 to act responsibly with its messages and to develop  
10 entertainment choices for the entire family. Ms. Mahaney  
11 has spoken on behalf of the Parents Television Council at  
12 numerous forums and in numerous places.

13 Nell Minow, the Movie Mom, is here representing  
14 Common Sense Media. Her movie reviews appear at Common  
15 Sense's website and at Yahoo. Her articles about  
16 children in media have appeared in numerous publications.  
17 Her book, the Movie Mom's Guide to Family Movies, was  
18 featured in Ann Landers' column and in its fourth  
19 printing.

20 Vicky Rideout is the Vice President of the  
21 Kaiser Family Foundation and Director of the Foundation's  
22 Programs for the Study of Entertainment, Media and  
23 Health, where she oversees the Foundation's research  
24 agenda on the impact of the entertainment media. Ms.  
25 Rideout graduated with Honors from Harvard, has a

1 Master's Degree in American History from American  
2 University.

3 Dr. David Walsh is the founder and President of  
4 the National Institute on Media and the Family. He leads  
5 the Institute's efforts to provide information about  
6 media to parents, teachers and other concerned adults to  
7 education, research and advocacy. A licensed  
8 psychologist, Dr. Walsh is on the faculty of the  
9 University of St. Thomas and the University of Minnesota.

10 And then there's Daphne White. Daphne is the  
11 founder and the Executive Director of the Lion and Lamb  
12 Project. A former journalist, Ms. White founded Lion and  
13 Lamb in 1995, as a national grassroots organization  
14 dedicated to stopping the marketing of violence to  
15 children. She is the author of the award-winning Parent  
16 Action Kit for parents concerned about the violence  
17 issue, and each year, Lion and Lamb puts out the Top 20  
18 list and the Dirty Dozen list of toys.

19 We're going to begin our discussions by having  
20 brief presentations by each of our new panelists and then  
21 we'll take a very brief break to begin a dialogue. We're  
22 going to start with Vicky Rideout from Kaiser Family  
23 Foundation.

24 MS. RIDEOUT: Thanks. First of all, briefly,  
25 let me introduce you to the Kaiser Family Foundation. We

1 are a research organization. We're interested in health  
2 issues. We're not an advocacy group, so we have no  
position on ratings in general or any specific rating  
systems, but what we try to do is conduct research about  
media, about parents' views of media, about kids and  
about the rating systems to try to help inform parents,  
inform the policy-making process and so on.

And so, what I'm going to do is really just

1 Parents are deeply concerned about the issue of  
2 media violence. In the study that we released yesterday,  
3 we found that they see their kids imitate behaviors from  
4 TV and videos. They are much more likely to see them  
5 imitate positive behaviors than aggressive behaviors  
6 among the very young kids. But by the time they're in  
7 the four to six age range, half of the kids have copied  
8 some kind of aggressive behavior, like kicking or  
9 hitting, from a TV show.

10 Many parents are making use of media ratings.  
11 More than 80 percent say they've used the movie ratings  
12 from our studies. Roughly half have used the music,  
13 video game and TV ratings and a quarter of parents say  
14 they use the TV ratings often.

1 A couple of years ago, which was our most  
2 recent study, only 7 percent had used the V-chip. Of  
3 those who knew they had a V-chip in their TV, who had a  
4 new TV with a V-chip and knew about it, a third of them  
5 were choosing to use the V-chip.

20 Most parents do find the ratings useful. About  
21 half of parents who have used them say that the ratings  
22 for movies, video games, music and TV are very useful.  
23 With regard to the TV ratings, a lot of parents don't  
24 understand them well at all, and I think that's really an  
25 issue that's going to need to be addressed. The majority



1 of parents of young children don't know what the child  
2 ratings mean and especially not the rating for violence  
in children's programming.

So, to the extent that we're concerned about  
the littlest kid and to the extent that we're concerned  
about the issue of violence, I think the issue of the FV  
rating -- which many people in the room may not have even  
heard of -- which is the one -- it's the only rating that  
tells you about violence in little kids' programming, the  
10 vast majority of parents do not have any idea what it  
11 means. Only 14 percent know what it means and many of  
12 them believe it means something like family viewing. So,  
13 there's work to do there.

14 By and large, we find that parents prefer  
15 content ratings to age-based ratings, but the reality is  
16 that at least, vis-a-vis the TV ratings, they get and  
17 understand the age-based ratings better than they do the  
18 content-based ratings. And that's just where we stand  
19 now and I think that's largely, you know, thanks to Mr.  
20 Valenti and the many years of the movie ratings.

21 As far as obstacles in the path of more parents  
22 making use of the ratings, I think the biggest area has  
23 to do with TV ratings and V-chip. I think that most  
24 parents don't know that their TV has a V-chip in it. If  
25 they do know, it's a little bit hard for them to find it,

1 it's hard for them to understand how to use it. You have  
2 to go through a lot of different screens. If you miss a  
3 particular step, it's null and void and you'd have to  
4 start the process all over again. The ratings are,  
5 compared to all the other stuff that appears on screen,  
6 are relatively invisible. So, I think those are areas  
7 where those who want to promote more use of the ratings  
8 might want to concentrate their attentions.

9 MR. KELLY: Daphne White from Lion and Lamb.

10 MS. WHITE: Hi, my name is Daphne White. I'm  
11 Executive Director of The Lion and Lamb Project. I have  
12 a lot to say so I'll try to say it very quickly. If I go  
13 too quickly, just tell me you don't understand. I'm from  
14 New York, I used to be.

15 So, Lion and Lamb works to stop the marketing  
16 of violent entertainment to children and we're very  
17 concerned about marketing issues. A lot of parents who  
18 are members of our organization came here today. They  
19 came today taking time from their work or taking care of  
20 their children because they're very frustrated, they feel  
21 helpless and they feel angry because really there is no  
22 one to listen to us when we feel frustrated about what's  
23 marketed to our children. Although, I have to say I was  
24 very heartened to hear Mr. Bainwol saying he's here to  
25 listen. That's good to hear.

1 I want to say that the issue for parents today  
2 is the marketing of violence to children, which is the  
3 title of this workshop. The issue is not industry self-  
4 regulation. The entertainment industry has been calling  
5 for self-regulation since the 1970s and you see where  
6 it's gotten us. Self-regulation has not worked. It's  
7 not working for the financial industry; it didn't work  
8 for the accounting industry; it didn't work for the  
9 energy field; it doesn't work in the field of  
10 entertainment either.

11 And there's a simple reason why self-regulation  
12 does not work. There's too much money at stake selling  
13 violence to children. The bottom line for these  
14 industries is the bottom line. It's not, and it's not  
15 been, the welfare of America's children. As you'll see  
16 in this afternoon's marketing panel, children are the  
17 prime demographics for music, movies and video games.  
18 These companies rely on children and teens for a good  
19 deal of their income.

20 Children now spend \$33 billion a year -- that's  
21 just children under 12 -- on all products. And teens  
22 spend \$155 billion a year. And as you'll hear on the  
23 afternoon panel, a lot of what they spend their money on  
24 is entertainment products, video games, movies and music.

25 So, because of this, I will critique in one

1 second the rating system, but I believe that the rating  
2 system, as they are now constituted, completely  
3 controlled and paid for by the industry groups, for the  
4 industry groups. Just to talk about the rating systems  
5 and how we can make minor adjustments here and there is  
6 like rearranging the chairs on the Titanic. It's not  
7 going to get us there. We need a total overhaul. We  
8 need people who really understand children and child  
9 development making these decisions.

10 So, I support Congressman Wolf's call for some  
11 action on the part of the Federal Trade Commission to do  
12 some regulating and legislating, because otherwise, Kill  
13 Bill will soon be shown alongside The Transformers as  
14 afterschool children's programming because that's what's  
15 been happening with ratings creep.

16 So, let's look at some big issues of how the  
17 ratings are failing parents, and then I'll go to a quick  
18 critique. The rating systems are not transparent. Only  
19 these industries know what R means, where the line is  
20 between PG-13 and PG, where the line is between Teen and  
21 Mature. The criteria is secret. We don't know how they  
22 arrive at these decisions and these are made by industry,  
23 not child advocates.

24 So, let me do a really quick critique -- if I  
25 could have the first slide now, please -- of the video

1 game rating system which has been touted as the best of  
2 the rating systems. Let's look at that really quickly.  
3 The first slide is the same as you've seen before, that  
4 Patricia Vance showed, that's the basic E, T and M. So,  
5 we'll skip over that because she already explained that.

6 So, let's look at these violence descriptors.  
7 That's supposed to help us understand more. She said  
8 there are 30 different descriptors. About nine or ten of  
9 them describe violence, animated blood, blood, blood and  
10 gore, fantasy violence. What does it mean? Next slide,  
11 please.

12 So, we have descriptors describing the  
13 descriptors. Now, I'm wondering how many of you think  
14 Column A matches Column B or can you tell? How many of  
15 you think we have these in the right order? How many of  
16 you think we have these messed up? How many of you can't  
17 tell the difference?

18 Having three kinds of blood descriptors is like  
19 the Eskimos having 30 words for snow. You can see that  
20 blood is really important in video games. So, let's  
21 continue to the next slide.

22 There's also discontinued descriptors on their  
23 website. I think it's interesting, some of them were  
24 actually honest enough, the ones they don't use anymore,  
25 to say unsafe or violent situations, to say blood or the

1 mutilation of body parts. There's mutilation, there's  
2 decapitation. You'll see a longer version of the video  
3 Congressman Wolf showed. You will see people's heads  
4 being chopped off with axes. None of that is visible in  
5 these descriptors, which are supposed to be reliable and  
6 helpful. They're very vague and don't say much. Okay,  
7 let's move on to the next one.

8 What would you think is more violent? Here's  
9 The Hulk. It's a video game based on a PG-13 movie.  
10 There's an E-rated version for Everyone. The descriptor  
11 says violence. Okay. The Teen-rated version says mild  
12 violence. I don't know about you, but I'm a little  
13 confused. Not only why is there one called E for  
14 Everyone of a PG-13 product, but the ratings seem to be a  
15 bit mixed up. This is, by the way, off the ESRB website.  
16 We did not scramble these. Next one, please.

17 Another confusing thing is the R-rated movies  
18 for which there are companion Teen-rated video games.  
19 The Matrix, The Terminator are just two examples.

20 So, there's more violence in these games. I'll  
21 run through this really quick. There's an issue of  
22 ratings creep. You can do the next slide.

23 Mature-rated games are the fastest-growing  
24 segments. Even though only 8 percent are rated mature,  
25 something like 30 percent of all games sold now for

1 consoles are mature. So, the ratings is different than  
2 what is popular. Next slide.

3 Ninety-five percent of teenage boys play video  
4 games. When the industry says 83 percent or whatever are  
5 purchased by adults, let's think of the population. More  
6 than 80 percent of the population is adults. But teens  
7 are a huge demographic in who plays games. Next slide.

8 Forty percent of those who play Mature-rated  
9 games are under 18. Again, our concern is the marketing  
10 of these violent games to children, not the fact that a  
11 lot of women play solitaire on their computers, which is  
12 what the industry mucks up the figures with. And  
13 children under 18 comprise less than 20 percent of the  
14 U.S. population. Next slide.

15 The same -- this is an older slide from movies,  
16 but it shows you that with movies, as they go along, the  
17 death toll rises. These are actual corpses. This isn't  
18 some kind of vague definition of violence. George Gerbin  
19 (phonetic) who went and counted the number of dead bodies  
20 in these movies, they go up. Current movies, they go up.  
21 Video games, they go up.

22 Kill Bill, which is now rated R; Texas Chainsaw  
23 Massacre, rated R, would have been X or NC-17 just a few  
24 years ago. And we actually have released a list of  
25 rotten ratings today to show problems with the rating

1 system.

2 Is there another slide? Okay, that's just a  
3 picture from Postal 2, which you'll see more of later.

4 So, I will offer some recommendations in the  
5 last panel of the day about a uniform labeling system.  
6 But as Congressman Wolf said, labeling is just the  
7 beginning. We need regulation, legislation and possibly  
8 more lawsuits because these ratings are not working and  
9 we cannot count on industry to do any better than they've  
10 done in 30 years. Thank you very much.

11 MR. KELLY: Thank you, Daphne. I didn't know  
12 we were going to have a quiz.

13 Dr. David Walsh from the National Institute on  
14 Media and the Family.

15 DR. WALSH: Thank you. I'd like to start by  
16 giving you a little bit of an overview of the work that  
17 we do because even though whenever I come to Washington  
18 it's about policy and advocacy issues, most of the work  
19 that we do is actually on another key variable in this  
20 discussion that's come up a number of times today.

21 What you see up on the screen is the mission,  
22 and I just want to make the point that we are not an  
23 anti-media group. We believe that the media are  
24 powerful, probably more powerful than most people  
25 realize, and I also think more powerful than most parents



1 realize. And so, what we try to do is to maximize the  
2 benefits while minimizing the harm.

And the reason for that has to do -- if you'd  
go to the next slide, please -- with the power of media.  
I think whoever tells the stories defines the culture,  
and I don't think that's new. I think it's been true for  
thousands of years. But for this generation of children,  
more so than any other before it, the dominant  
storytellers are now on the screen, and so, that has a  
very, very large impact on the behavior of children  
particularly with the growing role of media in children's  
lives. Screen time, because of the evolution of new  
screens, screen time is up 25 percent since 1990, not  
because kids are watching more television. They're  
actually watching a little bit less, but they're playing  
more video games, internet, computer, et cetera. So, the  
screen time is now a major role in their lives.

And the reason that that becomes very, very  
important is because we can't expect the companies that  
produce the stories to have children's welfare as a  
priority. Their priority is profit. With some  
exceptions, the overwhelming priority is profit.

Lester Thoreau, the MIT economist, wrote not  
too long ago that values are not and will not be  
inculcated in either the present or the future by



1 brings a gun to school, there are millions of kids who

1 we're trying to do is build awareness, knowledge and  
2 action and trying to get parents to start to become  
aware. If you'd go to the last slide. Or things like  
this, if you believe Sesame Street taught your four-year-  
old something, then you better believe MTV is teaching  
your 14-year-old something. And so, we have to help  
parents become aware because all of the systems that  
we're going to be talking about -- and we are critical of  
some of the systems and we'll be talking about those  
specifically. But I really think that we really have to

1 sensitive house. And my father now says that the media  
 2 is more like a toxic waste dump, and that provides a  
 3 greater challenge than he had raising my sisters and me,  
 4 you know, worried about whether we should watch I Dream  
 5 of Jeannie than, you know, today's parents wondering  
 6 whether their kids should be watching Fear Factor or Joe  
 7 Millionaire.

8 I, like Jack Valenti, am the world's biggest  
 9 fan of the First Amendment. I'm delighted to be here  
 10 using my First Amendment right to express my views. And  
 11 so, I really want to make it clear that we're not talking  
 12 about any infringement of the First Amendment. I think  
 13 that the MPAA has been a wonderful leader in this area,  
 14 but I think it could do a better job, and I want to talk  
 15 a little bit about the movie rating system since I'm a  
 16 movie critic and write about these issues and that's my  
 17 area of expertise.

18 I think it is a mistake to have the system  
 19 completely controlled by the industry and they have  
 20 always felt that they wanted to have just a parent  
 representative on the board.

17re2 TD- Tfs are 0 TD0 Tc(17)Tj/T

1 you can go about it.

2 But I think my primary concern is that the  
3 descriptors, which are a big advance over where they used  
4 to be, are still sort of Delphic to the point of being  
5 intentionally obfuscatory, sort of the butterfly ballot  
6 of the rating system. My all-time favorite rating was  
7 for the Majestic which was rated PG for mild thematic  
8 elements. Now, you know, you're going to need a Ph.D. in  
9 semiotics to figure that one out.

10 I think that the ratings board watches so many  
11 movies that they get a little numb, in the title of a  
12 movie I liked very much, Dazed and Confused. After you  
13 see a movie like Kill Bill, everything else ratchets  
14 down. And we have a PG-rated Star Wars where a child  
15 picks up a helmet and finds his father's severed head in  
16 it. But because you don't see any blood -- blood is a  
17 very big issue in ratings -- it's still a PG. And  
18 because a lot of the people killed are robots -- if I can  
19 say the people killed -- a lot of the entities  
20 annihilated are robots, you stick with a PG.

21 Last week, I'm proud to say that in America the  
22 number one movie, the biggest opening in October ever,  
23 was Scary Movie 3, a truly dreadful movie, but you know  
24 who went to this. It was teenagers. It was rated PG-13.  
25 The website screenit.com has 13 pages of parental

1 concerns about that movie, including references to  
2 bestiality, pedophile priests, tossing a dead body around  
until the limbs come off, having a child slammed by a  
car, bestiality jokes and humorous gang shooting.

In the recent PG-13 S.W.A.T., one concern I  
had, again not very bloody, but a lot of things blown up,  
you had suicide portrayed as an honorable response to  
having made a terrible mistake. That's an issue that  
really is very important to me in terms of what we  
communicate to kids.

You know, the MPAA rating system just gives a  
get out of jail free card to comedy and allows a lot of  
things through PG-13 that would be an R in a drama. And  
there's something wrong with a world in which Billy  
Elliott and Kill Bill both get R ratings.

The Center for Media and Public Affairs, on  
whose board I serve, in their last survey of the most  
violent films, 1998, 5 out of the top 10 and 9 out of the  
top 20 were PG-13. So, I think we could do a better job  
of giving parents the information they need about  
violence.

Parents need better information, consistent  
across all platforms. We've got a survey at Common Sense  
Media that says that. Parents say we want to understand  
the ratings better. I think we have heard some very

1 interesting things about the different ways that the  
2 different media approach ratings and we can find some  
3 solution that is across the board that provides clear and  
4 understandable information.

When my son was five he once said to me, how



1 put up that symbol a little bit later.

2 Lara Mahaney from Parents Television Council.

MS. MAHANEY: Hi, what we want to talk about  
today is a study that the PTC did. What we did is we  
watch everything on the prime time broadcast networks and  
we log for sex, violence, bad language, that type of  
thing, but then we also log who's advertising. So, we  
recently did a study of the M-rated video games and the  
R-rated movies on between 8:00 and 10:00 at night.  
Now, when we refer to the family hour, that's the first  
hour of prime time or 8:00.

Three years after the FTC 2000 report was  
published, one has to wonder if anything has really  
changed at all. Advertisements for the Eight Mile DVD,  
which was rated R, ran repeatedly on Fox's American Idol,  
which at the time was the highest rated show on  
television among children ages 2 to 17. The PTC study  
revealed that rather than getting better, several of the  
networks are actually getting worse, putting more  
advertisements for adult-rated entertainment during the  
first hour of prime time when children are most likely to  
be watching them.

The PTC's most recent analysis shows that Fox  
is, by far, the worst network. Sixty-three percent of  
the ads for M-rated video games and 36 percent of all ads

1 for R-rated movies that aired during the family hour ran  
2 on that network. Two out of every three ads for M-rated  
3 video games and nearly one out of every three ads for R-  
4 rated films that aired during the second hour of prime  
5 time aired on Fox. These are just a few of our findings.

6 Fox, WB and UPN continue to be the only  
7 networks to air ads for M-rated video games during the  
8 family hour or the 8:00 hour. Fifty-six percent of video  
9 games advertised on UPN and 43 percent of games  
10 advertised on FOX during the family hour were for M-rated  
11 video games. We have our study outside, so if some of  
12 these numbers are confusing, you can look it up after  
13 that.

14 When it comes to movies, not only are NBC, Fox  
15 and UPN still airing the most ads for R-rated films  
16 during the family hour, they've gotten worse. We had a  
17 study, also, in 2002 and it showed actually those three  
18 networks went up about 5 to 8 percent. On a good note,  
19 only 9 percent of ABC's family hour movie ads were for R-  
20 rated films. Ninety-one percent of all movie ads that  
21 aired on ABC during the family hour were for films rated  
22 G, PG or PG-13.

23 Another problem that we've noticed with films  
24 in particular is that they'll run ads and say, not yet  
25 rated, and I know there are sometimes where there may be

2011年12月

1 show for 2 to 17-year-olds, had films like Identity, kind  
2 of a horror film, Old School and Final Destination. MTV  
3 is a popular entertainment vehicle for M-rated video  
4 games, but also films like Jackass, which was R-rated,  
5 and then also, too, during the baseball playoffs, Kill  
6 Bill was being advertised. And what was even disturbing  
7 about that was the fact Quentin Tarantino, the director,  
8 said that 12-year-olds should be taken to see this movie  
9 and that your parents, if they're cool, they'll take you  
10 to see it.

11 Now, I don't think that was the position of  
12 Miramax, but, you know, I think there is a responsibility  
13 from those within the entertainment industry. They do  
14 really well about talking about smoking and its effects  
15 and how people do what they see in the movies. But they  
16 aren't doing it when it comes to sex, violence or  
17 language.

18 MR. KELLY: Thank you, Lara. Warren  
19 Buckleitner from Children's Software Review.

20 MR. BUCKLEITNER: Thank you. I thought I was  
21 going to be last, so it's a nice surprise. I'm glad to  
22 be alive today. I drove down with my nephew from New  
23 Jersey, who has played all the way through Grand Theft  
24 Auto, and we hit some traffic and around Maryland he  
25 said, Uncle Warren, do you want me to get you there. I

1 said -- so, I was torn. I had a decision I had to make.  
2 I said, you know, it's getting tight, go ahead, hit it,  
and I saw some driving that I couldn't believe.

If you want to talk to him, he's back there,  
and I'm embarrassing him. But he has played all the way  
through Grand Theft Auto. I played the first level and  
he told me that -- some things about the content that's  
inside Grand Theft Auto that every parent should know  
that you can't tell if you go to Amazon.com. Type  
10 Toysrus.com, go to Amazon, it jumps right in there.  
11 Scroll through the games, click on the Adventure  
12 category. One of the options is this really cool car  
13 thing. There's a message there that says, not for  
14 children under 17. I'm a kid under 17. I'm really  
15 interested now. There are no ESRB descriptors on the  
16 Amazon.com Toys "R" Us entry from Grand Theft Auto.

