

**Prepared Statement of
the Federal Trade Commission**

on

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

October 1, 2002

I. Introduction

Mr. Chairman, I am Lee Peeler, Deputy Director of the Bureau of Consumer Protection at the Federal Trade Commission. I thank you for this opportunity to discuss the Commission's recent Reports on the marketing of violent entertainment products to children by the motion picture, music recording, and electronic game industries.⁽¹⁾ Each of these industries has in place a self-regulatory system that rates or labels products and that can help parents seeking to limit their children's exposure to violent materials.

The Commission has issued four Reports on the marketing practices of these three industries. In particular, the Reports have examined voluntary guidelines and industry codes that govern the placement of advertising for violent Restricted (R)-rated movies, Mature (M)-rated games, and Explicit-Content Labeled recordings in media popular with teens and require the disclosure of rating and labeling information in advertising and on product packaging. The Reports document instances where some industry members have engaged in marketing practices that undermined the self-regulatory systems that the industries themselves put into place, as well as instances where other individual members did more than their industry required.

The Commission's most recent Report, issued in June of this year, found progress in a number of areas. The Commission found substantial compliance by movies and games marketers, and, to a far lesser extent, by marketers of music, with voluntary, self-regulatory standards requiring the disclosure of rating and labeling information in advertising and product packaging. The Commission also found encouraging widespread compliance by the movie and game industries with existing guidelines limiting ad placements for violent R-and M-rated entertainment products in media with a large percentage of teens in the audience.

Nonetheless, there are continued areas of concern. Existing voluntary guidelines for the movie and game industries still permit ad placements in media which are very popular with large numbers of teens. All three industries continue to place ads for rated or labeled products on television programs that are, according to Nielsen rankings, among the most popular shows watched by teens. And with respect to retail sales of violent entertainment products, although the motion picture industry has done the best job, all products remain easily available for purchase by young teens.

Finally, despite a few initiatives during the period covered by the Commission's last Report, special issues remain in the music industry, particularly in its ad placement practices. Although the self-regulatory codes of the movie and game industries place limits on the marketing of rated products to young people, the guidelines of the music industry do not. In the music industry's view, unlike the rating systems of movies and games, its "Parental Advisory" Labeling Program is not age-based and is not intended to indicate whether labeled music may be inappropriate for any

specific consumer age.

II. Background

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

Revelations that the teen-aged shooters at the 1999 Columbine High School shooting had been infatuated with extremely violent movies, music and video games led to Congressional and Presidential requests that the Commission investigate and report back on the practices of the movie, electronic game, and recording industries with respect to the marketing of violent entertainment to children.

III. The Commission's Studies

A. Scope of the Studies

In response to these requests, the Commission has, to date, issued four Reports on the self-regulatory and marketing practices concerning violent entertainment by the movie, music and video game industries.⁽⁵⁾ In the course of preparing these Reports, the Commission staff requested information from the principal industry trade associations, as well as from major motion picture studios, music recording companies, and electronic game companies.⁽⁶⁾

In addition, the Commission staff contacted interested government agencies, medical associations, academics, and parent and consumer advocacy groups.⁽⁷⁾ The Commission collected information from consumers through surveys and polls and also designed and conducted its own surveys. In addition, the Commission conducted two mystery-shopper surveys of retail stores and movie theaters in an attempt to see if unaccompanied children could purchase or gain access to products labeled as inappropriate or warranting parental guidance. Lastly, the Commission staff reviewed Internet sites to study how they are used to market and provide direct access to rated or labeled products.

B. Findings of the Commission's First Report

In September 2000, the Federal Trade Commission issued its first Report entitled, *Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries*.⁽⁸⁾ That Report found that the three entertainment industries had engaged in widespread marketing of violent movies, music, and electronic games to children that was inconsistent with the cautionary messages of their own parental advisories and that undermined parents' attempts to make informed decisions about their children's exposure to violent content. In addition, the Commission found that advertisements for such products frequently failed to contain rating information. Finally, the Commission reported on the results of an undercover "mystery" shop by unaccompanied teens, aged 13 - 16, of retailers and movie theaters. The young shoppers were able to buy M-rated electronic games and parental advisory- labeled music recordings 85% of the time and purchase tickets for an R-rated movie almost half (46%) of the time.⁽⁹⁾

C. Findings of the Commission's Follow-Up Reports in 2001

In response to Congressional requests, the FTC released two follow-up Reports in 2001. Both Reports examined