1 Now, talking to my nephew, I didn't get to the  
17 level where you actually can purchase a pornography  
18 studio. That's one of the things you can do. And  
19 there's a video that shows some actual scenes. Now, it's  
20 nothing you can actually see, and we've looked for that;  
21 however, the themes of prostitution and pornography and  
22 the F word are very big in that game.

23 Now, we publish a publication on children's  
24 interactive media. We have a column in here called

1 Parents Video Game Advisor. We started after working for  
2 Boys Life Magazine. So, we watch and listen a lot to  
3 real kids and what they do, okay? They're playing Grand  
4 Theft Auto.

5 My question is, why do Toys "R" Us, a company  
6 that's got the word "toy" in its name, sell something  
7 that I doubt the executives or buyers would want for  
8 their own children?

9 Secondly, we look at the ESRB ratings. They do  
10 a great job. We have yet to be surprised, after 10 years  
11 of looking at video games, if it's an E or a T, it's spot  
12 on. The descriptors are far more useful. Parents don't  
13 know what Mature means. I've had parents of second  
14 graders come in and say, yeah, my kid's really mature.  
15 Parents are also desensitized to violence, like Star Wars  
16 gets a T rating. I don't know why because it's got so  
17 much shooting. Parents don't worry about that stuff.

18 So, those big symbols don't really jive with  
19 what parents need to know, but the descriptors are good.  
20 However, they're on the back and I think those things  
21 should be right up in front at the point of sale so  
22 parents can make a better choice.

23 If you go into Blockbuster, they've actually  
24 stickered over, in our store in Flemington, New Jersey,  
25 some of those descriptors.

1                   Anyway, I'm glad to be alive today, and if  
2 you'd like to speak to a kid who's played through Grand  
3 Theft Auto, he's back there. I don't think that this  
4 media makes bad kids. I think that we, as adults,  
5 classically underestimate the ability of children to make  
6 decisions. So, I don't see the research linkage and I  
7 look forward to listening to everybody today.

8                   Thank you.

9                   MR. KELLY: We'll now hear from David G. Kinney  
10 from PSV Ratings.

11                   MR. KINNEY: Thank you, Dick Kelly. It's an  
12 honor to be here among so many concerned citizens and  
13 people who truly care about the impact that media is  
14 having on our children and, hopefully, plan on working  
15 together to take positive actions to protect our  
16 children.

17                   I am David Kinney. I'm the founder and  
18 President of PSV Ratings and I want to emphasize that our  
19 guiding principles are that we respect the right of  
20 artists, producers, directors, performers to express  
21 themselves in any way they choose. We also respect the  
22 rights of parents and other child caregivers to make  
23 informed decisions before they purchase or rent any  
24 entertainment media.

25                   We do not believe that freedom of expression

1 should be curtailed in any way, but we do believe that  
2 freedom of expression has to be balanced with freedom of  
information.

Can I have the first slide? So, as such, we  
are a private sector solution to the dilemma that  
families confront as they attempt to determine what is  
appropriate content for their children to consume. Our  
mission is to provide parents and all consumers with  
objective facts, not subjective judgments, about media  
content so that they determine appropriateness based upon  
their own individual standards of suitability.

We are a content, not an age-based system. Our  
system does not use subjective measures to assess the  
media we audit. In fact, we train our auditors to report  
the factual incidences of profanity, sex and violence and  
that information is analyzed by a proprietary technology  
designed specifically to ensure objectivity. Next slide,  
please.

In spring of 2003, we commissioned a focus  
group study of parents across the United States. Our  
goal was to conduct qualitative research with as diverse  
a group of parents as possible about the impact of media  
on their children and their sentiments about existing  
ratings systems. Parents in the focus groups were  
carefully selected to ensure diversity by location, the



1 age groups of their children. We ensured that we had a  
2 variety of household incomes, different race and ethnic  
3 groups, and a mixture of education levels. Next, please.

4 Our objectives were, again, to obtain parental  
5 views of the impact of media on their children, that is  
6 to say all media, including movies, television, music and  
7 video games, and we wanted to know parents' satisfaction  
8 levels with established industry rating systems and the  
9 demand for alternative rating systems. Next, please.

10 What we found was that parents with children  
11 less than six years of age were less concerned about the  
12 impact of media on their children than the 6 to 15-year-  
13 old group because they thought their children had not yet  
14 begun to show an interest in the type of content that  
15 would cause them concern. As per the Kaiser Family  
16 Foundation Forum yesterday, evidently, they should be  
17 concerned.

18 Parents with children ages 6 to 15 have very  
19 serious concerns about media for three primary reasons.  
20 Children mimic what they see and hear in the media.  
21 Parents find that many scenes frighten their younger  
22 children and parents disagree with many of the values  
23 being portrayed in movies, music and other media.

24 Parents with teens over 15 years of age feel  
25 they have less influence over what their children watch

1 in media and that they can less effectively monitor their  
2 children as they age. Thus, they had the least interest  
• in alternative rating systems. Next, please.

1 information than the current systems do. Next, please.

2 Given that parents said they were willing to  
3 make extra effort to find alternative ratings, we wanted  
4 to know when and where they would access them. The  
5 majority of parents, roughly two-thirds, wanted to see  
6 these ratings in advance. They did not want to get stuck  
7 at a store or at a movie theater and have their child ask  
8 them on the spot if they could have a certain media  
9 product. They wanted advance information so they could  
10 study the content issues and make their decision about  
11 what to purchase.

12 Approximately one-third of the parents told us  
13 they simply do not have time to do this advance research  
14 and these parents specified that they would only be able  
15 to utilize the information at the point of sale.

16 So, in conclusion, our research demonstrated  
17 for us that parents do want to decide for themselves what  
18 content is appropriate for their children. They want to  
19 be the gatekeepers of content for the children. They  
20 want more facts and information about the content. They  
21 want a universal rating system that simplifies their  
22 choices and clearly there is a demand for alternative  
23 rating systems that serve the needs of parents by filling  
24 the void in the marketplace for the information they  
25 seek.

1 Thank you.

2 MR. KELLY: Thank you very much. Because Mr.  
Valenti has to leave, he wanted to make a few comments  
and he's also going to stay for just a few minutes for  
questions from the panelists before he goes.

Mr. Valenti.

MR. VALENTI: First, I want to make one  
overarching opening comment. There's an old phrase for  
Texas that says, any jackass can kick a barn down, it  
takes a darn good carpenter to build one. The movie  
industry is such a fat, inviting target and you can  
imagine in the 35 years of this rating system, I've heard  
just about every comment you can possibly imagine. So,  
nothing I've heard today is new.

Let me make some comments. Number one -- I  
made some notes during this, so I want to be sure I get  
it right. We're not dealing here with Euclidian  
geometry. This is not Boyle's Law of Gases where all the  
equations are pristine and pure and they always come out  
exact. We're dealing with a vapory air of subjectivity  
and everybody in this room will admit it.

When I look at a picture, I may say, this is a  
piece of junk and you say, that's an Ellsworth Kelly  
that's worth \$300,000. I may hear a song that I find  
just dreadful and you say, I love it. I love hip-hop,

1 but I can't understand what they're saying, so I don't  
2 know how to deal with that. Everyone looks at life  
3 through their own lens. Sometimes that lens is  
4 apocalyptic, sometimes it is golden and glowing, but  
5 we're all looking at the same thing. And that's what  
6 we're dealing with here.

7 In the beginning of this rating system, I  
8 hired, at some expense, a number of child behavioral  
9 experts and social scientists from some fine universities  
10 on the East Coast and West Coast, and I said, please do  
11 for me, here are these categories, give me specific  
12 demarcation lines. What is too much violence? What is  
13 enough? William Blake said, enough is when it's more  
14 than enough, and that's how he said it.

15 They labored for maybe six months on this, and  
16 when they came back, they had to agree they failed

1 eyes of a parent, just plain, ordinary parents, so they  
2 ask themselves a question, is the rating I'm about to put  
on this movie or to vote for one that most parents in  
America would judge to be accurate.

Now, you're dealing again with subjectivity.  
How do you know that? With all due respect, a focus  
group, you can't extrapolate from a focus group. Every  
market research scientist will tell you that. You can  
only extrapolate from strict market research protocols.  
10 So, what you get from one focus group may not be what you  
11 can from another and you cannot project the rest of the  
12 community on that. God, I've tried them all.

13 The Supreme Court, the highest court in this  
14 land, at this very hour cannot define what pornography  
15 is. Isn't that awful? And they say, you have to -- it  
16 violates the community standards. Well, what the hell is  
17 that? Again, you're dealing with wispy definitions. You  
18 can't do that.

19 And by the way, with all the cries for federal  
20 legislation, any time the Federal Government tries to  
21 interfere and designate anything that's protected by the  
22 First Amendment, it's unconstitutional. We know that on  
23 the face of it. What the Government can do is pass  
24 resolutions and that sort of thing, but they can't go  
25 beyond that.

1                   By the way, I laud all these additional rating  
2 systems that you've heard about. We ask parents to look  
3 at every source of information. We're not the Delphic  
4 Oracle at all. Of course we don't -- as a matter of  
5 fact, I will tell you quite honestly, infrequently, I  
6 disagree with a rating every now and then and I think, I  
7 think they blew it that time, I don't agree with that  
8 rating. But what do I know? I'm just one individual.  
9 I'm looking at it through my own eyes.

10                   So, if the Supreme Court can't define it, how  
11 is anybody else going to define it? Again, you come back  
12 -- I hate to keep using these words, but that's what it  
13 is, Nell, it's subjectivity. I love Nell Minow and I  
14 adore her father. I think he's one of the great icons of  
15 this country. But what Nell has given you is Nell  
16 Minow's opinion which summons respect from all of us.  
17 But it is not the final opinion. That comes from  
18 parents. They make their own judgments about that.

1 samplings, socioeconomic levels, so that when you get a  
2 survey like that, the error of probability is plus or  
minus 3 percent.

Now, if somebody can offer me other things like that, I'd be glad to look at it. But these parents are saying, we find this rating system for the movies very useful to fairly useful in helping me decide the movies of my children. Now, I guess maybe you can come up with another survey, maybe this one is wrong, I don't know. But under the market research protocols, I have to say, I think it's right, and a 98 percent recognition factor. As I said earlier, how can anything last 35 years unless it's delivering some kind of a benefit? It has to be. Otherwise, it would have decayed earlier than this.

Now, the TV ratings -- by the way, somebody said we need advance information. We give advance cautionary warnings, for goodness sakes. Now, if a parent doesn't read it, if a parent chooses to take a child in willy-nilly to an R-rated movie, you can't blame the rating system.

Now, on TV ratings, I disagree with whoever said that TV ratings -- I think the TV ratings are not good. Do you know why? What I wanted to have as chairman of a group with the National Association of Broadcasting and the Cable Association, I wanted to have



1 a simple rating system. Anything that is mired in  
 2 complexity will fail. Many people can't program their  
 3 VCRs. Why? It's too god-darn complicated, which is why  
 4 I love my Tivo, it's so simple to use.

5 So, I'm saying to you, I said I wanted a simple  
 6 rating system. But we were beset by a lot of child  
 7 advocacy groups and the Psychiatric Association, the  
 8 Psychological Association and you name it, seven to ten  
 9 groups, and we met with them relentlessly and constantly  
 10 and exhaustively. And what came out, in my judgment, was



1 MR. VALENTI: Well, I did. I went on too long.  
2 I'm going to be late for my next appointment.

MR. KELLY: Can you stay for just a couple, Mr.  
Valenti?

MR. VALENTI: Yes.

MR. KELLY: And I think certainly all these  
groups -- I think one of the interests here is to try to  
turn some of those parents who find the MPAA system  
somewhat useful into saying it's very useful. I think  
that's at least part of this focus.

Who has a question? Go ahead, Dave.

MR. KINNEY: I just wanted to say that I was  
specifically asked to present focus group research here  
today. I put a million dollars of my own money into the  
development of the company that I have, specifically  
because I saw a void in the marketplace and a demand for  
the information.

I believe, as you do, Mr. Valenti, that the  
values should come from family, church and school, but  
there are thousands of studies that prove conclusively  
that children today are brought up by the media. And,  
again, in no way -- every single person -- I mean, I'm  
only at a point now where I get to speak to Congressional  
and Senate aides. But in every instance, I have  
presented us as a robust supplement to the MPAA. I've

1 never said anything negative about the MPAA system. I  
2 said in my remarks today that parents do find it useful.

I simply am saying that the reason we're all  
here is because parents need more information, and it's  
not just for the MPAA system, it's across the board.  
Parents need to have the information they need to  
determine for themselves what's suitable for their  
children.

I may have a 13-year-old that I choose to raise  
10 differently than you raise your 13-year-old. Moreover, I  
11 may have two 13-year-old twins that have different  
12 sensitivities to sex, violence or anything else. What  
13 we're advocating as far as PSV Ratings is concerned, that  
14 parents be given the objective information they need.  
15 Our traffic light symbol is merely a guide to a chart  
16 that references a series of rules in our database. But,  
17 again, we just simply tell them here's what's in the  
18 movie. We make no judgment whatsoever about the movie or  
19 the MPAA rating system or anything else.

1 rating system and how difficult they are to do and how  
2 there are fog and wispy definitions. I don't understand  
3 how parents are supposed to understand or trust a system  
4 that has no criteria. I thought this panel was about the  
5 rating systems, how they work, what the criteria are. I  
6 didn't hear a single criteria. I don't know what to  
7 expect when I take my son to see a PG-13 movie anymore.

8 I went to see S.W.A.T. recently with my son.  
9 It was heavily advertised. I walked in there -- how many  
10 of you have seen S.W.A.T.? Anybody seen that movie?  
11 That's another issue. Parents, you know, think they see  
12 R-rated movies which are romantic comedies and they think  
13 PG-13 is better than that. PG-13 is a whole different  
14 category with tons of violence. S.W.A.T. had non-stop  
15 machine gun fire from beginning to end almost. It was a  
16 fine movie, a fine R-rated movie. I did not think it was  
17 PG-13.

18 I went to see Matchstick Men, PG-13, took my  
19 son. They had pole dancing in there.

20 I went to see Kill Bill, which clearly is an  
21 NC-17 movie. I haven't had the pleasure of seeing Texas  
22 Chainsaw Massacre yet, although it's on my homework list.

23 I don't know what the criteria are. I do not  
24 know what to expect. And PG movies, PG-13 or R, you  
25 haven't explained it to me. Yes, it's subjective. But I

1 think if you say your system is accountable, you owe it  
2 to explain to parents what are the criteria you use to  
3 come up with these ratings. Just telling us it's wispy  
4 and since the Supreme Court can't do it, the MPAA is  
5 doing it -- you keep saying it's lasted for 30 years. I  
6 think that's because of the force of your personality and  
7 the size of your checkbook.

8 But I'm interested in hearing criteria so that  
9 I and other parents can understand your system.

10 MR. VALENTI: Well, if I just said -- if you  
11 could write it down for me, I'd be overjoyed.

12 MS. WHITE: I'm not the one with the rating  
13 system, you are. You need to write it down for me.

14 MR. VALENTI: No, I'm saying to you that if  
15 you'd write down for me what you think the criteria ought  
16 to be. Social scientists can't do it. It's easy to say  
17 it, but it's hard to put down because there are 100 ways  
18 to show violence.

1 ad has the reasons for the rating. Filmratings.com will  
2 give you the ratings for thousands of movies and tell you  
more about it. I cannot put a bayonet to your back and  
force you to read those reasons, nor can I force you to  
go to filmratings.com.

By the way, go to all these other -- your  
rating system, I think it's terrific. What Nell Minow  
says, read what she says. Read what all the others have  
said. We urge parents to do that. We don't think that  
we are the final repositories of all wisdom. We do the  
very best we can.

And, by the way, I have a survey that 34 times  
-- 34 years we've done this with an accredited market  
research organization. I'm giving you the playback of  
what parents said. Right now, the highly useful to  
fairly useful is divided about 50/50. I'd like to make  
it 75/25. We're doing the best we can. But what parents  
are telling us is they trust it and they use it. Some  
sparingly use it, some heavily use it. But each person  
makes those decisions. We do label these things. We're  
telling you now the reasons for the ratings. I don't  
know what else more you can do.

You can't -- oh, by the way, I've written every  
major newspaper in the country saying, when you review a  
movie, put down at the bottom of your review, for family

1 viewers, here's what's in this movie, and you can do a  
2 whole paragraph on it. We can't do it. We don't have  
the space for it, but you can do it. I think the New  
York Times does it, the L.A. Times does it, another  
source of wisdom about movie ratings.

MR. KELLY: We have time for one more question  
from a panelist we haven't heard from. Warren?

MR. BUCKLEITNER: Way down on the end. Thank  
you for this opportunity. Again, I never met you and  
enjoyed what you had to say.

I agree with the complexity of this whole thing  
and the opinions --

MR. VALENTI: That's your good luck, by the  
way.

MR. BUCKLEITNER: Yeah, it is. I'm just glad  
to be alive, frankly. The subjectivity issue is huge.  
And one obvious solution that I think might work for all  
of us is to turn the monster on itself with the internet.  
I know on Amazon.com you can read end user reviews of all  
these things and if we can gather that information of  
parents who have just been to a movie -- and what I like  
about Amazon, there's nuts there, people you agree with,  
people you don't agree with, left, right, everybody. And  
you can kind of see and you can say, oh, they're  
affiliated with the industry or they're --



1 MS. MINOW: Common Sense Media does that. We  
2 do that for all of our movie reviews. We enable parents  
and kids to put their reviews on and to respond to the  
MPAA and to what I have to say and for exactly that  
reason.

MR. BUCKLEITNER: Yeah. So, it's giving people  
a voice, and I think the internet can do that. But maybe  
it's making more conduits so that that gets to the point  
of sale or gets to the decision points that might help us  
all.

MR. VALENTI: I think that's terrific, but keep  
in mind these ratings are done long before they go into  
the marketplace because the distributors have to know the  
ratings so they can put the information on there. So,  
this is long before the Amazon.com people see it. But  
before you go to a movie, why not go to Amazon.com? You  
don't have to trust our ratings, go to .com, go to your  
ratings, read Nell's. All the people up here, they are  
sources of information and we urge parents to look at  
that information and take it to heart.

MR. KINNEY: Is there any possibility, though,  
that those of us who do this, the biggest difficulty is  
getting screeners of these movies in order to provide the  
information in advance, and I know that's a piracy thing  
that we --

1 MR. KELLY: I don't know that we have enough  
2 time to respond to the screener question.

MR. KINNEY: Between that and the fact of  
that --

MR. VALENTI: Oh, you drove a stiletto in my  
heart.

MR. KINNEY: Between that and the fact that the  
National Association of Theater Owners basically only  
recognizes the MPAA system, it does make it difficult,  
and that's why we've tried to contact -- we're trying to  
work with everybody in a collaborative way just so that  
we can provide this information. But it -- again, we've  
tried to call your office and we'll continue to do that,  
but we're just trying to get information so we can  
provide information.

MR. VALENTI: Well, I will tell you this, don't  
wait for those screeners. I will tell you why. Every  
year for the last 12 years, the motion picture companies  
have sent out screeners to just about every person in the  
known Western World, several hundred thousand, 68 titles  
were sent out last year.

Now, we have a sophisticated anti-piracy  
department in the MPAA and they came to me and showed me  
that of those 68 titles, 34 were pirated, wound up in  
Asia and in Russia, stamped onto counterfeit DVDs and

1       hurled around the world. None of those people who  
2       received those screenings are doing the piracy. But they  
3       did like I do. You give them to relatives, you give them  
4       to friends and they give them to friends and they give  
5       them to friends and somewhere along in that daisy chain,  
6       the pirates pounced on it.

7                So, right now, first I banned all screeners and  
8       we're going to send screeners to the 55 members of the  
9       Academy of Motion Picture Arts and Sciences. But they  
10       must now sign a paper -- I just signed mine yesterday. I  
11       0 . signed my signature and I pledged they will stay in my -

1 organization, I'll just throw out the tobacco question.  
2 I'm just wondering if you were convinced that -- and I  
3 know you had a lot of skepticism about the research, but  
4 if you were convinced that seeing a lot of movies with a  
5 lot of attractive characters smoking did increase the  
6 likelihood of young people smoking, would it then make  
7 sense to you to give such movies an R rating?

8 MR. VALENTI: Two things. First, we rate for  
9 illegal drugs. Anything that's illegal, we rate for. So  
10 far, the Government has not seen fit to declare tobacco,  
11 which kills more people than any drug, an illegal drug.  
12 They don't do it. Meanwhile, last week, myself and Van  
13 Stephenson and others of my association, we met with  
14 seven Attorney Generals of seven states, including a  
15 doctor from the Dartmouth Medical Group which gave us a  
16 survey. We had over a two-hour meeting with those  
17 Attorney Generals and now we're going to have a follow-up  
18 meeting in Hollywood, where I'm setting up a roundtable  
19 with directors and writers and producers, as well as the  
20 production executives in the movie companies, so that we  
21 can have a roundtable to talk about this.

22 We have not included smoking in the ratings for  
23 the simple reason that I offered before. Once you start  
24 rating for legal material, you're going to have to rate  
25 for a lot. Environmentalists, Society for the Prevention

1 of Cruelty for animals and the list goes on, and they are  
2 legitimate catalogs.

So, I'm saying to the Attorney Generals that,  
at this moment, we're not rating for tobacco. We don't  
rate for alcohol because they're not illegal. Anything  
that's illegal in this country and it's used in a movie,  
we rate for it.

UNIDENTIFIED FEMALE: Violence is legal,  
profanity is legal and you rate for those.

10 MR. VALENTI: I didn't hear you. I'm sorry.

11 MS. RIDEOUT: She's saying that violence is  
12 legal, profanity is legal, sexual content is legal and  
13 those are categories that you rate for.

14 MR. VALENTI: I'm not aware that guns are  
15 illegal. Where are they illegal? There are certain  
16 states, but I can go to Virginia right now and buy all  
17 the guns I want, Maryland, too.

18 MS. RIDEOUT: I think she's saying that you do  
19 rate, if I understand you correctly, that you rate movies  
20 based on content.

21 MR. VALENTI: Sure. Murder is illegal and we  
22 rate for murder.

23 MS. RIDEOUT: I think others acts of violence  
24 or sexual content or saying obscene words factor into  
25 your ratings and those don't necessarily have to rise to

1 the standard of being illegal.

2 MR. VALENTI: But that's behavior and that's  
not a substance. There's a big difference. By the way,  
Professor Graebener of the University of Pennsylvania,  
somebody mentioned his research. He's a wonderful man  
and I like him a lot. But under his methodology of a  
violent act, the most violent program on television or  
movies was the Three Stooges because they were slapping  
and every time they slapped he counted that an act of  
10 violence. When you add up what happens in the Three  
11 Stooges, the most violent piece of visual narrative you  
12 could possibly imagine. I'll let you ponder that for a  
1 moment.

1 MR. KELLY: We need to move on with the  
1 program. Mr. Valenti will be back this afternoon for our  
1 last panel. Right now, I'm sure the RIAA and the ESRB  
1 have been very happy with the discussion so far. We're  
1 going to take a two-minute in place stretch break and  
1 then come back for some discussion about the other two  
20 rating systems. Thank you.

21 **(Whereupon, a brief recess was taken.)**

22 MR. KELLY: Let me tell you what we're going to  
2 do because, obviously, we're already a little behind  
2 schedule here. We're going to continue the panel  
2 discussion for about 15 more minutes and then open it up

1 for about 10 minutes of questions from the audience. So,  
2 that means we should be able to convene and break for  
3 lunch by 12:15 and that is the goal and desire.

4 We, obviously, had several areas we wanted to  
5 discuss, but I think for the interest of time, I sort of  
6 want to ask the panelists to focus discussion on the  
7 basic issues about parent views of the rating and  
8 labeling systems. I want to talk about the research that  
9 some of us have already mentioned in our remarks that has  
10 been done, what that research suggests about parents'  
11 likes and dislikes of the various rating and labeling  
12 systems. Obviously, we have still with us the  
13 Entertainment Software Rating Board and the RIAA. So, if  
14 we could focus those discussions on those points, at  
15 least initially, that would be quite useful.

16 But since we are making a transcript of this  
17 proceeding, any comment that you want to make or question  
18 or concern that you want to raise about the MPAA is  
19 certainly fair game as well.

20 I'd ask if you have a question or a comment, if  
21 you would just lift the card to the side, then I'll  
22 recognize you.

23 Nell Minow?

24 MS. MINOW: Thank you. I would like to just  
25 mention a couple of statistics from the survey that

1 Common Sense Media did since Jack talked about his survey  
2 and mentioned that his statistic includes people who are  
3 sort of somewhat satisfied and very satisfied. We tried  
4 to be a little more specific.

5 What we found is that 78 percent of the parents  
6 that we polled said that they would like to have one  
7 uniform system across all media and that while people did  
8 feel that they were getting something out of the current  
9 ratings, that they could be better, and I think that  
10 that's what I would really like everyone to talk to  
11 today, and that they generally preferred not -- we had 70  
12 percent who said that they would rather have some more

12 1(12) independent source along the lines of what the software 1 12 --1.



1 I think the simplicity of that actually has some value.

2 This discussion today clearly demonstrates that  
3 the second you get into gradations, you run into  
4 challenges of interpretation that really are vexing. I  
5 think what the movies do, in terms of the rating system,  
6 clearly has value, but I had my own experience this week  
7 where we watched a movie and my wife and I watched it in  
8 the context of the decision about whether or not our kids  
9 were going to watch the same movie, and it was PG-13 so  
10 we thought perhaps that might work. We watched it and we  
11 didn't agree with the assessment of the rating. Had it  
12 simply said, be really, really careful on this one, we  
13 probably would have been just as informed and maybe  
14 better informed.

1 In the context of music, we say explicit, and  
2 if a parent wants to exercise responsibility here, you  
3 see explicit, you don't buy the music. It's an easy call  
4 and that's something that I think really does reside with  
5 the parent.

20 MR. KELLY: One question I have for you. One  
21 of the things we're going to be talking about this  
22 afternoon in the retail area is store practices. The  
23 question of the age-based -- the fact that your system  
24 isn't age-based. Could you just talk very briefly about  
25 why you sort of made that judgment not to have an age-

1 based system for the recording industry?

2 MR. BAINWOL: Well, again, this judgment was  
reached back in '85 when the system was launched, and I  
think when you think about media, you have to reflect on  
their differences and what's being communicated. If you  
think of a spectrum, on one hand you have books and  
poetry, on the other hand you have multimedia with images  
and words and music and context, and clearly the more  
information you have with music, videos, context  
established, it is easier to do those kinds of things,  
where more like books, more like poetry, it's very, very  
hard.

1 Different people of different ages and  
different communities, different family backgrounds, will  
view music and hear the same thing in a very different  
way. The industry reached the conclusion that the  
simplest thing to do and the most effective thing to do  
was to say, yellow light, watch out, this is explicit,  
you make the call.

20 MR. KELLY: I'm going to ask -- Dr. Walsh has a  
21 question, and while Dr. Walsh is asking his question and  
22 getting a response, if we could cue up the video that  
Daphne White wants to play, I'd appreciate it.

2 DR. WALSH: It's actually not a question, Dick.  
I'd like to comment on some of the research that we've

1 done on the accuracy of the ratings. Comments have been  
2 made about the usefulness of the ratings and I think  
there's a difference between market studies and also an  
attempt to really try to identify the accuracy of the  
ratings.

We did a study which was peer-reviewed and  
published in Pediatrics, in which we asked parents to  
take a look at specific media products. And when we talk  
about overall levels of agreement that mask some of the  
10 areas of disagreement -- and if you take a look at  
11 overall ratings agreement across all of the different  
12 media, the statistics that Jack and others have talked  
13 about, parents will say that's fairly useful, when you  
14 ask them specifically about media products. Where the  
15 disagreement comes is in that particular area between  
16 teenagers and the -- parents never disagree with a strict  
17 rating. If a movie is rated R, then practically 100  
18 percent of parents will say that's appropriately rated.  
19 If a video game is rated M, 100 percent of parents will  
20 say it's appropriate. So, that masks some of the  
21 gradations.

22 When you get into specific things, by and  
23 large, parents disagreement has to do with that the  
24 rating was too lax. And so, I think that's an overall  
25 kind of finding when you ask parents -- not in a market

1 study, but in trying to make it as scientific as  
2 possible.

3 Secondly, I'd like to make some comments  
4 because MPAA is gone and I'd like to preface this by  
5 saying that I think that the ESRB rating system has been  
6 the most responsive to trying to listen to parent input  
7 and they've made changes and they -- I really think that  
8 they are making a very good faith effort. I was in a  
9 two-and-a-half-hour phone call with Pat and her  
10 colleagues this spring trying to improve that system.  
11 So, what I'm going to say now needs to be in that  
12 context.

13 I think one of the specific things that the  
14 ESRB should look at is the AO rating. As far as I can  
15 tell, they don't use it. And so, if a rating is never  
16 used, then it's not useful. And if you look at the  
17 descriptor of AO, it's hard for me to understand -- and I  
18 think many parents don't understand -- why a game like  
19 Grand Theft Auto Vice City would not get an AO rating.  
20 Now, my belief is because that has a commercial impact.  
21 Major retailers will not carry an AO game. Major  
22 retailers will not carry an NC-17 video by and large.  
23 And so, when the ratings verge into commercial impact,  
24 that's where I think they get inaccurate.

25 MR. KELLY: Why don't we cue Ms. White's video

1 and then ask Pat to respond? Go ahead.

2 MS. WHITE: This video highlights some of what  
3 Dr. Walsh said. Several videos on this videotape rated  
4 M, we also believe should have been rated Adults Only,  
5 and I was asked to warn you that some of this is going to  
6 be pretty explicit. I think it's interesting that when I  
7 show this to an adult audience, everyone is very  
8 squeamish. There's going to be some pornographic  
9 content, some -- all kinds of content, so be warned.  
10 Some of this is the same, but a lot of it's new.

11 **(Video segment played.)**

12 MR. KELLY: To refocus the discussion here, but  
13 to pick up on what Mr. Bainwol said and I know Ms. White  
14 is raising, it is this basic issue of ratings accuracy  
15 and at what level does certain content in a video game or  
16 in a movie or even content that might justify a parental  
17 advisory level, at what level does that content need to  
18 be? And I guess we're also hearing here from some  
19 panelists the basic concern or question whether when  
20 you're making those judgments whether those judgments are  
21 accurate and useful to parents.

22 MS. VANCE: There's a lot to respond to, a lot  
23 of comments in the last half-hour and I'm, hopefully,  
24 going to be able to respond to most of them.

2 Bottom line is, we do apply the AO rating from

1 time to time. It doesn't happen often, but we do. It is  
2 always at the option of the publisher. If they want to  
3 make changes to a product and resubmit it to raters to  
4 get a different rating, they can certainly do so, and  
5 certainly there are commercial ramifications for doing  
6 that.

7 That being said, unfortunately, we live in a  
8 violent society and our society has a fairly high  
9 threshold for violence, and it's proven out in our  
10 research when we go out and we test. We've tested 3,200  
11 games in 10 different markets in this country and, as  
12 David Walsh himself says, the M-rated games that you see  
13 up there, regardless of whether or not, Daphne, you would  
14 bring it home or I would bring it home, that is

1 informed as possible. We're not the only source that  
2 they should be using.

3 But I think simplicity is absolutely critical.  
4 One of the reasons why the TV rating system has been  
5 criticized is because it's too difficult to understand.  
6 It's alphabet soup. People don't know what those  
7 descriptors are. So, I beg to differ, I think most  
8 people know what blood and gore is or blood or violence,  
9 and certainly, the way that we apply content descriptors  
10 is appropriate for the rating category and for the age in  
11 which we apply it. So, I don't think there's a lot of  
12 confusion about what we do.

13 But, ultimately, it's got to be simple, it's  
14 got to be standardized and we do it in what we believe,  
15 and the research proves out to be a pretty consistent,  
16 effective way that is certainly well within the American  
17 mainstream.

18 You know, there were lots of other comments  
19 made which I can try to respond to, but I think that's  
20 basically it.

21 DR. WALSH: I'd just like to respond to one  
22 thing, Pat. I think that most parents are not aware that  
23 there is an AO rating, and so, I think if you'd ask  
24 parents if that should get an M rating, I think most  
25 parents would say yes because your own data showed you

1 didn't rate anything AO out of all of the games that you  
2 rated in 2002. And so, what my experience is is that  
parents have no idea there's an AO rating. If you were  
to ask parents whether a game like Grand Theft Auto Vice  
City should be M or AO, you might get a different answer.

What I would suggest --

MS. VANCE: We do ask. We provide all five  
rating categories, we ask them what category they would  
put it in, and as our research indicated, they are as  
likely to rate it less restrictively as they are more  
restrictively, but the majority rate it how we rate it.  
So, we do offer them an opportunity to apply an AO if  
they want.

DR. WALSH: That was true in our study, too.  
The majority -- that was the study that we published in  
Pediatrics. The majority agreed. However, there's a  
sizeable, it was out to 35 percent, that would agree that  
certain things were too loosely rated.

MR. KELLY: Lara?

MS. MAHANEY: Two quick comments for just the  
folks from the video game industry and even I wish Mr.  
Valenti were here, but we know that parents -- it's up to  
them to help their kids out. But I think there should be  
an equal amount of pressure applied to retailers -- I  
know you guys are going to address this later on today --



1 to not sell those products to kids or to a five-year-old,  
2 that type of thing. And I know some retailers have a  
3 register prompt, but they're not even enforcing their own  
4 register prompt. So, if there could be more from your  
5 associations and from the industry itself.

6 And then also, too, when it just comes to  
7 advertising to kids, reviewing where they're placing  
8 their products. We don't have a study on music, but we  
9 do with the video games. I think most parents would say,  
10 it's unreasonable to be advertising, un-American, I don't  
11 want the R-rated films. I don't think it's too much for  
12 parents to say, don't market it to my kid. So, those are  
13 just something I hope that you guys can take away from  
14 this.

1 MS. VANCE: There's no one in this room that  
2 has worked more this year with retailers to try to get  
3 ratings awareness information, where the product is  
4 displayed, to train store associates, and to make sure  
5 the policies are being enforced and the rating system is

1                   Is it ever going to be perfect? No. It can't  
2 be perfect because ultimately what it comes down to is a  
3 store associate who has potentially 13, 14 people waiting  
4 in line to get through. And are there going to be some  
5 who might not use the system? Certainly. But I think  
6 the retailers are trying and putting a great effort into  
7 it and I would certainly want to pose those types of  
8 questions to the panel later.

9                   That being said, on the targeting side -- you  
10 know, it's up to what you define as targeting. Our rules  
11 are fairly strict. You cannot put M-rated game  
12 advertising in media vehicles, if it's television that  
13 has an audience of 35 percent or more kids and in print  
14 it's 45 percent. So, using vehicles -- like American  
15 Idol, I know what the demos are, but I'll tell you, the  
16 largest vehicle -- the program that has reached the most  
17 teens or under 18 viewers this past year was the  
18 Superbowl. But that's 15 percent of the viewers. The  
19 same thing with the Grammys. It's 15 percent. Those are  
20 the vehicles that you're going to be reaching mass  
21 numbers of teens. Survivor, you know, if you look at the  
22 top five shows, Survivor is number two and four. You  
23 know, Survivor is less than 15 percent certainly.

24                   So, where do you go? Where do you set the  
25 guidelines and how do you define targeting? Because the

1 reality is, we're not targeting messages to kids. Kids  
2 are exposed to a variety of media and they may be exposed  
3 to an ad, but the ad's not being targeted to them.

4 MS. MAHANEY: Well, I think the litmus test for  
5 35 percent is way too high because you're right when it  
6 comes to prime time ratings. No show really meets that.  
7 But, again, it comes back to what Daphne had to say, that  
8 80 percent of the population are adults. But, also, too,  
9 when you look at Survivor, it does 21 million every week.  
10 Well, one million of those are kids from 2 to 17. That's  
11 a pretty significant number when it is one of the  
12 highest-rated shows that kids are watching. So, I  
13 recognize that it's debatable all day long, but I think  
14 those are simple steps people could take.

15 I mean, how many people watched the World  
16 Series? The World Series is a huge audience for teens.  
17 Eight percent of the audience was under 18. How do you  
18 measure it? We're trying hard and we do a great job in  
19 terms of monitoring and going after publishers who are  
20 inappropriately target marketing their product. But, you  
21 know, at a certain point you say, look, we live in a  
22 society that has a variety of different media outlets,  
23 most of which don't target kids and publishers should be  
24 able to use those media vehicles to promote product.

25 MR. BAINWOL: I'd like to add just one notion.

1 The question of retailers, at least there is a point of  
2 sale, there's a transaction and there's a capacity to  
3 question what's going on, and that's a good thing. This  
4 issue is very complex. But on the music side, most kids  
5 are getting their music in a forum in which there is no  
6 retailer and there is no block, there is no filter,  
7 there's no nothing. And in terms of the core question  
8 that this workshop is designed to address, there is a  
9 mammoth gap there and that is a huge problem.

10 MR. KELLY: On the question of where you draw  
11 the line in terms of setting standards for where you can  
12 advertise or not, the Commission, in its reports, has  
13 asked all three industries to look at that, for the RIAA  
14 to consider adopting some standard and the other two  
15 industries to look at the levels they have. It's been a  
16 consistent.

17 So, everybody knows what we're doing here,  
18 we're going to go to the remaining questions from the  
19 panel and then open it up to the audience.

20 David?

21 MR. KINNEY: I'll be very brief. I just simply  
22 want to say that, obviously, the industry, each one, is  
23 doing their best and they consistently improve. Being a  
24 capitalist country, a market-driven country, though, part  
25 of the way it's going to be fulfilled is through the

1 private sector. And I don't want these remarks to be  
2 self-serving, so let me say be it Common Sense Media, PSV  
Ratings, ScreenIt, Kids in Mind, all of the other people  
out there who are trying to do something. I think part  
of what we need is to have the access.

And as a businessman, I respect the concerns  
about piracy. But, again, even if it were that we had to  
go to a screening room somewhere with our auditors or  
whatever, the whole idea here is access. We've got

1 friend's house, their teenager's playing it, they're  
2 looking over their shoulder.

3 The ESRB rating system, I think, is the least  
4 worst system out there. I think that -- if you've ever  
5 tried to review a video game, and I have, it's really,  
6 really hard. Harry Potter came out -- or Finding Nemo.  
7 There are seven different platforms that you got to  
8 consider made by different studios. The GameBoy Advance  
9 version is made by one in the UK. The GameCube is made  
10 by another one. It's very difficult and expensive to  
11 accurately get your head around all of that information.  
12 ESRB has yet to surprise us. Their ratings and  
13 descriptors are always good.

14 But when I was on Amazon and I clicked on the  
15 ESRB icon, it just went to this generic thing. That  
16 didn't help me as a consumer. We have to explore ways --  
17 and I don't know what that way is -- but we have to  
18 explore ways to get the -- I believe it was the fourth  
19 user review on Grand Theft Auto that was the most useful  
20 to me. One guy said, it's a great way if you're stressed  
21 out, go play it, you'll feel great after you finish.  
22 Another guy said, keep this one away from the kids. And  
23 that's what I -- I'd like to see the ESRB reviewer notes,  
24 like what are they really thinking when they see it. We  
25 all take notes when we review. That's the stuff that I

1 think helps people make decisions.

2 The last thing I'll leave with is it's good to  
3 look at other industries. I think the wine industry has  
4 given us a good lesson because they have those little  
5 review things right on the shelves and you can tell if it  
6 goes good with fish or whatever. I think we could do  
7 more with, you know, sending a PDF review of different  
8 opinions, putting it where consumers are -- when they  
9 need the help.

10 MR. KELLY: Leave it to Warren to bring up food  
11 just before lunch. Before we open it up to questions  
12 from the audience -- and what we'll do is people can come  
13 up there to ask questions -- I certainly want to thank  
14 the panel very much for being part of this today and for  
15 all of you making the trips you had to make to be here to  
16 join in this discussion. So, thank you very much.

17 Does anyone have some questions for the  
18 panelists? If you'd just say your name and then your  
19 question, please. Try to make it questions rather than  
20 long comments, please. Thank you.

21 MS. KERR: Hi, Jennifer Kerr with the  
22 Associated Press. This is for Daphne White and maybe  
23 Nell. If you could just tell me -- obviously, you don't  
24 think that self-regulation works. What should be the  
25 plan of action going forward? And, specifically, I'm

1 interested in knowing, do you think the Government's  
2 doing enough and what would you like to see the  
Government do from here on in?

MS. WHITE: Well, the Government is not doing  
anything right now really. I mean, they're holding this  
workshop, they've done reports. But as far as, you know,  
helping parents, I don't think that anything is being  
done at the moment. Everyone is hiding behind this cloak  
of the First Amendment. But if you looked at some -- to  
10 us, to parents, it's a matter of marketing. It's what is  
11 being marketed to children. That's what has to be  
12 regulated, not the content. So, we're not opposed to any  
13 of these video games being made or marketed to adults  
14 only.

1 The sense I get from the panel this morning,  
1 both from Patricia Vance and from Jack Valenti,  
1 basically, is I feel like they're kind of throwing up  
1 their hands and basically saying, don't use our ratings,  
1 just go on the web and find whatever you want there, just  
20 use anything. I mean, I don't see any standards, I don't  
21 see any guidelines, I don't see any definitions from any  
22 of them about what's in these.

23 I think parents need labeling. I think one  
24 thing the Government can do without any First Amendment  
25 infringement is come up with labels so that if a parent



1 goes to get a game like Postal 2, it would -- right now  
2 it says, blood and gore, mature humor, strong language,  
3 use of drugs, violence. Does that cover for you what we  
4 saw? Does that even give you a hint? That's rather mild  
5 language, I think. It's very generic and bland. I would  
6 like it to say decapitation, racism, chopping off of  
7 people's head with axes, urinating on people's corpses,  
8 blowing dead people up, you know, just like you said with  
9 wine or food labels.

10 And the same -- you know, music, it should be  
11 easier for parents to find out what is in music content.  
12 I applaud what you say about the web, but my staff has  
13 been going on the website and looking at websites of  
14 legitimate artists for the members of your association,  
15 Eminem, 50-Cent, people like that, there's pornography  
16 and worse right on the lyrics that you sanction. So, I  
17 don't think you have to go looking on Amazon.

18 Parents, unfortunately, live kind of in a  
19 different culture than kids do. My husband drives my son  
20 to the car pool every morning and hears unbelievable  
21 stuff on drive time on the radio that is bought and paid  
22 for by radio stations. So, I think clear labeling is a  
23 start, but I think there has to be some regulation of the  
24 marketing of these products.

25 I think Patricia Vance mentioned about retail

1 and how hard it is to deal with clerks and get them to  
2 enforce it, but we manage as a country to do fine with  
• alcohol, pornography and tobacco. We have the same



1 things to offer to our children. But on the flip side,  
2 what I'm concerned about is, I worked for Hughes Aircraft  
3 out of El Segundo, California and I worked in their labs  
4 that had simulators, flight simulators for Navy pilots  
5 and also Marine pilots, and what I'm starting to see is  
6 I'm starting to see these video games becoming simulators  
7 for these kids, and I think it's a matter of national  
8 security because I think that we're breeding urban  
9 terrorism. I think we're breeding terrorism in  
10 our urban areas, in our communities and I think it's  
11 very unsafe.

12 I represent about 40,000 people, so I would put  
13 it to the panelists, how do we address this problem  
14 whereas these children are emulating these things in  
15 these entertainment games and they're carrying them out  
16 very exact to what the game is actually designed to do?  
17 How do we, as local elected officials, deal with that  
18 problem dealing with the fiscal constraints that this  
19 country has, particularly in Iraq, at the federal level  
20 and at the state level and at the local level?

21 MS. VANCE: Well, I'll echo some of Jack  
22 Valenti's comments. At the end of the day -- you know,  
23 we can't replace good parenting. We're here to provide  
24 information so consumers can make educated purchase  
25 decisions.

1           And I'd echo what he says that, you know, there  
2           are many, many factors that play into whether or not a  
3           human being might commit a criminal act. Although you  
4           may intuitively believe that there is some kind of causal  
5           link, the reality is that, you know, according to the  
6           Surgeon General, according to the State of Washington,  
7           according to the Government of Australia, there are  
8           plenty of authoritative sources that say, when you look  
9           at that long list, video games aren't the top reasons for  
10          those types of acts. It's an easy-out, but it's  
11          certainly not -- you know, our job is merely just to  
12          provide the information, make sure that advertising is  
13          responsible, make sure that there's information available  
14          to consumers so that they can make an educated purchase  
15          decision. That's our job.

16                   MR. KELLY: We're going to take a break now.  
17                   Let's take one hour for lunch. If I understand  
18                   correctly, you will need to go back through security when  
19                   you come back from lunch. So, don't take your badges  
20                   off, your name tags, or at least put them back on. We'll  
21                   try to be back in here to start our next panel at 1:25.  
22                   We're going to continue in that panel with some more  
23                   marketing discussion. Thank you very much.

24                   **(Whereupon, at 12:25 p.m., a luncheon recess**  
25                   **was taken.)**

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**AFTERNOON SESSION**

**(1:34 p.m.)**

MR. KELLY: I hope you all found a place to

(01) 0-02

1 about in New Orleans.

2 But from a different perspective and a slightly  
3 different goal, our focus is to discuss the impact of  
4 such cross promotions on parents and whether those  
5 effects suggest the need for increased attention by  
6 industry self-regulatory bodies.

7 We continue to be joined by a distinguished  
8 group of panelists, many of whom you met this morning.  
9 Mitch Bainwol will be here in a minute, I imagine, from  
10 the Recording Industry Association of America. Patricia  
11 Vance is here from the Entertainment Software Rating  
12 Board. Dr. Walsh is here from the National Institute of  
13 Media and the Family and Daphne White from The Lion and  
14 Lamb Project.

15 Substituting for Mr. Valenti is Fritz Attaway,  
16 who is an Executive Vice President of MPAA, has been at  
17 MPAA for several decades and have served as Executive VP  
18 for five years.

19 But we have two brand new members to you today  
20 that I'd like to briefly introduce. Michele Erskine is  
21 Vice President of the Solutions Research Group. SRG is a  
22 research-based consulting firm with three key practice  
23 areas, media and entertainment, marketing research and  
24 youth. Ms. Erskine has been consulted on youth marketing  
25 issues by companies such as Coke and Frito Lay and by



1 government organizations, such as Health Canada.

2 Then we have Pete Snyder. Pete Snyder is the  
3 founder and CEO of New Media Strategies, based here in  
4 D.C. Using technology to tap into the power of the  
5 internet, NMS helps leading corporations and causes  
6 promote and protect their brands and bottom lines. Mr.  
7 Snyder is a former political media consultant and  
8 pollster and has served as a marketing and political  
9 expert on a number of news programs.

10 I want to begin with a short presentation that  
11 will simply remind us about how big the teen and 'tween  
12 markets are to these industries.

13 These are pretty self-explanatory, but it shows  
14 you the size of the teen population in the United States.  
15 And teens spent \$170 billion in 2002 and the cost, at  
16 least in one of these studies, an average of \$101 per  
17 week. Next.

18 9.5 billion box office revenues in 2003 for the  
19 industry. Teens represent about 16 percent of that  
20 total, though they only represent, I believe, about 11  
21 percent of the population. Moviegoers are more likely to  
22 be teens than any other group and teens see an average of  
23 just over two movies per month. Now, maybe we all have  
24 kids and maybe that's a wrong statistic, maybe it's a lot  
25 more.

1           For the video game industry, we had \$60.9  
2 billion in sales in 2002. A recent survey said that 92  
3 percent of children and teens 2 to 17, obviously, like  
4 video games and play them. Thirty-eight percent of game  
5 players are under 18 and, according to this one survey,  
6 45 percent of children age eight plus have a video game  
7 player in their bedroom.

8           The music industry, \$13 billion plus in sales.  
9 Keep going. Here we're getting -- go back one if you  
10 can. Stop. What that's showing is obviously just  
11 statistics of the degree to which music purchasers are  
12 teenagers, and in some sense, particularly younger teens,  
13 8.5 percent were age 10 to 14.

14           I'd like to turn to Michele Erskine for a  
15 presentation. She'll talk a little bit more about this  
16 teen and 'tween market. Michele.

17           MS. ERSKINE: Thank you. Thank you for  
18 bringing me in. I appreciate being invited down to the  
19 U.S. I'm here as a youth marketing researcher. I'm  
20 going to try to contain my comments within that context,  
21 but as so many others who have spoken, I am also a  
22 parent, so I'll reference that a little bit.

23           The difference in perspective that I may be  
24 able to offer here is because of my work, I'm more  
25 familiar with pop culture than most moms. I'm an active



1                   There's significant interest, significant  
2                   enough that there are companies that are devoted to youth  
3                   research, youth marketing, youth promotions and guerilla  
4                   tactics in reaching in youth because the traditional  
5                   media are not working. Kids aren't using traditional  
6                   media as much as their parents and as teens used to.  
7                   Because the traditional media are not dominant, they're  
8                   looking at innovative new media and marketing strategies.  
9                   There are a lot of people out there helping them do that,  
10                   including myself, frankly.

11                   Next slide, please. Here we go. Some stats.  
12                   I can only show you Canadian statistics from my own  
13                   company, but I did, in preparing for coming here, fact  
14                   check this against some of the U.S. statistics and it's  
15                   fairly comparable. I mean, it's the trend that we're  
16                   looking at.

17                   In the first column you'll see time spent daily  
18                   by the total population, 12 plus, with traditional media.  
19                   First, reading newspapers, an hour, 32 minutes; listening  
20                   to radio, two hours, 28 minutes; watching TV, two hours,  
21                   two minutes; listening to prerecorded music, an hour and  
22                   65; and then you look at 12 to 14-year-olds and 15 to 19-  
23                   year-olds and you'll see that the totals are somewhat  
24                   less, particularly for watching TV, it's a little less.  
25                   So, you see quite a bit of media about the fact that kids



1 marketing practice, standard to take a layered approach  
2 to try and communicate with kids, and that's what we'll  
talk about here.

The thing that I didn't hear this morning that I was a little concerned about as a parent and as a youth expert is the point of distinction in recognizing -- and I showed that in the slide before -- these industries are not all the same and it's not their fault. For the same reason that marketers are confused about how to reach kids because they're not watching traditional TV as much, parents are confused because the one thing that they don't do as well as their kids is play video games. A lot of them just aren't comfortable doing it.

Now, I do play video games so my son sort of relies on -- I think it's a good thing to let them know that you do play games even if you don't. He certainly thinks I'm better at it than I am. But it is very difficult to go through a game and see all of the contents. You become very reliant on the rating. The parents are reliant on the rating.

I can go to the movies with him and I will choose sometimes to disregard what the rating for a movie is. For instance, Billy Elliott, that was an amazing movie and I chose to take him to it, but explained to him that the profanity and some of the other stuff was not

1 appropriate for him. It's very difficult to do that with  
2 a game. I can't get through all the levels and he knows  
3 that. Even though I'm not half bad, he knows that I suck  
4 when it comes to video games, and so, I have to rely more  
5 on other information.

6 Within that, I would say it's not the rating  
7 system. There somehow needs to be recognition that  
8 parents aren't as able to look at what their kids are  
9 playing on games as they are with movies and some of the  
10 other industries. Thank you.

11 MR. KELLY: Thank you. Dean, you want to come  
12 forward, Dean Garfield? Dean's going to sit in for Mitch  
13 Bainwol. Dean is from the RIAA.

14 Leslie, could you put up the convergence slide,  
15 please, the multi products slide? Thank you.

16 The reason why we put together this slide was,  
17 again, to focus our discussion and to highlight the wide  
18 variety of cross promotions that are out there. These  
19 are, obviously, just some recent examples. And the  
20 question or the issue that is presented is that we have a  
21 variety of products arguably being marketed to different  
22 age groups, tied under a similar brand name. So, you  
23 might have a movie that may have an R rating, a video  
24 game that has a teen rating, you might have a music  
25 soundtrack with or without a parental advisory on it.

1 You might have an action figure perhaps labeled for  
2 eight-year-olds, perhaps labeled for 17, perhaps labeled  
3 for four. It varies. But the issue that's presented  
4 there is what does all of this cross-marketing mean for  
5 parents and for the self-regulatory groups.

6 I've asked Pete Snyder to talk just a little  
7 bit about some surveys and studies he's done online about  
8 a potential value of some of these tie-ins.

9 MR. SNYDER: Thank you, Dick. I'm happy to be  
10 here today. Just as Michele talked about her background  
11 as an expert in kids marketing, but also with the  
12 background of a parent, my background -- I'm speaking  
13 today as an expert in marketing trends and crossover  
14 marketing trends in the entertainment industry, but also,  
15 as Dick alluded to, in my past life, I was a Republican  
16 media consultant and pollster and a little bit more right  
17 of center. So, that's kind of the spectrum that I see  
18 things in. It doesn't impact the work that I'm doing,  
19 nor do I want that to impact my statements here.

20 But I get the question from time to time, Pete,  
21 you worked in Republican politics and you're  
22 conservative, how the hell are you working with Hollywood  
23 and video games? And I tell people, oh, they don't know;  
24 otherwise, they'd run me out of town. But just all kind  
25 of kidding aside on that, as Fritz can vouch and as you



1 can pick up People magazine, we all know that marriages  
2 in Hollywood don't really last that long. But one  
3 marriage and one union that's really growing stronger  
4 every day is the video game industry and Hollywood. And  
5 why is that?

6 Well, Hollywood had one of its biggest years  
7 ever last year, its biggest year in the history of the  
8 industry, and the video game nearly doubled those  
9 revenues. There's massive, huge growth going on --  
10 growing on. Video games is one of the most explosive  
11 markets in our economy. Game makers put out and produce  
12 probably about 10 to 12 times more titles than your  
13 average Hollywood studio. So, what's really happening  
14 here is the market's being saturated with an ocean of  
15 really unknown titles out there in video games. It's  
16 little wonder that the brand names, like skateboard icon  
17 Tony Hawk or Hollywood franchise tie-ins like the Matrix  
18 or Spiderman or James Bond, tend to be the biggest  
19 sellers for video games.

20 Earlier this spring, my company, New Video  
21 Strategies, conducted a survey of 450 video game  
22 consumers on the internet and really found that 67  
23 percent of video game consumers were more likely to buy a  
24 video game due to the Hollywood tie-in than one that  
25 didn't have a tie-in. And, you know, that seems to make

1 sense for the sheer factor of why does Crest sell more  
2 toothpaste than the smaller brands out there? Well,  
3 Crest is a known quantity. The Matrix is a known  
4 quantity, the Hulk is a known quantity, Spiderman is a  
5 known quantity and video games. So, some of the smaller  
6 titles don't get gobbled up as quickly.

7 And this marriage is really becoming -- what  
8 started out with the power in Hollywood is really  
9 becoming a marriage of equals, each side wanting what the  
10 other one has, meaning the film industry definitely wants  
11 -- your average consumer goes and spends probably an hour  
12 and 51 minutes watching a particular film but the video  
13 game industry has consumers playing for 40 to 60 hours on  
14 a particular title or a franchise. That's huge.

15 The gaming industry, on the other hand, wants  
16 to have the power of those brands and the glitz of  
17 Hollywood. So, that's really kind of what's going on on  
18 the side.

19 My company also did a study just recently --  
20 just last week after Dick tapped me for this panel and we  
21 looked at 350 teens and 'tweens on the internet, and we  
22 found that 55 percent of these teens and 'tweens are more  
23 likely to buy an M, if they can buy it, a Mature-rated  
24 video game than not. There's no surprise there. Getting  
25 and having what we desire has been -- or trying to get

1 what is forbidden has been around since Adam and Eve. I  
2 mean, there's really no shock in the fact that 55 percent  
3 of teens and 'tweens want to have or would be more likely  
4 to buy a video game based on the M rating.

5 But what is really interesting and what we find  
6 firsthand in working with different game producers is you  
7 might have a Matrix, which is rated R, but the video game  
8 producers will edit and curb out a lot of that violence  
9 and a lot of the content there so that it can be marketed  
10 under a T for Teen category.

11 So, while my study is showing that 55 percent  
12 of teens and 'tweens, if they could buy these things are  
13 more likely to, the industry, itself, chooses not to go  
14 down that path, chooses to edit out a good amount of the  
15 violence and profanity, and we can debate and discuss  
16 exactly what that is and who should be setting the line.  
17 But the industry chooses to go the other path and to edit  
18 the stuff out and make it teen.

19 I can speak from firsthand experience working  
20 with different studios and different game producers --  
21 and, again, I say this with my background as a  
22 conservative Republican consultant before this  
23 industry -- we've never had an experience where X, Y or Z  
24 studio wants my company to market in areas that they  
25 shouldn't be. Let's say for an R-rated film, marketing

1 to teens or going into 'tween online communities and  
2 marketing these things. The studios do a pretty good job  
of making sure that they're not crossing the line.

Are lines crossed? Of course they are  
sometimes. But we've never had firsthand experience with  
game producers or film studios actively trying to cross  
those lines.

What we also did in this most recent survey is  
we looked at the behavior of parents and where the  
parents are spending their time with their kids and we  
gave the choices out there of books, of video games, of  
watching TV, and we found -- this should be no surprise  
either -- a bit of a digital divide. That parents were  
40 percent much less likely to spend time with their kids  
playing video games or watching video games than they  
were reading or watching TV. For parents, this is an  
explosive industry. You need to be able to understand  
what your kids are doing there. Parents need to be able  
to -- whether you're not a good gamer like Michele may  
be, you need to at least watch and see what's happening  
out there.

Thank you.

MR. KELLY: In looking at this slide, one of  
the interesting things when you look at some of the  
promotions that occur between the products, you do find

1 situations where a video game might have a trailer for a  
2 movie or the DVD sale of the movie might have a coupon  
3 for the game or merchandise, that's an action figure  
4 might be marketed as official movie merchandise. So, you  
5 see at least the beginnings of some interconnections  
6 where there seems to be some effort in an overall part of  
7 setting out promotions where one product is helping the  
8 other.

9 With that point, let me turn to Daphne White  
10 and Dr. Walsh to sort of talk about why this kind of  
11 situation might be of concern to parents. Why don't we  
12 start with Dr. Walsh and then we'll go to Daphne who has  
13 a presentation.

14 DR. WALSH: I think, generally speaking, all of  
15 the decisions that are going to be made in terms of  
16 cross-marketing and how to do that are going to be made  
17 for business reasons. How to cross-merchandise or cross-  
18 market a program is, of course, going to be made. How  
19 can we maximize the profits on this particular product,  
20 whatever it is? And child welfare or the impact on child  
21 development is not going to be part of that calculus in  
22 most instances.

23 Because of the power of marketing and because  
24 of the power of advertising, products that are cross-  
25 marketed that are really cross-marketed in very different



1 accelerating.

2 As media convergence takes place, there's going  
3 to be more and more cross-merchandising. I mean, I was  
4 at a conference seven years ago when marketers were  
5 predicting that every media product from the concept  
6 stage will include all the cross-marketing opportunities.  
7 And the more cross-marketing opportunities there are,  
8 then the more likely that project is going to get green-  
9 lighted.

10 So, somewhere in this, or else we're just going  
11 to have more of the same, there has to be some way to  
12 inject the issue as to what is the impact on kids in all  
13 of this, and that's what I think is missing and we need  
14 to figure out how to get that into the calculation.

15 MR. KELLY: Before we turn to the self-  
16 regulatory groups to talk about this issue, Daphne White

17 2 1 has some comments on this. (01) 0-02 1 1 -11.

1        teens and selling the Hulk and toys for age four and up  
 2        were willing to come and speak to us today. This would  
 3        have been a unique opportunity for them to use their  
 4        First Amendment rights to explain to parents and to the  
 5        Federal Trade Commission why they do it, how they do it,  
 6        how they make their choices. They choose not to come,

7        and speak only to age four and up. They speak of one reort 08T85s to



1 mentioned before, suggested that 11 and 12-year-olds  
2 should see Kill Bill, which would have been rated X a few  
3 years ago, and Jack Valenti seconded it saying -- this is  
4 a Jack Valenti quote -- "I think even an impressionable  
5 child would go in and say they've seen worse on Wiley E.  
6 Coyote than they saw in Kill Bill." That's what KAGOY is  
7 all about and that's what parents are up against.

8 So, we believe that there is a pervasive and  
9 aggressive marketing of violent products to children  
10 still three years after the landmark FTC report. I think  
11 things are getting worse, not better, and I hope the FTC  
12 will continue to conduct really aggressive investigations  
13 and speak to the specific marketers who are marketing and  
14 cross-marketing these products. Next slide.

15 So, children are leaving traditional toys at  
16 younger ages in favor of electronic entertainment. As  
17 you saw in the video earlier, these products are getting  
18 more violent. That's a picture from Postal 2, which we  
19 saw before. Next slide.

20 Another reason it's difficult for parents to  
21 deal with this media is because the lines between  
22 entertainment and education are blurring, as one of the  
23 marketers said before. This is a very dangerous trend  
24 when we're selling entertainment products as educational.  
25 Next slide.

1           This is just one example of this educational  
2 entertainment product that's cross-marketed to kids.  
3 This is actually the back of this box, which we scanned  
4 it. It's by Toy Biz, which actually now owns Marvel, the  
5 comic book company, which sold the licensing rights for  
6 the PG-13 movie, this toy is for ages three and up,  
7 marketing and branding the Hulk, which is an adult  
8 product. Let me show you how this works, by the way,  
9 just to help your toddler get their aggression out. It  
10 says here, try me, squeeze my tummy. Squeezing doesn't  
11 help, you got to punch him. So, that's what this toy is.

12           But on the back, if you read the copy here,  
13 they've got this really adorable copy about easily  
14 excited by sunny days, weekends and ice cream trucks,  
15 Bruce Banner turns into a green playing machine known as  
16 the Hulk. The Hulk -- this is my favorite -- likes to  
17 jump, lift things and has a unique ability to heal  
18 quickly. As any of you know who actually know the Hulk  
19 brand, this is a character who suffers from episodes of  
20 rage and unleashes his inner beast. You can see that on  
21 some of the other toys I have with me.

22           So, this is the kind of stuff that's marketed  
23 down to children as young as three based on a PG-13  
24 movie, which a few years ago might have been rated R.  
25 That's what parents are dealing with every day in the toy

1 store, and I'm going to get to some other places where  
2 they are marketing this. Next slide, please.

3 So, another thing I just learned this weekend  
4 from the New York Times Sunday Magazine about branding  
5 and the amazing power that brands have -- because I think  
6 one of the other panelists said, oh, the video game  
7 industry is so responsible, they tone down the violence  
8 to make it acceptable, it's all about brand. So, I don't  
9 know how many of you read this article, but they talked  
10 about -- this researcher -- the whole article is about  
11 neuroscience and measuring people's responses in the  
12 brain.

13 Basically, he found that Pepsi stimulates more  
14 pleasure in the brain when you actually measure pleasure,  
15 but people say they like Coke better. So, what he did  
16 was he gave people Pepsi to drink and told them they're  
17 drinking Coke and they liked the Pepsi better if they  
18 thought it was Coke. When he reversed it, when he gave  
19 them Coke and said it's Pepsi, they liked the Pepsi less.  
20 So, he -- if you want to get the whole thing, you have to  
21 read the article. But he -- the researcher was amazed by  
22 the power of Coke's brand to override our taste buds and  
23 our brain chemistry. That is how powerful it is and that  
24 is what we're doing to kids. Next slide, please.

25 So, Hollywood, the video game industry, the

1 music industry, all these entertainment industries are  
2 very aware of the power of branding, licensing,  
3 advertising. I mean, that's how we pick presidents and  
4 congressmen in this country. It's all based on ads and  
5 messages that we see for 30 seconds on TV, but these  
6 products take hours of kids' time.

7 This is just a slide to show how production  
8 costs are going down while marketing costs are going up.  
9 So, for them to -- for these companies to say that  
10 marketing to kids is a parent's issue is a little  
11 disingenuous when they keep putting more and more money  
12 into it. They would not be spending more money, they  
13 wouldn't be increasing their marketing dollars if they  
14 didn't have to. Obviously, marketing works and marketing  
15 to young children works even more easily because they're  
16 not aware consumers. Next slide, please.

17 This is an example of what parents are up  
18 against in the branding. Promotional partners for X-Men  
19 II, rated PG-13, include an ice cream. We put in a quote  
20 from a marketer who said it's a really broad audience  
21 from kids to adults. I don't think by kids he meant 13  
22 and up. I think he meant little kids.

23 Kraft Tang -- I mean, when you go to the ice  
24 cream store, when you go to the grocery store -- can I  
25 have the next slide, please -- this is more promotional

1 partners for just one PG-13 rated violent movie, Ritz  
2 Bitz, Chocolate Cream Oreos -- I'm getting hungry --  
3 Chips A'Hoy, Cheese Nips, and even Wal\*Mart. Imagine  
4 going with your child to Wal\*Mart and saying, no, you  
5 can't have the X-Men videotape or game, even though  
6 they're doing promotions, you can't have the food.  
7 There's just so much parents have to say no to all the  
8 time. It's really not an even kind of situation. Next  
9 slide.

10 This is another quote about the importance of  
11 licensing, again, from the video game industry that often  
12 markets these adult-rated products to children with the  
13 "violence" taken out. They're selling the brand and the  
14 product, Doug Lowenstein told Variety magazine, which is  
15 an industry magazine. He's the head of the video game

11

1, 1



1 Hulk that I showed you were for three and four-year-olds.

2 So, branding is powerful. They're branding  
3 these products, they're marketing them down and then they  
4 tell parents just say no. That's the issue for parents.  
5 Thank you.

6 MR. KELLY: Thank you. Let's turn to the self-  
7 regulatory groups. I wanted to first go to the

1 enforced.

2 That being said, we also want to make sure that  
3 game publishers don't cross-promote M-rated games on T or  
4 E product, and you can't put a demo of an M-rated game on  
5 a T or an E product, you can't cross-market those  
6 products to a young audience. If you want to create,  
7 say, a sampler disk or an ad that includes a number of  
8 different games, that ad cannot be targeted at a young  
9 audience, and we do -- we monitor everything very  
10 closely. So, we're very careful about where we can  
11 cross-promote, particularly, M-rated games, but also to a  
12 certain extent, T-rated games.

13 MR. KELLY: Fritz, do you want to talk a little  
14 bit about whether MPAA looks at this issue in its 12-  
15 point program?

16 MR. ATTAWAY: One of the 12 points in our 12-  
17 point program is that the studios will review its  
18 marketing and advertising practices in order to further  
19 the goal of not inappropriately specifically targeting  
20 children in its advertising of films. And I believe that  
21 each studio does exactly that with respect to all of its  
22 advertising and marketing. If merchandising is part of  
23 the promotional activities for a motion picture, I have  
24 to assume that each studio is reviewing what it does to  
25 ensure compliance with our guideline. I'm not aware of



1 any specific instance where someone has raised an issue  
2 in that regard.

3 I am -- I was interested in the illustrations  
4 that I saw up here on the screen of Hulk, Spiderman, X-  
5 men -- there is one more that I'm not remembering. But  
6 all of those are based on preexisting figures. Now, the  
7 Hulk I remember was a TV show, which I assume would -- if  
8 it were rated, would have been rated G for general  
9 audiences. Spiderman, I've been reading in the comics my  
10 entire life.

11 I don't understand why the presumption is that  
12 action figures based on Spiderman entice children to see  
13 the movie any more than the comic strip does, which came  
14 out long before the movie did. I think there's a lot of  
15 jumping to erroneous conclusions when it comes to  
16 marketing these action figures, particularly when they  
17 relate to figures or characters that were brought into  
18 the market long before these films were ever conceived.

19 MS. WHITE: Can I say something about that?

20 MR. KELLY: Yes, you've got 45 seconds left.

21 MS. WHITE: Okay, sure. I just want to say  
22 that those action figures were going nowhere before they  
23 made movies about them. There's a whole book that just  
24 came out called Comic Book Wars about Toy Biz, the  
25 company that makes the toys, and Marvel, and the Toy Biz

1 bought Marvel specifically so they could make movies  
2 because everybody had forgotten the comic books, nobody  
3 was reading them.

4 They needed the movies to sell the action  
5 figures. You didn't see those in the stores before the  
6 movies came out. The action figures are tied to the  
7 movies, which have high degrees of violence in them.  
8 They're no longer tied to the comic books you read as a  
9 child. It's been a long time.

10 MR. KELLY: One of the things we've noticed in  
11 our monitoring of practices by industry members,  
12 particularly in the video game industry and increasingly  
13 so in the movie industry, that there are a number of  
14 studios and game companies that in their licensing  
15 arrangements have put requirements in, especially if it's

1 noticed those examples for the PG-13 product or  
2 necessarily for the teen product, which is certainly one  
3 of the questions of whether -- and there were some  
4 examples placed up here of where, in connection with the  
5 PG-13 product -- and it may well be the case with the  
6 teen product, I don't know -- that there are some  
7 products that are being associated under the brand that  
8 are intended for very young audiences.

9 Why don't we turn a little bit to the RIAA. In  
10 terms of the licensing issue in particular, have you  
11 noticed anything, Dean, in how music recording artists  
12 are dealing with the licensing issue? We have, for  
13 example, seen a great increase in the extent to which  
14 music groups are showing up in video games, for example,  
15 and we've always seen the connection to movie  
16 soundtracks.

17 MR. GARFIELD: I think this issue is very new,  
18 and so, I think it will largely be driven by license  
19 relationships and the negotiation between the various  
20 entities involved. Our guidelines do not speak to this.

1 consistency between a movie that happens to have a  
2 soundtrack. They may be completely different.

3 The second presumption, which I think underlies  
4 a lot of the discussion, is that there's some attempt to  
5 target to deceive parents in luring them into purchasing  
6 a game or buying a CD. And as it relates to the music  
7 industry, there is none of that. I mean, our albums are  
8 clearly labeled. They're labeled in advertising and we  
9 try to make sure that that's done in a clear and  
10 consistent way.

11 MR. KELLY: Go ahead and we'll -- we can open  
12 up for questions now.

13 MS. VANCE: I just want to follow up a little  
14 on what Dean said. I agree that -- you know, there's an  
15 underlying theme that there's some kind of conspiracy.  
16 The reality is that the companies that create the  
17 video games or whatever are licensed and they go to the  
18 ESRB and then the companies go out and create the  
19 games based on the license. And in the case of video  
20 games, when they come to the ESRB, we rate them. We  
21 typically don't have a clue what the rating is at the  
22 time we get the game. It never would play into how we  
23 rate a game because we have to rate based on the content  
24 that we see and that gets submitted.

25 The idea that the companies edit down the

1 product is kind of outrageous. The companies are  
2 creating a game that's going to sell. In the case of the  
Matrix, there was no footage from the movie in the  
Matrix. The selling point of the Matrix is that they  
created all this original footage for the video game.  
You know, it didn't -- it wasn't about editing the movie  
down for the video game, it was about creating a video  
game in its own right that would stand on its own.

1           The Matrix is an example that we rated it less,  
2 but I have many examples where we've rated it more, you  
3 know, more restrictively than the movie. So, again, it  
4 doesn't kind of play into the -- you know, there's this  
5 nasty conspiracy.

6           DR. WALSH: I'd like to actually follow up  
7 exactly what Pat just said. I also have no belief that  
8 there's no conspiracy. I don't think there's anything  
9 conspiratorial about it. I think the entire motivation  
10 is what I said earlier. It's to maximize profits. And  
11 so, I don't think anybody's about to subvert.

12           I do think that there is -- if we work towards  
13 solutions, I think that there's a solution and I think  
14 the solution is -- I'm both a critic and a fan of the  
15 video game industry because I think that the video game  
16 industry has been the most responsive and I think what  
17 Pat suggested earlier, that the policy of ESRB is that  
18 there's no down-marketing of a video game, should be  
19 something that should be adopted across all the  
20 entertainment platforms because that's the way it would  
21 work.

          So that you, as part of your code of conduct,

1 that is aimed at kids. So, you can't have Duke Nuke 'Em  
2 action figures. I think that that standard, which  
3 already exists, should be voluntarily accepted by all of  
4 the other media sectors. I think that would go a long  
5 way to solving the dilemma.

6 MR. KELLY: Daphne, you want to go ahead and  
7 then Pete?

8 MS. WHITE: Sure. I just want to say I never  
9 used the word "conspiracy," Pat. I don't think there's a  
10 conspiracy. I think the word is "convergence." Dick  
11 talked about the conflicts. He showed a slide. It's  
12 about convergence and it's about the highest bidder.  
13 There is a marriage between Hollywood and the video game  
14 industry. As one of the speakers said, branded products  
15 sell better. Everybody knows that. Brand is important.

16 To say that your raters had no idea that the  
17 Matrix was rated R or that the Terminator is rated R is a  
18 little hard for me to believe. I don't know. Maybe your  
19 raters are in this box that Jack Valenti talks about that  
20 you should keep your kids in where they won't see any  
21 media. There was film footage shot from the Matrix movie  
22 for the video games so that people could -- who played  
23 the game could get to scenes which weren't in the movie.  
24 It was very closely tied to the movie.

25 The scenes, which even we showed, are almost

1 indistinguishable from a chase scene that was in the  
 2 movie. It was the same actors, the same director. It  
 3 took you places the movie didn't, let you do things the  
 4 movie didn't. So, it was even more -- there was even  
 5 more violence in it. You saw the screen at the end that  
 6 said how many people you shot, how many you killed, what  
 7 your accuracy was, things you couldn't do in the movie.  
 8 And at the end of this video game, there is a trailer, a  
 9 promotion which I think is against your guidelines, for  
 10 the next Matrix movie which is rated R.

11 So, to say that your games, like a Duke

( ) 2 1 Nuke 'Em ) ,



1 version that's created for the handheld is not as violent  
2 and not as graphic and realistic as the console product  
then it should be accurately rated for consumers. The  
idea that you kind of disregard the content in a product  
and just use the -- you know, the original license's  
ratings is just, I think, a disservice to consumers, and  
I wouldn't do it.

MS. WHITE: Well, I think there should be a  
middle ground between disregarding brands, which is what  
you're doing -- and maybe you think I'm disregarding  
content, but there's got to be a middle ground where you  
cannot sell an adult-rated brand. It's like they take R-  
rated movies and put them on TV at 8:00. I saw *Scream*,  
which was a very scary R-rated movie on Fox TV at 8:00,  
during the family hour, and they said, oh, it's less  
scary. I never saw the original, but the one I saw on TV  
was quite incredibly nightmare-provoking for me. You  
know, and they do this on airplanes, too. They'll take a  
movie, take out a few scenes and they'll say, oh, it's  
acceptable now. It's the same product.

Duke Nuke'Em, as you know, has prostitutes in  
it, has strip bars. I don't care what you take out of  
it, it's a brand. If it's no longer Duke Nuke'Em, call  
it something else. That's what I'm saying. If it's a  
game, it's not the Matrix, it's some other thing, call it

1 something else. Don't call it the Matrix anymore. If  
2 you're selling the Matrix brand or the Duke Nuke'Em brand  
or the Resident Evil brand, it's the brand. And that's  
why I showed that slide about the neurons in the brain  
and how, you know, branding can override what even people  
like.

MR. KELLY: I was gratified to hear Dr. Walsh  
talk about possible solutions as well. So, Pete, you  
have a comment.

10 MR. SNYDER: I just wanted to take exception to  
11 just two things that Daphne said. Daphne White had some  
12 very good comments. First and foremost, I market films  
and video games and you said that no one who markets  
those or no one who maybe produces them are here, but I'm  
on this panel and I'm proud of the work that we do and  
we've never had an instance where we worked with a studio  
or a video game producer where we were crossing those  
lines or marketing down.

1 Secondly, you also said that action figures  
20 didn't exist before the movies. I used to play with the  
21 Hulk action figure.

22 MS. WHITE: I said they weren't moving recently  
before the movies.

2 MR. SNYDER: They existed and I used to play  
with them and for my fourth grade Halloween, I went as

1 the Hulk with the blow-up muscles, and they were around.  
2 It's been a part of our culture. Again, I think you've  
3 added some very good points that were on mark, but I take  
4 exception with one saying that people who work in the  
5 industry aren't here and, secondly, that those things  
6 didn't exist pre-movies. They've been part of our  
7 culture for 50 years.

8 MS. WHITE: Well, I apologize, I'm sorry. You  
9 are here and I wasn't sure who was going to be here as of  
10 yesterday. So, I apologize for that.

11 As far as the action figures, yeah, they were  
12 here, but it was a different time. They were comic  
13 books. It was a different product. What you and the  
14 person from the MPAA are remembering are the comic books  
15 and -- I recommend this book to all of you called Comic  
16 Book Wars.

17 MR. SNYDER: I've read it. It's about Mick  
18 Andrews Forbes and Ron Perlman, the gist of it.

19 MS. WHITE: And why they bought the movie  
20 company and the rights to the comic books.

21 MR. KELLY: All right, let's move on to the  
22 next question. Michele?

23 MS. ERSKINE: Just a couple of comments. One  
24 was a lot of the marketers I work with who are looking  
25 for cross-marketing opportunities sort of self-monitor

1 themselves. And even though I'll tell them, it's not a  
2 recommendation that they link with some of these people,  
3 but they'll say, well, who are the hot artists, who are  
4 the hot bands. And Eminem is a good example of this,  
5 incredibly hot with teens. But a lot of marketers know  
6 that they can't link with Eminem and I think Eminem  
7 doesn't necessarily want to be sponsored by Kraft either.  
8 So, these things are happening and they're aware of the  
9 power of these opportunities.

10 And a lot of the brands with powerful  
11 franchises do exert strong control with how these brands  
12 are used in licensed product or brand extensions. These  
13 tend to be the ones of a vested interest and serve long  
14 term protecting their franchise. And I find that they're  
15 the ones that exert the most control.

16 Just as a final thought, the one instance I



1 interaction between the marketing of these products. So,  
2 you have merchandise that's the official movie  
3 merchandise. What does that mean in terms of, is that  
4 any inkling that people should be looking at the movie?

5 We have coupons in one industry's product to  
6 buy something in another industry's product. We have  
7 trailers on games encouraging people to go to a movie.  
8 There is this interconnection that has occurred. The  
9 ESRB, in fact, has provisions that deal with some of  
10 this. Individual industry members have adopted  
11 provisions, as well, in both the movie and the video game  
12 industries to begin to address the issue and there have  
13 been some changes in the marketplace where it is now, at  
14 least, common for action figures that are based upon R-  
15 rated movies or M-rated products to be labeled as  
16 appropriate for 17-year-old people.

17 So, it seemed like an appropriate issue to  
18 raise, and particularly, because it is a growing and

1 very much and thank you all for being part of this.

2 (Applause.)

3 (Whereupon, a brief recess was taken.)

4 MR. EICHORN: Why don't we go ahead and get  
5 started? My name is Mark Eichorn and I'll be the  
6 moderator for this panel. I actually do not have  
7 children, so maybe I'm the silent minority here. I may  
8 not be qualified as a speaker, but hopefully I can  
9 moderate. But you all will decide that.

10 We heard this morning from the associations  
11 that developed the rating systems and labeling systems  
12 and it's up to the retailers, the job of enforcing those  
13 systems and so, we're going to be talking about that for  
14 the next hour and 15 minutes or so.

15 We've got a great group of panelists. I'll go  
16 ahead and introduce each of them really very briefly.  
17 Their bios are provided in your materials in more detail.

18 At this end on the right, Sean Bersell has  
19 directed the government affairs programs of the VSDA, the  
20 Video Software Dealers Association, since 1999. That's  
21 the trade association for video retailers in the home  
22 video industry. And, currently, he's Vice President of  
23 Public Affairs for VSDA.

24 Jim Donio is next to him. He's currently the  
25 Executive Vice President of the National Association of

1 Recording Merchandisers, a position that he has held  
2 since June of 2000. He's responsible for overseeing  
3 NARM's day-to-day operations and managing the  
4 professional staff headquartered in Marlton, New Jersey.

5 John Fithian is President of the National  
6 Association of Theatre Owners, or NATO. As President of  
7 NATO, Mr. Fithian serves as the Chief Public Spokesperson  
8 for theater owners before public officials and the press.

9 Hal Halpin is next to me. He's the founder and  
10 President of the Interactive Entertainment Merchants  
11 Association, the video and computer game industries  
12 retail trade association. The IEMA member companies  
13 account for over 80 percent of the sector's business.

14 Next to me is Jule Polonetsky on the left. He  
15 joined America Online as Vice President for Integrity and  
16 Assurance in May of 1992. He oversees the integrity of  
17 the user experience, consumer protection, online safety,  
18 accessibility, community standards and policy areas.  
19 He's also responsible for setting internal standards and  
20 practices for all of the AOL brands in several areas,  
21 including parental controls.

22 Next to Jules is Jonathan Potter -- actually  
23 no, Beverly Porway is next to Jules. She's Regulatory  
24 and Litigation Counsel at Toys "R" Us, Incorporated,  
25 parent company of Babies "R" Us, Kids "R" Us,



1 Imaginarium, Geoffrey and several internet sites,  
2 including toysrus.com. She has been with Toys "R" Us  
since 1997 and she's responsible for providing legal  
counseling on advertising, marketing, regulatory and  
operational standards and practices.

Jonathan Potter is Executive Director of the  
Digital Media Association. He's responsible for DMA's  
public policy and industry advocacy activities in the  
United States and internationally.

10 And, finally, Raymond L. Smith is Senior Vice  
11 President, Human Resources Counsel for the Legal  
12 Entertainment Group and is responsible for the company's  
13 general litigation, security, risk management, human  
14 resources, training and payroll functions. He's the  
15 company rating compliance officer and member of the NATO  
16 Board of Directors and various committees.

1 I really want to thank all the panelists for  
17 coming and especially the individual retailers for coming  
18 this afternoon.

20 To begin, we'll start with some statements from  
21 the retailer trade associations, but I wanted to just  
22 highlight briefly some results of the Mystery Shopper  
23 Survey that we conducted in 2003 and that we released a  
24 couple of weeks ago. This was the third in a series of  
25 the surveys that we've conducted and we send 13 to 16-

1 year-olds unaccompanied to theaters and stores around the  
2 country and have them try to purchase product at stores  
and theaters. Then we report on the practices.

This time we looked at 899 theaters and stores  
around the country and we found that on the purchase  
question, whether the teens were able to purchase, 69  
percent of the teenage shoppers were able to buy M-rated  
electronic games, 83 percent were able to buy explicit-  
labeled recordings, 36 percent were successful in  
10 purchasing R-rated movie tickets, and 81 percent were  
11 successful in buying R-rated DVDs. That's an industry we  
12 surveyed for the first time in this survey.

13 These results indicate that from a statistical  
14 standpoint, each of the industries had improved since our  
15 last survey in 2001, though, obviously, there's still  
16 room for improvement in each category, even if you're not  
17 going for a perfection standard. Just based on what  
18 Mitch Bainwol mentioned earlier today that kids, for  
19 example, can get anything they want from file sharing,  
20 but five out of six of them can buy it from a music store  
21 clerk or get a DVD from a clerk.

22 We also asked a couple of questions about  
23 whether the stores provided rating information and  
24 whether they asked age, whether the shopper was asked  
25 their age. For each of those questions, we found that





1 actively enforced by video stores through their point-of-  
2 sale systems.

3 As I mentioned, video stores also educate  
4 parents through in-store signage, posters, brochures,  
5 shelf talkers, kiosks and the like. Placement of these  
6 may vary within particular stores, but they're all  
7 prominently displayed so that they can be noticed and  
8 used by parents. And some retailers even add their own  
9 descriptors and advisories.

10 These programs apply both to videos and to  
11 video games. They apply to rental, they apply to sale,  
12 they apply to the websites and they apply to members and  
13 non-members. And video store employees are trained on  
14 ratings education and enforcement and it's part of the  
15 culture of video retailers and it's something that is  
16 constantly reinforced to their employees.

17 We at VSDA are satisfied that these programs,  
18 which we call parental empowerment programs, are working  
19 well, and nothing in any of the FTC reports that have  
20 been issued thus far suggest otherwise. We believe that  
21 there's no better place than in a home video store for  
22 parents to control the content of the movies and video  
23 games to which their children have access.

24 Now, there's always room for improvement, and  
25 in 2001, we at VSDA saw the need to institutionalize our

1 periodic reminders to retailers regarding the use of  
2 ratings education and voluntary ratings enforcement in  
3 their stores. We also saw the need to educate consumers  
4 about these rating systems and how they can be used in  
5 video stores. So, in 2001, we instituted something  
6 called Ratings Awareness Month, and now, every June, we  
7 declare June to be Ratings Awareness Month and we  
8 undertake public education campaigns through the media to  
9 educate parents, and we also use that opportunity to  
10 educate retailers and remind retailers about the need to  
11 have these programs active in their stores.

12 We've also been responsive to the prior FTC  
13 recommendations on this topic. At the suggestion of the  
14 FTC, we adopted advertising and marketing guidelines for  
15 our member retailers, and we've taken a look at the usage  
16 of that by our members and those spot checks indicate  
17 that those are being complied with.

18 I would just like to end with one thought, and  
19 that is that video rental stores are family-friendly  
20 neighborhood institutions. They and their employees are  
21 part of the communities in which they're located. They  
22 often know their customers by name. They know what's  
23 acceptable and what is not acceptable in their  
24 communities. They take pride in the entertainment they  
25 bring into people's homes and they rely on repeat

1 business. In a sense, they put their reputations and  
2 their livelihoods on the line every time they rent or  
3 sell a video or a video game. And I can assure you, they  
4 would not deliberately put their businesses at risk by  
5 providing to children videos and video games that their  
6 parents don't want them to have.

Thank you.

MR. EICHORN: Thank you, Sean. Jim.

MR. DONIO: Thanks. I wanted to say thanks to  
10 Dick Kelly and to the FTC staff for inviting us to  
11 participate today and also to say that we welcome the  
12 continued information that's shared with us about how  
13 we're doing and how our sister industries and  
14 organizations are doing to help improve as much as we  
15 can.

NARM is a not-for-profit trade association.  
1 We've been around for going on 50 years now serving the  
2 music retailing community. Our members represent about  
3 80 percent of the industry, including retailers,  
4 wholesalers, distributors, suppliers of products and  
5 services, as well as individual industry professionals  
6 and educators.

To echo what Mitch Bainwol said this morning,  
7 we've always been supportive of balance and think that  
8 that's an important ingredient in all the discussions

1 today, the balance between the artist's right to free  
 2 expression, the parent's right to be aware of  
 3 entertainment with explicit content, and the retailer's  
 4 right to handle this explicit content according to how  
 5 each believes they can best meet the needs of their  
 6 company and the communities in which they have their  
 7 businesses.

8 I certainly applaud the refinements that Mitch  
 9 announced this morning and the efforts with regard to  
 10 anti-piracy because of the lack of information on the  
 11 illegal sites, but I would add that while online and the  
 12 online businesses are growing, to be sure, music stores  
 13 are still here and they're alive and well.

14 NARM has long supported this program and has  
 15 worked closely with the RIAA to improve and standardize  
 16 the parental advisory logo and to make posters and  
 17 counter cards available, such as this card, for use in  
 18 stores. And they are available to our member retailers  
 19 free of charge.

20 NARM continues to support this program because  
 21 it is a useful tool and that's very important. Parents  
 22 need to determine what music is appropriate for their  
 23 children.

24 To be clear and to reiterate what Mitch said  
 25 this morning, the parental advisory program is not a



1 ratings program, it's not age-based and it's not an  
2 indicator that a recording that displays the logo is  
inappropriate for a minor. Retailers may add their own  
rules, their own guidelines and choose to employ and  
adopt the program in a variety of ways, which I'll speak  
about in a minute. And even with all the diverse  
approaches, the common thread among all NARM members is  
that they support this program.

Retailers, as I said, display the counter cards  
and the posters. They're designed to promote and explain  
that this is a notice that parental discretion is  
advised. But retailers know that there's no such thing  
as a typical consumer. Therefore, stores stock thousands  
of titles to please as many different musical tastes as  
possible.

And let me review some of the ways that  
retailers use the program. Some stores choose simply not  
to stock the parental advisory product. Some stores let  
their parental advisory speak for itself. Some retailers  
do add an age-based sales policy on their own. Some  
retailers do check IDs when they suspect that a customer  
may be too young or may not have parental permission to  
buy a certain recording. Some retailers incorporate a  
prompt to check ID in a store's POS system that appears  
on the computer screen when the clerk scans the barcode.

1 Some retailers choose not to interfere at all with the  
2 parenting decisions and sell entertainment products  
without regard to age.

3 Retailers stock product and create sales  
4 policies from music displaying a parental advisory label  
5 based on market considerations and the composition of the  
6 customer base and the community in which the store is  
7 located. This variety of approaches by retailers means  
8 that parents can and should choose to shop at stores that  
9 best meet their family's needs.

10 Retailers do a lot in terms of training, as  
11 well, with their employees. They incorporate information  
12 about the parental advisory program in new employee  
13 training manuals so they can inform parents about what it  
14 means and they also make it part of the formal  
15 orientation session with new employees. Most retailers  
16 inform employees that if a parent calls or returns to the  
17 store with a complaint about their child buying a labeled  
18 CD, they are to be offered a refund with no questions  
19 asked.

20 In addition to the retailers' initiatives, NARM  
21 also posts information, which is available to all  
22 visitors to our site, about the program. And we provide  
23 a link to the RIAA site for additional information about  
24 the logo, the specs, the usage and who and how to

1 determine what gets the label, and also a link to the  
2 parentalguide.org site.

3 Store clerks talk about the parental advisory  
4 label and music displaying the logo with parents and  
5 explain, in certain cases, that the recording could have  
6 strong language or lyrics about drugs or sex or violence.  
7 Clerks inform consumers that, in many cases, there is an  
8 edited version of the same recording available, and this  
9 promotes choice.

10 Some retailers instruct their clerks to provide  
11 parents, also, with a telephone number of the corporate  
12 headquarters in the event they have other questions or  
13 they have a problem with the CD or the store's sales  
14 policy that they want to pursue further.

15 Clerks also encourage parents to talk with  
16 their children about the parental advisory and to teach  
17 them about the subjects which come up in the lyrics.

18 We have really received no reports of retailers  
19 getting complaints from consumers about the parental  
20 advisory or store sales policy. Feedback is certainly  
21 always welcomed, but most of the studies that we have  
22 done indicate that parents are satisfied with this  
23 program and they find that it's helpful.

24 Children mature at different ages. Not all  
25 families have the same concerns. Some are more concerned



1 owners and operators about what they do with the ratings  
2 compliance methods, we have several of our members here  
today to help you out.

I want to start by thanking the Federal Trade  
Commission. I think that today's dialogue has been  
extremely useful and not just the panel presentations,  
which have been very useful, but also the individual  
conversations in the hallway. In contact with the  
various advocacy groups, I have learned a great deal  
about suggestions that our industry can incorporate and  
we look forward to incorporating those. I encourage all  
the representatives of the advocacy groups not to  
discontinue the dialogue today, but to follow up with us  
as we hope to follow up with you so that we can continue  
to make progress as we use and modify our rating systems.

I also want to thank the FTC for its history of  
respecting an important balance, a balance between  
encouraging all of us in the industry to use and improve  
our voluntary rating systems, while at the same time  
respecting the voluntary nature of those systems. And  
I'm delighted today that with a very few exceptions, what  
panelists across the day have not been calling for i have not been ca

1 towards a more productive, more constitutional focus and  
2 we're delighted to participate in that balance.

3 NATO has been participating in the movie rating  
4 system from its inception. I want to thank Jack Valenti  
5 and his team at the MPAA for involving us as partners, as  
6 we have been for the past 35 years. But I also want to  
7 emphasize the importance of another partnership and  
8 that's a partnership that we all need to improve and  
9 that's the partnership with America's parents. Our  
10 ratings enforcement numbers are good. Our ratings  
11 enforcement numbers are improving, as the most recently  
12 released survey shows. But we can never have truly  
13 satisfactory ratings enforcement numbers unless we have a  
14 true partnership with America's parents and we've had  
15 some good discussion today about how to improve that.

16 I would even suggest that at future FTC  
17 workshops, we focus more on having parents' groups talk  
18 about how they can help educate their members and how we  
19 can help supply them with information to educate their  
20 members because like another speaker earlier today, we,  
21 too, have reached out to some of these groups and have  
22 not found a satisfactory partnership yet in finding ways  
23 to educate America's parents.

24 So, let's talk about what theater owners are  
25 doing to enforce our rating system, and, first, I want to

1 emphasize that number that Mark described at the  
2 beginning because we're kind of proud of it. Our ratings  
enforcement number now is 64 percent. That means that 64  
percent of these kids that attempted to buy tickets to R-  
rated movies were denied those tickets. To me, that's  
the most important question that the FTC asks, whether or  
not we do that by asking them their age, asking for ID or  
just spotting the fact that they are too young, a  
secondary question is not as important to me. The  
10 question that's fundamental to me is how many of them  
11 actually were able to buy the tickets to R-rated movies  
12 and we shut out 64 percent of them. That's up from 52  
13 percent in the previous survey.

14 We're not satisfied. Even though we're at two-  
15 thirds, we hope to get a lot higher and we continue to  
16 implement new mechanisms every year to continue to drive  
17 those enforcement numbers up.

18 Somebody earlier today said, it's all about the  
19 money. It's not all about the money. When you turn away  
20 64 percent of kids attempting to buy tickets to movies,  
21 it means that we are turning away hundreds of millions of  
22 dollars a year to enforce our voluntary rating system.  
23 So, I beg to differ. America's theater owners consider  
24 this effort not just important for our business, but  
25 important for the communities in which we operate and we





1 check, which we announced as a national policy in 1999.  
2 This means that any time any one of our members believes  
3 a potential patron at the box office to be too young to  
4 buy a ticket for an R-rated movie, they are instructed to  
5 ask for that person's ID, and we reinforce this policy in  
6 a number of ways. This is just one way. When we send  
7 out the membership stickers to our members to be  
8 displayed in box office windows, we combine it with a  
9 reminder about the carding program. Next slide.

10 It may be difficult to read from the back, but  
11 I'll explain what this is. I think it's very  
12 important -- and this has been discussed earlier today --  
13 not just to give the ratings, but to give explanations  
14 for the ratings. I also welcome the constructive  
15 suggestions today on how to improve the language to  
16 explain the ratings. I'm sure Jack and I will be  
17 discussing that.

18 We currently take all the explanations for the  
19 movie ratings and distribute them in a number of ways.

1 attendants can be conversant in the various films if they  
2 get asked questions by parents in the course of selling  
tickets. Next slide, please.

We produced a training tape which is too long  
to show today, but it's extremely informative for our  
members on how to train their box office attendants and  
other employees how to enforce the rating system and I  
brought a copy of it here today. I'll give it to the  
Federal Trade Commission for their record. But it gives  
10 them real case examples, what to do when you see two  
11 people coming to the box office who appear to be of a  
12 certain age, how to ask for an ID, how to post  
1 information in the theater complex that explains the ID  
1 check so that patrons are not surprised when they get to  
1 the front of the line. All those types of questions are  
1 answered in our training video, again, distributed to  
1 members upon request free of charge. Next slide.

1 This is just to show that we do this also  
1 online in addition to in-person. All the materials are  
20 available to our members online. They can go online,  
21 order them and seek additional copies.

22 And then very quickly we'll just run through  
2 the last four slides. These are individual posters  
2 explaining the rating system which we encourage all of  
2 our members to post at their theater complexes and which

1 we have an increasing rate of participation in this part  
2 of the program as well. Okay, go ahead to the last  
3 slide, please.

4 And, again, the placard. Many of our companies  
5 have their own placards with their company brand name  
6 included so that they can reinforce the fact that their  
7 particular theater complex uses an ID check program and  
8 we encourage and applaud that. Nonetheless, we still  
9 distribute a generic placard for all of our members who  
10 don't have the resources to develop their own.

11 One important part of our program that's  
12 difficult to show in slides is our ratings compliance  
13 officer program. We decided as part of our 12-point  
14 initiative that each of our companies should appoint a  
15 senior managerial employee who has, as part of their job  
16 description, enforcement of the ratings. Randy is the  
17 Compliance Officer for Regal. We have other compliance  
18 officers in the audience, and these are very active jobs.

19 Twice a year, we bring together all the  
20 compliance officers from around the country into one  
21 location so that we can share information about what's  
22 working and what's not in ratings compliance. In  
23 addition to that, we have an email distribution system so  
24 that additional suggestions or ideas or reports that come  
25 up during the course of the year are fed back to our

1 compliance officers electronically.

2 When the media calls and says, we did a sting  
3 operation in City X and three of our kids got in and six  
4 didn't, we ask for identification of who did and who  
5 didn't and we contact the compliance officers for those  
6 companies so they can follow up with the locations  
7 reported.

8 Similarly, when the Federal Trade Commission  
9 completes its surveys -- and we will do it again with the  
10 raw data from this survey -- from their mystery shoppers,  
11 we take each individual piece of that data, each mystery  
12 shopper that visited every one of our theaters, we  
13 identify the time of the visit and the location and take  
14 that back to our theater companies who work with the  
15 managers within their organizations. All of our  
16 companies have policies on this, all of our companies  
17 train their own employees. It doesn't mean that every  
18 single one of our theater managers or employees follow  
19 those policies.

20 So, any time we get raw data about site-  
21 specific location action, either from the media or from  
22 the Federal Trade Commission or from our own experience,  
23 we take it back to our members. And, again, thank you  
24 for the opportunity to participate today.

2 MR. EICHORN: Thanks. Hal Halpin.



1 of game purchases, we believe that the role of the  
2 retailer should be to provide them with the necessary  
3 tools to make informed decisions about the  
4 appropriateness of the video game for their child. By  
5 partnering with the ESRB, we have been actively involved  
6 in improving in-store education of the rating system by  
7 updating and increasing in-store signage at the store  
8 level.

9 These consumer educational efforts, which will  
10 include various in-store displays and materials  
11 explaining the ESRB rating system, will vary from  
12 retailer to retailer based upon in-store layouts and  
13 other factors. Ultimately, the parental empowerment  
14 program is in place to educate consumers about video game  
15 ratings, allow parents to make intelligent entertainment  
16 choices for their families, placing the power to police  
17 children's video game playing where it belongs, with the  
18 parents.

19 Additionally, several of our retail members  
20 will or are already using other channels to promote the  
21 ESRB rating system which include ratings, information on  
22 their own advertisements, in-store merchandising and on  
23 their websites.

24 Some of our retail members have made other  
25 extraordinary efforts, such as incorporating the rating

1 system into sales associate training and national  
2 managers conferences aimed at better educating staff  
about the ratings.

I'd like to conclude by stating that the IEMA  
and its members remain committed to working cooperatively  
with the FTC, members of Congress and the entire  
community to make sure that adults have the information  
they need to make informed choices for our children.

I understand that some have raised concerns  
about retailers' role in keeping age-inappropriate  
entertainment out of children's hands. Let me assure you  
that we are taking proactive steps to educate parents,  
consumers and employees about the rating system and the  
need to enforce the rating system to stem minor's access  
to M-rated games. In fact, we will launch a new  
initiative before the busy holiday shopping season to  
strengthen educational enforcement efforts. We look  
forward to announcing the details in the near future.

Our goal is to have greater awareness among  
consumers reflected in the FTC's annual report card. In  
just one year's time, we have seen a 10 percent drop in  
sales of M-rated games to minors. We recognize that this  
is not enough, but it is a step forward and we must  
continue to build upon this success.

We commend the FTC for doing an annual audit.

1 It is rightly the responsibility of a federal agency. We  
2 must now all join together, industry, parents, adults who  
shop for and take children to the stores, government  
officials and everyone else concerned about this issue,  
to make it a joint goal to increase education and  
awareness. Thanks, Mark.

MR. EICHORN: Jonathan.

MR. POTTER: Thank you, Mark. I'm pleased to  
be here today on behalf of America's leading online music  
and media services. The Digital Media Association was  
10 founded in 1998 to support the development of a healthy,  
11 competitive commercial marketplace for digitally  
12 performed and distributed entertainment. DMA's goal is  
13



1 enjoying and acquiring music and related product. Many  
2 are also offering consumers music videos and other forms  
of entertainment video services. These services suggest  
that DMA companies are similar to the record stores,  
video stores and movie theaters represented by my  
colleagues on this panel.

However, DMA companies generally have no  
physical interaction with our customers, so we cannot  
demand picture ID before sale or ensure that underage  
consumers are accompanied by an adult. In that regard,  
our companies address the same challenges of online  
service providers, such as Yahoo, AOL, Microsoft and  
Earthlink.

For several years, these companies have  
successfully provided parents with education, tools and  
information about how to affect and monitor their kids  
behavior online. These services do a terrific job  
promoting parental involvement and empowerment  
opportunities. Parents, however, ultimately decide  
whether and how to utilize these opportunities.

Online media companies are in the same position  
and must also help America's parents make smart decisions  
with and on behalf of their kids. An additional  
challenge facing online media companies is the relative  
youth of our industry. Technology is still being

1 developed, business models continue to change rapidly and  
2 consumer adoption is just beginning.

3 The good news is that in the last several  
4 months, our member services have gained a strong toehold  
5 with American consumers who have expressed enthusiasm for  
6 today's offerings and the continuing adaptations being  
7 developed. Moreover, there's a clear difference that  
8 parents will recognize and appreciate between our member  
9 companies' managed offerings and so-called competitors  
10 that provide unmanaged networks and do not filter or  
11 label content for violence or pornography or ensure  
12 payment of royalties to creators.

13 Although DMA, as an industry organization, has  
14 not previously focused on the issues we are addressing  
15 today, our members companies, independently, have been  
16 quite focused and have incorporated several tools to  
17 empower parents. Several of our companies are also  
18 internet service providers, and to the extent that music  
19 and media services are tightly intertwined with the  
20 provision of internet service that these companies offer,  
21 notably companies like America Online and Microsoft, they  
22 provide tools that assist parents in establishing  
23 restrictions on the content that child may access.

24 For example, AOL Radio has a modified interface  
25 and channel selection and separate programming for kids

1 and for young teens and mature teens. They provide only  
 2 edited versions of a song. The process is seamless to a  
 3 young subscriber because the parent has already  
 4 determined the appropriate level of filtering when first  
 5 signing up for the service.

6 As you can appreciate, the process is not as  
 7 simple when the music and media service is offered by an  
 8 independent competitor that is reaching consumers through  
 9 an open browser. Nevertheless, some independent services  
 10 are working hard to help parents make wise choices with  
 11 their kids.

12 Napster, for example, is relaunching today and  
 13 has included several layers of parental options. When  
 14 initially signing up for the Napster service, a  
 15 subscriber has the option of excluding all songs that are  
 16 from albums labeled with parental advisories by the  
 17 recording industry. This filter will exclude songs that  
 18 otherwise would be performed on Napster radio or that  
 19 would be downloaded in response to a user-directed  
 20 search.

21 A more sophisticated option is also offered.

1                   Based on conversations with our member  
 2 companies in preparation for today's workshop, it is my  
 3 understanding that all are indicating to consumers when a  
 4 song made available for on-demand listening or for  
 5 download is from an album carrying a parental advisory.

6                   As DMA companies continue to support parents'  
 7 ability to make good choices, we look forward to keeping  
 8 the Commission apprised of our progress. In particular,  
 9 we note three areas that may require additional attention  
 10 and, perhaps, collaboration with our partner industries.

11                   First, we should strive for parental advisories  
 12 that better match new models for content distribution.  
 13 Current parental advisory designations for sound  
 14 recordings are made only on a whole album basis. In  
 15 effect, if one track on a CD warrants the parental  
 16 advisory, all tracks get it because the CD package is  
 17 labeled. One significant consumer advantage of the  
 18 online music market is the opportunity to hear and  
 19 acquire individual songs rather than only whole albums.  
 20 Therefore, we in the recording industry need to be able  
 21 to convey parental advisory warnings on a more granular,  
 22 song-specific basis which has not traditionally been  
 23 done.

24                   This enhancement to the current advisory  
 25 labeling system will require time and resources, but is

1 necessary to maintain the marketplace utility of  
 2 important consumer information. Our concern is that if a  
 3 child demonstrates that a parental advisory labeled song  
 4 does not contain content consistent with the parental  
 5 advisory, the parent may lose faith in the labeling  
 6 system and stop filtering the child's online music  
 7 access. In that home, regrettably, the value of the  
 8 advisory labeling system will be eliminated.

9 Second, the recording industry has never  
 10 extended the parental advisory designation and labeling  
 11 system to music videos. If, in the future, music videos  
 12 are rated, it is likely that online and offline stores  
 13 and services would share this information with parents  
 14 and enable parents to limit their kids' access to  
 15 unsuitable content.

16 Third, online music providers often get their  
 17 music and editorial material from third parties. These  
 18 industry participants must be included in the discussion  
 19 as they are critical participants in a successful  
 20 parental empowerment system.

21 Finally, as you've heard earlier today, it is  
 22 important to note that our company's greatest competition  
 23 comes not from one another, but from unmanaged,

1 virtually unlimited quantities and selection of any kind  
2 of content whatsoever to anyone that joins that network.

3 As studies have recently shown, a staggering  
4 percentage of that content is inappropriate and there is  
5 no way to prevent any user, no matter how young, from  
6 accessing such content deliberately or inadvertently. We  
7 urge you, parents, advocacy groups and the FTC, to help  
8 us educate America's parents that free is definitely not  
9 better when the content being made available to children  
10 is unfiltered, unlabeled and inappropriate.

11 In closing, I thank the Commission for inviting  
12 DMA to participate in this important workshop. We  
13 appreciate the years of experience that other industries  
14 can share with us as the online media industries  
15 implement our commitment to empower America's parents.

16 MR. EICHORN: Thank you, Jonathan. I'd like to  
17 start phase two of the panel now, which is the discussion  
18 part, and I'll try to direct questions to one or two  
19 people, but anyone on the panel is welcome to chime in.  
20 If you want to put your table tent up, that would help  
21 me. But, otherwise, just yell at me if I don't see you.

22 I first want to talk about enforcement and what  
23 you all have learned from your experiences. Enforcement  
24 measures that particularly work or maybe that don't work,  
25 including the cash register system, Beverly, I'd wish

1 you'd address, and, Randy, if you'd talk about your  
2 enforcement experience in the theaters.

But, Beverly, why don't you start?

MS. PORWAY: I also want to thank Mark and the  
FTC for inviting Toys "R" Us to participate. I  
understand in some of the past workshops, retailers  
haven't had as much of a voice and we've relied on some  
of our partners in groups that are represented here, and  
we're very happy to be here and to talk about what we've  
10 been doing to try and help out with the sale of mature  
11 video games.

12 As a company, we're deeply committed to strong  
13 values and to family values, and that's why we've adopted  
14 certain very strict policies that are black-and-white  
15 policies that we actually enforce in our stores and we do  
16 in our stores. And the first one, as Mark mentioned, is  
17 our register prompt system, which is a point-of-purchase  
18 system that's intended to automatically detect the rating  
19 of a game through the barcode. If the game being  
20 purchased is an M-rated game, our cashiers are instructed  
21 and trained to ask two questions. If the person looks  
22 like they're under the age of 25 -- and we use 25 because  
23 some of our cashiers are 16 themselves. So, if we say  
24 17, which is really the age, a 16-year-old may not be  
25 able to recognize whether somebody is 17. So, we've

1 raised the bar and we've told them that we want to use  
2 the age of 25.

They're to ask for identification. If the individual does not have identification, we won't sell the game to them. And we've recently, within the last year, adopted a zero tolerance policy with regard to that process.

We also ask, if mom buys the game, if they know whether or not it's an M-rated game and we explain what an M-rated game is because there are many times that mom and dad will come in and their kids will say, oh, I want to buy Vice City, and mom goes out to buy it and then when we explain, well, do you know this is an M-rated game, this contains violence, et cetera, many times mom won't buy the game.

We've found that it's a very successful program. It's been working well for us and we've taken it one step further. We post, and I have -- I, unfortunately didn't do a PowerPoint, but I do have an example of the cards that we post in our stores that describe the policy, that specifically states, it's the policy of Toys "R" Us not to sell M-rated video games to individuals under the age of 17. We have the ESRB rating M here. Cashiers may ask for proof of age if a guest appears to be under the age of 17 and we reserve the



1 right to refuse to sell that game if a guest cannot  
2 produce legitimate identification.

3 So, we have the cashier system, which will ring  
4 it up. We let people know up front, and on the back end,  
5 we train our employees on the system. We have them -- as  
6 part of the enforcement, we have them sign an  
7 acknowledgment that says they know about the M-rated  
8 system, they know about the proof of purchase system.

9 In the event they don't comply with it and we  
10 find out through either, you know, one of the FTC's  
11 actions that they don't comply with it, they acknowledge  
12 that we may take disciplinary action against them. We  
13 also post, in our breakrooms, the policy and we  
14 periodically distribute from our operations team,  
15 reminding everybody that we do have a zero tolerance  
16 policy and what we do to employees and what we can do in  
17 reminding them of what our policy is.

18 MR. EICHORN: Thank you. I did want to add  
19 that based on an analysis that we've done of the mystery  
20 shopper data, we're continuing to do these analyses, but  
21 one that we have done shows that the companies that have  
22 policies to restrict sale -- Toys "R" Us is one of them  
23 in the game industry -- of the six that we looked at that  
24 we know have policies, they did about 20 percent better  
25 than the others on these type of questions, the age

1 purchase question and as to whether the shopper noticed  
2 rating information.

3 Anyway, Randy, do you want to talk about the  
4 theaters?

5 MR. SMITH: Sure. You know, carrying the theme  
6 today, I am also a parent and, fortunately for all of  
7 you, I don't have time to tell you what each of my  
8 children have done to put these gray hairs on my head.  
9 But in addition to that, I'm a firm believer and advocate  
10 of the First Amendment and I'm also a firm believer of  
11 regulating what children see and do. The only difference  
12 with some of the panelists earlier is that I truly  
13 believe that that's my wife and I's sole responsibility  
14 when it comes to my children.

15 That being said, with respect to the theater  
16 industry, we certainly are pleased to be here today and  
17 welcome the opportunity to talk about what we've done,  
18 because we consider what we've done to have taken on a  
19 method on our part as well as our trade association to  
20 respect and fill our role with respect to the youths of  
21 America.

22 What the theater industry does and particularly  
23 what Regal does is kind of a three-fold or four-fold  
24 attack on this issue. First, we take the time to  
25 identify that any advertising in our theaters is age-

1 appropriate to the film being shown. We also take the  
 2 time to ascertain that the trailers being shown during  
 any particular film are appropriate with respect to the  
 content and who they're being marketed to with respect to  
 the feature film being shown on that particular day.

The third thing we do is we make certain that  
 the individuals coming to see these films are actually  
 age-appropriate, meaning that we make certain that they  
 follow the rating. If they are not 17 or older, they do  
 not get into R-rated movies unless they have a parent or  
 adult guardian attend the movie with them.

The fourth thing we recently began doing is  
 monitoring and making certain that we have certain types  
 of video games in our facility or conversely certain  
 types of video games are not in our facility. And the  
 reason we take these efforts is we are in the family  
 entertainment business and we intend to maintain that  
 image and we intend to fulfill our obligations with  
 respect to these ratings.

Now, how we do that specifically is that we  
 have designed certain policies and procedures to ensure  
 that these things are monitored and controlled.  
 Primarily, we begin with an education process and that  
 requires a two-fold approach. We have to educate our  
 public and we have to educate our employees. We educate

1 the public, primarily, by posting the information at the  
 2 box office so that if you walk up to one of our  
 3 ~~box office~~ ~~see. There is a plethora of information out there for TDs in 5. and TDs in 7. s whTD r1~~  
 4 see it's an R-rated film, you can look immediately over  
 5 to the side to see what that R rating means.

6 As a member of the public, you certainly have  
 7 the right to decide what you want to see. That's your  
 8 First Amendment right and we respect that, but we want  
 9 them to understand, at least primarily up front, what  
 10 they're saying. We also advertise the ratings in our  
 11 newspaper ads; we also advertise the ratings on our web  
 12 pages. There is a plethora of information out there for  
 13 the general public if they want to know what they're

1 children of America are very creative and sometimes  
 2 they'll come in and they'll buy a ticket for a G movie  
 and then they go into that movie and they promptly jump  
 over to the R-rated movie they wanted to go see because  
 they couldn't buy the ticket. So, our ushers are trained  
 to watch for that.

In addition to that, some of our box office  
 personnel, when you have a minor come up to the facility,  
 many times they'll think that they look old enough to buy  
 one of these tickets, so they'll come up and they'll say  
 I want a ticket to Kill Bill and they'll promptly be  
 carded and be denied a ticket. So, they'll buy another  
 ticket. Well, typically what we do in a situation like  
 that is when that minor purchases a ticket, we flag the  
 ticket. There is a mark that's put on the ticket  
 specifically to notify the usher that this person needs  
 to be monitored while they're in the facility because a  
 large percentage of time these indiau 1 oeds

1 patrons accountable and we hold our employees  
 2 accountable. If an individual sneaks into one of our  
 facilities or buys a ticket and then sneaks into an  
 auditorium they shouldn't be in, then they are removed  
 from the facility, and that's how we hold the public  
 accountable.

We also hold the public accountable by  
 requiring adults to attend the movies with their minors.  
 They cannot simply purchase the ticket and allow their  
 children to go into our facilities. They must attend  
 with them.

As far as our employees, it's quite simple.  
 They violate the policy, they're disciplined, and  
 sometimes to the extent of termination.

I was telling a story to John at lunchtime.  
 It's a challenge every day. We've had an employee once  
 making money on the side selling tickets to minors  
 because they knew that they couldn't purchase them. We  
 had an individual who was, I guess, running a business  
 out of some of our Southern California theaters because  
 she was going from theater to theater standing in front  
 of a box office buying tickets for minors and I assume  
 she's getting a fee for that because she keeps popping up  
 and we keep denying her access to our facilities after  
 that. But these are things you live and learn from.

1           The final comment I would make is I agree with  
2 John, this is not all about the almighty dollar, at least  
3 not with the theater business, certainly not with Regal  
4 Entertainment. We lose hundreds of thousands, if not  
5 millions, of dollars by denying access to this 60 plus  
6 percent portion of the population trying to get into  
7 these movies. We lose hundreds of thousands, if not  
8 millions, of dollars on some of these video games we have  
9 now moved out of our facilities.

10           I wanted to read a comment from an individual -  
11 - I'm not going to tell you who -- but we receive  
12 comments from people periodically in the mail. This  
13 individual writes, in March of last year, yeah, you guys  
14 need to make it easier to get into R-rated movies. If  
15 you want to make more money, try lowering the age or make  
16 it easier for a minor to get in. I think it's stupid  
17 you're so strict in letting people under 17 into R  
18 movies. No other theater is that strict. I doubt that's  
19 the truth. Honestly, if you ever wondered why you went  
20 bankrupt, that's it.

21           So, we're doing what we can and we certainly  
22 honor our responsibility to do it and we'll keep doing  
23 it. There's always room for improvement.

24           MR. EICHORN: Thanks, Randy. Jonathan talked  
25 briefly about the ways that the online world may be

1 different and present different opportunities and  
2 challenges. So, Jules, I'll ask you to talk about what  
AOL is doing.

MR. POLONETSKY: Well, I certainly hope that  
the strict policies that I'm going to describe don't put  
us in bankruptcy. I think that what parents expect from  
an online service is the opportunity to use tools to make  
sure that their kids are having a trustworthy experience,  
and so, we work very closely with the various labels and  
standards bodies that describe their practices here today  
to make sure that those guidelines are part of what we  
promote, but in addition, that our parents have the tools  
so that they can use those guidelines to make sure that  
their kids are encountering the kind of media that they  
want them to encounter.

So, let me start with music, perhaps. AOL  
Music Net is completely integrated with AOL's porno  
controls. So, when a parent opens up an account with a  
credit card and creates screen names, accounts for their  
kids or their teens, we ask how old is the user that  
you're creating an account for, and then depending on the  
age, we put them in an appropriate experience.

So, if I open up an account for a kid, for  
instance, I actually don't have access to Music Net.  
Now, if I open up an account for a younger or mature



1 teen, I'm going to get a different version of Music Net  
2 than the general adult access. Music Net will include,  
3 as someone mentioned, both the parental advisory label of  
4 a song, as well as a radio version, if it's available.  
5 The teen version, however, shows only the radio edited  
6 versions of those albums. We layer on top of that as  
7 well a dirty word filter for the teen who wants to try to  
8 be creative and just seek songs that have some profanity.  
9 So, there's some limit to access for that as well.

10 Radio@AOL, as Jonathan mentioned, is different  
11 for every level of the service. Kids actually have their  
12 own live radio show, and so, edited versions of songs are  
13 not played there at all. Certainly, the parental  
14 advisory, non-edited are not played. But if there is a  
15 song that has an edited version, for the youngest  
16 children, we'll actually assume that that's not  
17 necessarily appropriate as well. The teen radio, again,  
18 has its own version that will only play edited songs.

19 Our Music Search, which is another feature of  
20 the service outside Music Net, which is a premium  
21 service, always has parental advisory labels. If you  
22 click on the parental advisory label, you're taken to  
23 RIAA's site where you can find out any further  
24 information.

25 In addition, any of the advertisers -- so far

1 I've talked about the music that will play or that will  
2 stream or that will allow a user to download. The  
3 advertisers in areas of the service have to follow those  
4 same rules as well. So, an album with a PA label cannot  
5 be advertised in the teen's channel or, frankly, it can't  
6 be advertised anywhere on the service if the promotion  
7 appears to be geared towards a teen.

8 When it comes to games, we work very closely  
9 with the ESRB and any of our games have to have labels  
10 and, again, depending on the area of the service, any  
11 game that's promoted or that exists in the teen's channel  
12 of our service has got to be rated appropriately, either  
13 teen, everyone or early childhood by ESRB. If you're in  
14 the kids' area of the service, again, you've got to  
15 follow the appropriate guidelines as well.

16 What we're actually working on now, as well, is  
17 ensuring that in addition to including the rating, a user  
18 can easily set a mouse over and have the rating  
19 information displayed and instantly available and then  
20 obviously clicking through to the ESRB site for more  
21 information as well.

22 When it comes to movies, similarly, we'll only  
23 allow appropriately rated movies to be promoted in the  
24 teen's channel. So, PG-13, PG and G-rated movies are  
25 allowed in teens, and similarly with regard to the kids

1 only area.

2 We don't allow access to file-sharing sites  
because of the uncertainties about what can be downloaded  
and what's appropriate or what isn't appropriate. And  
so, one of the things I just want to flag is that,  
although we do an awful lot on the service to remind  
parents that it's their responsibility and they've got to  
take charge and they've got to have the computer in an  
area of the home where they can be involved, but we also  
10 recognize that parents are looking to us to give them  
11 some of the tools so that they can have a little bit of  
12 extra help, and in the areas where we've got the industry  
1 standards that we can look to, it's been incredibly  
1 useful to leverage off those so that we can make  
1 decisions about what's either on the service or what  
1 advertisers can promote onto the service.

1 MR. EICHORN: Thank you. Go ahead.

1 MR. PORWAY: I just wanted to add that I know  
1 this morning there was a little bit of discussion about  
20 toysrus.com and I want to just kind of clarify whether or  
21 not we have content descriptors and what we have on our  
22 website, because we do, in fact, have content  
2 descriptors. What we have is special messaging. The way  
2 that our site works is that when you go to home page or R  
2 Zone, which is where the video games are sold, on the

1 left-hand bar the first thing you'll see under Help Desk  
2 is ESRB rating guide. You click on that and you go right  
3 over to a page that's within toysrus.com that lists the  
4 ratings on all video games with the descriptors that ESRB  
5 has recommended. It tells you what early childhood is  
6 and goes through each one and what they are.

7 We also have a special place on our website  
8 called Kid Zone -- Kid Safe Zone, where mom wants to go  
9 and not see any M-rated games or any T-rated games, there  
10 are only E and early childhood games. You can click on  
11 that and go there.

12 Every time you go to a game, you can click  
13 right back to the ESRB site. If you do go to a Mature-  
14 rated game -- for example, if you click on to Grand Theft  
15 Auto III, it will -- all mature and violent games will  
16 have a special message, for example, warning: violent  
17 content, mature themes make this game inappropriate for  
18 anyone under 17. Mob bosses need favors, gangs want you  
19 dead. It specifically says what the game is about.

20 Narrative driven, non-linear game play, hundreds of  
21 characters, 50 plus vehicles. It describes it so that  
22 you can't -- you know what's on the game. The other  
23 thing is that you cannot buy without a credit card on  
24 this website, so you have to be over the age of 18 to  
25 purchase anything on the toysrus.com website. But we

1 still go ahead and we describe exactly what's on the  
2 games and what's out there and we have a special area  
also for five to seven and three to four and exactly  
what's on the video games.

So, we also try to give as much information as  
you can on a website without having the interaction of  
being live and giving the information that we can, that  
mom needs to choose what she needs to choose for the  
family.

10 MR. EICHORN: Well, you've raised a point about  
11 special areas and maybe you can discuss it further in the  
12 brick-and-mortar context. Again, I know that the IEMA  
13 has encouraged retailers to move M-rated games up out of  
14 reach of smaller kids. But, Beverly, if you want to  
15 discuss what Toys "R" Us has been doing.

16 MS. PORWAY: If you've ever been -- Toys "R" Us  
17 has recently gone through a major change and we've redone  
18 our stores, and all of the video games are now located in  
19 an area that we call R Zone. To get in and out of R  
20 Zone, there's an electronic security device.

21 Within R Zone itself you'll find the M-rated  
22 posting I showed you before. You will find all the ESRB  
23 ratings. You will also find brochures that describe the  
24 ESRB. All of our advertising has the ESRB, and within R  
25 Zone, the M-rated games are right now -- we've instructed

(01) 0-02



1 guidelines about times of day, like don't show an R  
2 before 9:00 in the evening in the store. You may walk  
3 into a store at 10:00 at night when presumably it's an  
4 adult customer in there and see an R movie. That's  
5 possible. But the retailers that I'm aware of have  
6 policies in that regard.

7 The question about the DVDs, DVDs are rated  
8 based on the rating of the movie originally and there may  
9 be additional content in it. The boxes say the  
10 additional content is not rated. Video retailers can  
11 only go by the rating that is provided and we enforce  
12 that rating that's provided on the product. It would be  
13 unrealistic for each video retailer to review every DVD  
14 that comes in for all the content on them. Some of these  
15 have 24 hours worth of content on them. So, we go by the  
16 rating that's provided by the MPAA and we'll enforce that  
17 rating.

18 And then the unrated, there are many retailers  
19 who -- including the major retailers, who will not bring  
20 unrated product into their store, in addition to not  
21 bringing in NC-17. So, there is -- as I say, the major  
22 retailers will not carry that unrated version. Other  
23 retailers will bring that in, but they will treat it as  
24 if it is NC-17.

25 MS. MINOW: Thank you very much.



1 MR. EICHORN: John.

2 MR. FITHIAN: We also have to deal with unrated  
3 movies occasionally. A small percentage of movies  
4 released to America's theaters are unrated. I have a  
5 suggestion to our colleague industries. Just treat them  
6 like a restricted product. People don't have to comply  
7 with the rating system on the production side. If they  
8 don't want to go through the MPAA's ratings, they don't  
9 have to.

10 What our policy is for our membership is, if we  
11 get sent unrated movies, fine, we'll play them, we treat  
12 it like an NC-17. So, no kids can be allowed in.

13 And, secondly, the policy of video stores of  
14 banning -- some videos of banning NC-17s is a problem for  
15 us because what it does is encourage producers of movies  
16 to avoid NC-17 like the plague and that rating needs to  
17 be used. There are producers and film makers that make  
18 movies that are wonderful but appropriate for adults only  
19 and NC-17 isn't being used enough, and part of the reason  
20 is a lot of video stores won't carry NC-17 product. This  
21 may sound counterintuitive, but please carry the NC-17  
22 product and then enforce the age restrictions on it.  
23 We'll enforce them at the theaters. Producers will be  
24 encouraged to use the appropriate ratings for their  
25 movies.





1 think that the retailers should look to the theater  
2 owners as a way to do this because their results are so  
3 much better, and I think the reason is, is I heard them  
4 describe what they were doing. They take their  
5 enforcement much more seriously. So, I think there's a  
6 lot of room for improvement in this regard.

MR. HALPIN: Can I respond to that?

MR. EICHORN: Sure.

MR. HALPIN: We believe that there isn't a lot  
10 of room for improvement and a 10 percent per year  
11 increase in the results that we've seen is significant  
12 and tangible.

13 One of the major differences -- and I've had a  
14 similar conversation with two senators that you're  
15 familiar with -- when they compare us to NATO and they  
16 say, well, if they can do it, why is it that your members  
17 can't just as easily, you need to keep in mind that we --  
18 our members sell thousands of SKUs normally. I mean,  
19 they don't sell just one product, and so, therefore, the  
20 people who are getting trained need to understand this  
21 rating system. That's why we're working so closely with  
22 the ESRB in that process.

23 It takes a longer time, but if you'll notice,  
24 you'll see the trend over the last four years has been  
25 very positive.

1                   MR. FITHIAN: And, also, in defense of our  
2                   fellow industries, we've been doing this for 35 years and  
3                   we've had a rating system since the '60s and a lot of our  
4                   policies have been in place for quite a while. I'm very  
5                   encouraged to see that every single industry had  
6                   improvements in their rating enforcement over the course

1 Professor of Pediatrics at Harvard Medical School, an  
2 Assistant Professor in Society Human Development and  
3 Health at the Harvard School of Public Health. Dr. Rich  
4 is a member of the American Academy of Pediatrics Public  
5 Education Committee. He is also Director and co-founder  
6 on the Center on Media and Child Health at Children's  
7 Hospital in Boston, which is committed to improving the  
8 understanding of the effects of communications and  
9 entertainment media on child and adolescent health. Dr.  
10 Rich came to medicine after a 12-year career as a film  
11 maker.

12 And Dr. Rich, I believe, has a PowerPoint  
13 presentation that he'd like to make before we get  
14 started.

1 DR. RICH: Thank you, Mary. If I could have  
2 the first slide.

3 As Mary said, I'm here representing not only  
4 the Center on Media and Child Health, which is trying to  
5 use the tools of evidence-based medicine in public  
6 health, rigorous objective scientific studies to better  
7 characterize and respond to the effects of media, both  
8 positive and negative on the physical and mental health  
9 of children and adolescents.

10 In addition, and perhaps with the most  
11 longevity, I'm here to represent the American Academy of

1 Pediatrics, which is 57,000 pediatricians across the U.S.  
2 -- probably most of your kids' doctors -- that has been  
3 concerned about the issue of media and its effects on  
4 kids for over 25 years.

5 I have to say, having done this a number of  
6 times, I really want to applaud the spirit that has been  
7 shown here today. I think this has been the most  
8 collegial, the most respectful and collaborative  
9 discussion we've had to date, and I'm also heartened by  
10 the technology that we've heard about that can allow the  
11 focused delivery of media content to appropriate  
12 audiences.

13 One thing I've been concerned about, actually,  
14 though, is a sense of fatalism about some of what we've





1 the recommendations to you and to other parents about  
2 what is best for your kids. You have the choice and the  
responsibility ultimately to make those choices. Our job  
is to put the tools at our disposal and the knowledge we  
have to your service in making that choice.

I think that it is true what has been said here  
earlier that taste is subjective and, in fact, values and  
appropriate values are also subjective. But the physical  
and mental health outcomes that may be found in  
relationship to use of some of these materials are  
objective. They are quantifiable and they're very real.  
I, and many of my colleagues, have picked up the pieces,  
and importantly, we have tools to deal with this and to  
understand this better. Next slide.

I'm going to do a swoop back in history very  
quickly and look at child and adolescent morbidity and  
mortality, the things that kill kids and the things that  
make them sick into their adult life. A hundred years  
ago the things that were killing kids were infectious  
disease, birth defects and cancer. We could not cure  
them, we did not have the tools, and we found the cure  
for them in the prevention, by dealing with crowded  
housing, poor sanitation and pollution, social tools for  
public health.

Fast forward 100 years and the leading killers

1 and injuries to kids are unintended injuries, homicide  
2 and suicide. The leading morbidities that they carry  
3 into their adult life are substance use, sexual risk-  
4 taking and nutrition. These are all outcomes of health  
5 risk behaviors.

6 In trying to struggle with these, we are a cat  
7 trying to catch our tail and we have to understand that  
8 these health risk behaviors are learned and we need to  
9 learn from history and look to an environmental source.  
10 Next.

11 So, we're investigating the epidemiology. We  
12 look at the issue of exposure, how are we infected, the  
13 effects, what happens to us, the mechanism, how does it  
14 work on us to change us, and what can we do to intervene.  
15 Next.

16 A study done at the turn of millennium by the  
17 Kaiser Family Foundation showed that, no surprise,  
18 essentially 100 percent of American homes have  
19 television. What it also showed was that more homes in  
20 the U.S. have five or more TVs than have one TV. It also  
21 showed that 32 percent of two to seven-year-olds and 65  
22 percent of eight to 18-year-olds have TVs in their  
23 bedrooms. Those numbers, based on the study released by  
24 Kaiser yesterday, have gone up.

25 It showed that the average eight to 18-year-old

1 in this country used media for six hours and 32 minutes  
2 every day and that they multi-tasked, that they were  
3 using multiple media simultaneously, and when you roll  
4 those out in terms of cumulative effect, it was seven  
5 hours and 57 minutes of exposure. Next.

6 I know it sounds like you're getting a test at  
7 the end of it. I just want to give you some key research  
8 that's out there and this is very solid legitimate  
9 research that has been studied over the years. These are  
10 tests -- there were people who went into a classroom in  
11 Western Canada, a small town, a town that did not have  
12 television, and looked at the aggressive behavior between  
13 first and second graders. The town introduced cable TV,  
14 they came back two years later and measured 160 percent  
15 increase in aggressive behavior between kids in the same  
16 community with the same groups of kids, obviously  
17 siblings because it was two years later, but no other  
18 factors were changed and everything was controlled for  
19 concerning that.

20 There is a study that was done in New York. I  
21 will jump over the studies in South Africa in the  
22 interest of time. In New York, that followed kids from  
23 the ages of 18 to 30, and bottom line is, with all other  
24 social factors controlled for, that they found that the  
25 highest levels of violence through the life span were

1 those that had the cumulative, most exposure to  
2 television. Next, please.

Two more studies in the last year basically  
showed the same thing, and this is not just early  
childhood exposure. This is exposure into adolescence.  
Next.

So, one of the things we have at our disposal

1 stuff there that is not that good. That also means  
2 there's some stuff there that's very good.

3 The science is not perfect and it is not  
4 complete, but my reality and that of my pediatric  
5 colleagues is that every day we are faced with a two-  
6 year-old or an eight-year-old or a 15-year-old and their  
7 parents who are saying, you've got to give us your best  
8 assessment of the risk and benefit to my children. We  
9 have to make decisions every day on things like tobacco  
10 use, on things like safety belts and car seats as to what  
11 the best possible outcome we can determine is for this  
12 child. There's a need for standardization of measures  
13 and there's a need for a lot more research.

14 However, the overwhelming trend in the research  
15 to date indicates that there are three major effects of  
16 exposure to violence in media. That is, increased  
17 aggression and violent behavior, which we've heard about  
18 already; the mean world syndrome, the concept that media  
19 inflates the prevalence of violence in the world and  
20 makes kids afraid. Kids have sleep disturbances and  
21 nightmares. We have even seen kids with post traumatic  
22 stress disorder as if they were Vietnam vets simply from  
23 media exposure.

24 And, finally, desensitization, that is  
25 something that affects us all. And I think one of the

1 things we heard earlier today is these ratings are the  
2 ones parents give because we have a "high threshold in  
3 society for violence." From my perspective as someone  
4 who takes care of children, that's not a defense for the  
5 steady lowering of our restrictiveness on ratings. It  
6 is, in fact, an indictment of us as a society and an  
7 acknowledgment that desensitization has occurred. It  
8 really has occurred. Next slide, please.

1 and time again in varying ways with varying  
2 methodologies. And this was done with television,  
3 portrayals that are watched by kids. Video games are not  
4 included in it. And early research in video game  
5 violence indicates that children who not just watch  
6 violence, but who become active players in it and become  
7 people who are rewarded for violent behavior are  
8 rehearsing behavioral scripts. They are learning to do  
9 things.

10 And the questioner from the Milwaukee City  
11 Council who came before and who talked about this as a  
12 simulator, a violence simulator and a violence practicer,  
13 is right on from our experience as child developmental  
14 experts.

1 We have decided, as a society, that we want  
2 objective, valid information as to what is in the food  
3 that we feed our children's bodies. We want to pick up  
4 the can and read the content labels and we want to trust  
5 that that is a scientific and objective report of what  
6 we're feeding our kids' bodies. We do not have the same  
7  
8  
9  
10

1 cigarette you will get lung cancer, but we can tell you  
2 what your chances are. We can do the same with media.  
• Next.

So, finally, how do we deal with this in our



1           them both confusing and overwhelming. There's just too  
2           much, it's not clean and they don't understand them.

3                         Also, I would argue that both kids and parents  
4           are sophisticated consumers to the point where they  
5           distrust industry ratings because they lack objectivity  
6           from somebody who serves to profit from them. I don't  
7           think that you would like it if I recommended to you a  
8           certain medication for your child's pneumonia based on  
9           studies done by that pharmaceutical company. We need to  
10          have the equivalent of double-blind, randomly-controlled  
11          trials to understand what these media are doing to us.

12                         And, finally, there are validity studies, one  
13          of them done by Dr. David Walsh who's on this panel, that  
14          reveal significant deficiencies in these rating systems  
15          when they are measured against scientific tools.

16                         Finally, you know, I think that we need to work  
17          together, industry, consumers, doctors, children and  
18          children's advocates and parents toward an objective,  
19          content-based media labeling on the outside of the can,  
20          just as we do for our beef stew. And I'm really  
21          encouraged by the spirit of today and I think that this  
22          is a new level in collaboration and I hope that we will  
23          move forward from here for the benefit of all of our  
24          children. Thank you.

25                         MS. ENGLE: Thank you, Dr. Rich. I'd like to

1 focus the discussion now on what we can do moving forward  
 2 and, in particular, I think one thing everybody is pretty  
 3 much agreed on today is that parents need more  
 4 information, that parental involvement in this area is  
 5 essential. And so, I thought it would be most helpful if  
 6 we could talk about what's known about how parents get  
 7 information in this area and how we can improve that.

8 Dr. Rich mentioned the need for scientific  
 9 measurements here, and I think, actually, that's  
 10 something that's lacking. We, the FTC, have advocated  
 11 for greater information in advertising and on labels.  
 12 That's something that we advocate across the board, no  
 13 matter what it is, to provide people with information  
 14 when they're seeing ads and at the point of purchase.  
 15 And so, that's a recommendation we made in our report to  
 16 have more rating information in ads and it's something  
 17 we're seeing as happening more.

18 Another thing was to provide parents with  
 19 information. The industry established a website called  
 20 parentalguide.org in 2000 and Id 0 TD0 Tc(16)Tj/TT2 1 Tf5.7 -2 TD-0.

1 four, music, movies, television and --

2 MR. LOWENSTEIN: Mary, I actually -- I don't  
3 know the numbers on parentalguide.com, but I'd certainly  
4 be more than happy on behalf of our industry to work with  
5 the other industries and consumer groups and the FTC to  
6 look for creative ways to drive traffic to that site. I  
7 think it has a lot of good information on it. And no  
8 matter what the numbers are, I think we can all agree  
9 that the more we can drive people to places where they  
10 can get information, the better.

11 I think another thing that I'd like to see  
12 happen, at least from our industry, is we've heard a lot  
13 about common sense rating systems and about David Walsh's  
14 group. I think from ESA's standpoint, we would certainly  
15 encourage ESRB to put a link on its website to other  
16 rating system websites so that people can not just get  
17 the ESRB ratings, but if they're interested in getting

1 suggestion, though, that we have our heads in the sand.  
2 We've made a lot of changes in this industry over 10  
3 years, we've changed a lot in our rating system. We  
4 haven't taken every piece of advice we've been given, but  
5 we've certainly taken a lot of them and we remain open to  
6 all the advice and all the input.

1 include it as part of their anticipatory guidance with  
2 parents and their children as to what to expect in this  
3 coming year or coming period that the child will be going  
4 through to make sure that it is placed in perspective and  
5 relationship to the other health risks to the kids.

6 I think that to be perfectly honest it has had  
7 variable application among pediatricians. I think when I

1 issue it is, that it's truly an environmental health  
 2 issue now that we're in the information age. These kids  
 3 are saturated in media and we are seeing the outcomes,  
 4 unfortunately, in the emergency departments.

MS. ENGLE: Is it your sense, Dr. Rich, that  
 5 parents have -- I mean, the title of your program was  
 6 Media Matters -- that parents have a sense that it does  
 7 matter. I mean, I was actually really shocked by the  
 8 statistics that came out yesterday from the Kaiser Family  
 9 Foundation that a quarter of kids under the age of two  
 10 have a television in their bedroom. You're talking about  
 11 babies and toddlers in diapers. So, I'm wondering if --  
 12 you know, hopefully they're watching Baby Mozart in  
 13 there.

1 DR. RICH: Don't bet on it.

1 MS. ENGLE: Given the amount of time that kids  
 2 are spending watching TV, it's not surprising that kids  
 3 are spending less time reading. It was a study of time that kids  
 4 spend on TV. 0 1

1 this, it's that there is this vague and growing sense of  
2 unease about what is this doing to my kid's head, what is  
3 this doing to my child, why is my child fat.

4 But I think that they haven't yet formed a  
5 sense of a good way to respond to it, an effective way to  
6 parent their kids and to respond to that sense of unease  
7 and what they should do about it. That's why I think we  
8 need to bring the voice that we bring to bear on urinary  
9 tract infections and motor vehicle collisions and HIV to  
10 bear on this issue, to say, we do have the science, we  
11 have child development and child health experts, we have  
12 the social science tools to measure these things.

13 Can we apply them in a way that we can give you  
14 the data and we can give you the interventions that you,  
15 as an individual parent, and you in your communities can  
16 use to change this for your kids and replace that sense  
17 of unease with a sense of active response?

18 MS. ENGLE: Dr. Walsh.

19 DR. WALSH: I'd like to just comment on that as  
20 well. As Doug mentioned, he's been in this field for 10  
21 years and that's about how long I've been specifically  
22 focused on the impact of media on children. I think over  
23 those 10 years, I think I've learned a lot and I have --  
24 our organization has taken a major step back over the  
25 past year-and-a-half to refocus our efforts and I think

1 that something is needed before parent education and I  
2 think -- and it's related to what Dr. Rich just said -- I





1 on that that we couldn't agree with. So, you know, I  
2 think there is room to collaborate on these things, even  
if we can -- you know, we might disagree at the margins  
on some of these issues.

MS. WHITE: I just want to add, Doug, that I  
would also like to put some more heat on you. I'm cold  
as well, but I'll send some your way whenever you'd like.

I want to say that I'm disappointed at the  
secret shopper survey. In the past two years, it only  
went down 10 percent, I believe. Five percent a year  
less kids are able to buy a Mature-rated video at retail.  
At this rate, you know, it's going to be 13 years before  
we get to zero. I don't think that's acceptable.

So, what I would like to ask you is, I do agree  
parents have to be responsible, but they're often not at  
retail with their children. I would like to know why you  
have been suing every different municipality -- we had  
someone from Milwaukee earlier, there's people here from  
the New York City Council. I'd like to know why you have  
been suing every city that has wanted to help parents  
just like with -- and with cigarettes and alcohol, we  
don't expect parents to be there at retail and stop their  
kids from doing a purchase, it's done at the store. So,  
I'm wondering if you're willing to work with us on that?

MR. LOWENSTEIN: Sure. I'll be happy to

1 respond to that, Daphne. First of all, I agree, the  
2 numbers are not where they should be. That's very  
3 disappointing to me. We've made that clear to the  
4 retailers that we think that they need to re-double and  
5 re-triple their efforts. I agree 10 percent improvement  
6 a year is better than no improvement --

MS. WHITE: In two years.

MR. LOWENSTEIN: In two years is better than no  
improvement, but it's certainly not what it needs to be.  
10 And I can tell you that we have continued our efforts to  
11 encourage retailers to take more seriously their policies  
12 and their responsibilities in that area.

13 With respect to the lawsuits, it's really a  
14 simple matter. You know, the frustrating part about this  
15 to me is we really do agree on the objective of having  
16 retailers not sell games, but it is absolutely crystal  
17 clear that the laws are unconstitutional. That's what  
18 the courts keep ruling. Now, I believe in the  
19 Constitution. Jack made a very powerful presentation  
20 this morning on the First Amendment. I can't say it as  
21 eloquently, but it is an issue to me that if we start  
22 tolerating the enactment of laws that regulate the sale  
23 of content, that's a slippery slope. I don't believe it.  
24 It's not healthy, not only for our industry, I don't  
25 believe it's healthy for the country.

1 I would much prefer to get retail enforcement  
2 up through voluntary means. We're going to work at it,  
we're going to keep working at it, doing what we can.  
I'll work with you at it. But we will continue to  
litigate against laws that we believe infringe on the  
First Amendment because I don't think they're healthy for  
this country. Leave aside whether they're healthy for  
this industry. I think they're bad policy and I think we  
need to exalt the First Amendment, not run it over.

10 MS. ENGLE: And, actually, I mean, I almost  
11 hesitate to raise the point, but setting aside even the  
12 First Amendment and so forth, you know, restrictions --  
1 legal restrictions on purchases is not a panacea. I  
1 mean, I can understand how it could help. But it's not  
1 going to solve the problem. In the alcohol industry, 20  
1 percent of the alcohol in this country is consumed by  
1 underage people even though there are age restrictions  
1 there, obviously, that are legally enforced. So, that's  
1 not going to solve the problem.

20 MS. WHITE: It's a start. I mean, there's a  
21 lot of -- we have to take a lot of different tactics.  
22 Obviously, there's the online sales. But I feel like  
2 we've got to take some strong steps somehow and I think  
2 the industry is sounding very reasonable and keeps  
2 saying, let's self-regulate, but the media industry, TV

1 in particular, has been talking about self-regulation for  
2 30 years and it's been a very slippery slope into the  
gutter, if I might say so, and the other industries are  
following.

So, I just don't -- I mean, if there was more  
serious improvement, if it was more than 5 percent a  
year, you know, I'd say, let's go for it. But it's been  
a long time and they keep saying that. One other thing  
I'd like to say is whenever -- I've seen cases. When  
it's a choice between the First Amendment or a trademark  
or copyright infringement, industry always protects  
copyright and trademark first. First Amendment drops a  
little bit if it's a money issue. I really don't think  
these people are paid to protect the First Amendment.  
This is not the ACLU they're working for. I mean,  
it's the -- they're just hiding behind the First  
Amendment.

And I used to be a journalist, I support it,  
too. I think it's very important. I'm using my First  
Amendment rights here and I'm very grateful for that.  
But I don't really believe that's what all these people  
are protecting.

MS. ENGLE: Well, Daphne, as the head of a  
grassroots organization, what's your experience been in  
terms of what's motivating parents and how to get parents

1 motivated to pay more attention to these issues and use  
2 the information that's available? Because I think there  
is -- certainly, there's information that's available.  
It could be improved, more information could be made  
available and we don't want search costs to be too high.  
I mean, not everyone has access to the internet and you  
don't necessarily want to have to go online every time to

1 just the rating, it's what's being marketed. You know,  
2 whatever the rating is, there's not that many choices.  
3 For example, a game like Grand Theft Auto Vice City, for  
4 people who like to play video games, is a very  
5 innovative, very creative, offered a lot of things that  
6 other games didn't. But parents don't have another game  
7 to take their children to to say, look, this game has the  
8 same engine, can do the same creative things, but you're  
9 not beating people over the head and killing prostitutes.  
10 There's just not that many choices that are hyped that

1 percent were rated Teen.

2 There are sports games in which huge  
3 advertising budgets are put behind, skateboarding games.  
4 There are Mario games, there are Pokemon games. I mean,  
5 the volume of benign content out there is massive. Sims,  
6 SimCity, games that teach, games that challenge. There  
7 are plenty of choices out there and it's just simply not  
8 accurate to say that the industry doesn't promote  
9 anything but violent entertainment.

10 MS. VANCE: Just one more data point. We've  
11 actually had a 1-800 number, as well as a consumer online  
12 hotline available on our website for some time. We  
13 welcome consumer complaints, we encourage feedback from  
14 consumers, whether it's positive or negative on every  
15 single video game that gets rated or every computer game  
16 that gets rated. That 800 number has been available for  
17 years and our consumer online hotline has been available  
18 for at least a year. So, there's plenty of places that  
19 consumers can go if they're motivated.

20 MS. ENGLE: Dr. Walsh, I was wondering if you  
21 had any thoughts about -- I was intrigued to hear you say  
22 you're changing your focus in motivating parents to get  
23 them to care more and I was wondering --

24 DR. WALSH: I think part of what we're trying  
25 to do is increase motivation because I think, as I said



1 earlier, even though part of our role is to keep the heat  
2 on the industries, I think that the industries have  
3 responded. Could they respond more? Sure, absolutely.  
4 But I think there has been a lot of movement in recent  
5 years.

6 And now, I think another major effort -- and I  
7 think it's a very, very big challenge -- is to motivate  
8 parents, not to give them the information because they  
9 won't use it unless they think it's important, and I  
10 think we have to motivate parents. Part of what we're  
11 trying to do is use some of the same techniques and  
12 things that media knows how to do to get people's  
13 attention. We've been adopted by a professional  
14 advertising agency to help get the message out, and it's  
15 not just violence, it's every other serious problem, like  
16 obesity. So, they're creating a series of messages like  
17 See Jane Not Run.

18 You know, because we have -- there are a lot of  
19 reasons for parents to pay attention to media besides the  
20 topic of our conversation today. And some of them are  
21 very, very serious health issues that Dr. Rich probably  
22 knows a lot more about than I do. And I think that we  
23 have to really get the word out. I mean, that's what  
24 we're really going to focus on. And we'll continue to do  
25 things, but we're really going to focus on trying to

1 create the media-wise movement, watch what your kids  
2 watch.

MS. ENGLE: Any other comments?

DR. RICH: I'd like to second what Dr. Walsh  
just said. I think we have proven time and time again as  
a society that we can wrestle with complex problems, with  
lots of gray areas, lots of confounders, lots of issues  
that play, and come up with a consensus response that is,  
first of all, you know, not perfect for everybody but  
better than what we had and is always dynamic, is always



1 Trade Commission, quite properly, I think a week ago,  
2 praised them for the work they've done. And I want to  
3 salute John Fithian who's been a leader in that and he's  
4 a full partner in the rating system. So, I salute you,

1                   My final point, I think it's an absolute piece  
2 of insanity for parents to take five, six, seven, eight-  
3 year-olds to see R-rated movies. I just don't understand  
4 how they do it. They must be either dumb asses or they  
5 don't care. And I guess that's a -- and, certainly, I  
6 wouldn't take a child into a theater under five. You've  
7 got 1,000 wonderful video cassettes and DVDs for children  
8 to watch. God, I don't understand why you want to take  
9 them to a theater when you've got the most wholesome kind  
10 of things for children to watch. If that's what you want  
11 to do, you ought to be reading to them or have them in

1 child, and I backed off. What are you going to do with a  
2 parent like that?

3 We give parents information ahead of time,  
4 advance cautionary warnings and we say, please, please  
5 read this. And I have said many times, all of the other  
6 rating systems out there, look at them, examine them,  
7 digest them, then make your own judgments. But you can't  
8 force parents to do that. And so, when you say, Dr.  
9 Walsh, you want to move in on the parental area, I think  
10 that's the one vulnerable part there. I don't know what  
11 we can do besides warning parents. If a bottle has an X  
12 on there and a skull and bones and they leave it open for  
13 their child, what the hell are you going to do?

14 So, we do the best we can. I think this rating  
15 system has held up for 35 years, I said, on November 1st,  
16 and it has to be providing some benefit to people or it  
17 wouldn't be around, and these surveys, on which Dr. Rich  
18 and I rely, wouldn't illuminate their reaction to it.

19 DR. WALSH: Mary, can I respond to Mr. Valenti?

20 MS. ENGLE: Certainly.

21 DR. WALSH: Because I think what you just said  
22 I certainly understand, parents don't want to be told.  
23 And I'd like to respond to maybe what we can do with a  
24 story of my own. I was doing a parent workshop down in  
25 Florida -- this was about three months ago -- and there



1 parents understand that.

2 MR. LOWENSTEIN: I do think it's worth pointing  
3 out a couple things because these issues are really  
4 complex and I don't pretend to understand them all. I  
5 know that there is -- I was at a conference in Australia  
6 about a month ago and there were three scientists, no  
7 affiliation with the video game industry, who were  
8 roundly critical of some of the research that purports to  
9 show adverse effects.

10 The point I want to make here is, it's  
11 interesting, if you look at video games, for example,  
12 which is what I know best, all the games we're talking  
13 about here are sold all over the world, and it is of note  
14 that the incidence of violent crime, the incidence of  
15 murder, the incidence of gun violence in this country  
16 dwarfs those in other countries by a factor of 10, 20, 30  
17 times. So, there are deeper issues.

18 I'm not saying we shouldn't be concerned about  
19 the games, I'm not saying there might not be impacts.  
20 But, you know, we had a gentleman in here this morning  
21 whose son drove him down who apparently was an avid Grand  
22 Theft Auto player, and my hunch is -- or his nephew -- is  
23 a very well-adjusted, very responsible, very bright young  
24 man. So, let's at least, as we have these discussions,  
25 not start from the premise automatically that they are



1 fundamentally destructive and harmful and destroying and  
2 decaying the youth of this country because there are a  
3 lot of wonderful young people that I know who play some  
4 of these games, whether it would be my choice that they  
5 play them or not. I'm sure there are wonderful young  
6 people who see R-rated movies and listen to rap music who  
7 are leading very healthy, productive, responsible lives.

8 MS. WHITE: Well, I agree that this country has  
9 the highest rate of violence of any country in the world,  
10 which is one reason I started this organization. I was  
11 shocked when I started. We have more people killed by  
12 gun violence in this country now per year than were  
13 killed at the height of the Vietnam War in Vietnam. So,  
14 we have a very high violence rate.

15 My concern, as a mother, is what do we want to  
16 do about it as a culture, and there are many reasons for  
17 this violence. It's not just video games, it's not just  
18 movies, it's not just television, it's not just action  
19 figures, it's not just arcade games, it's not just music.  
20 It's all of it plus many other things like a lot of other  
21 issues. This is one. The media can make it worse.

22 So, what I would like to work together on is I  
23 do agree with everyone on the panel that parents need to  
24 be more responsible, but I would also like to hear more  
25 specifics from industry about how they're going to be

1 more responsible in marketing. We've talked a lot about  
2 ratings and ratings information, but we have -- I would  
like to also know more specifically and some of the  
theaters, like Regal, I think, is doing a very good job,  
Toys "R" Us sounds like they're doing a good job. But,  
overall, the fact is this stuff is still being marketed  
to kids. It has an impact, as Dr. Rich said, and I think  
we all have to work together to be responsible rather  
than always pointing the finger at the other sector.

10 MR. VALENTI: Let me make a point about  
11 marketing to children. We presented to the Federal Trade  
12 Commission three years ago a 12-point set of initiatives  
13 which we have adhered to and I think they do a good assay  
14 of this every year and they have been very complimentary  
15 of the movie industry and what we're doing.

16 But the whole idea that violence is something  
17 that you can monitor -- for example, I'll put to you  
18 three films, High Noon, Saving Private Ryan and Scarface.  
19 How would you judge these? There is murder, there's  
20 killing in all three. How would you deal with it? I  
21 happen to think that Saving Private Ryan should have been  
22 made a G-rated movie instead of R so that every young  
23 child in America could see the brutality and the  
24 inhumanity and the sordidness of war. As a former combat  
25 pilot, I know something about it. That's why I think war



1 enlightening discussion. I'm hopeful that we can do as  
2 has been suggested and come together where we do have  
3 common ground in finding ways to motivate and educate  
4 parents.

5 I want to remind everybody that we will be  
6 holding the public comment period open for comments for  
7 30 days. You can submit comments to [violenceworkshop@](mailto:violenceworkshop@ftc.gov)  
8 [ftc.gov](mailto:violenceworkshop@ftc.gov). And as a responsible parent who has to go pick  
9 up a child from day care, it's time to adjourn. Thank  
10 you very much.

11 (Whereupon, at 5:00 p.m., the workshop was  
12 **concluded.**)

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C E R T I F I C A T I O N   O F   R E P O R T E R

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MATTER NUMBER: P994511

CASE TITLE: ENTERTAINMENT INDUSTRY SELF-REGULATION

DATE: OCTOBER 29, 2003

I HEREBY CERTIFY that the transcript contained herein is a full and accurate transcript of the notes taken by me at the hearing on the above cause before the FEDERAL TRADE COMMISSION to the best of my knowledge and belief.

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DATED: NOVEMBER 5, 2003

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DAN WILSON

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C E R T I F I C A T I O N   O F   P R O O F R E A D E R

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I HEREBY CERTIFY that I proofread the transcript for accuracy in spelling, hyphenation, punctuation and format.

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ELIZABETH M. FARRELL

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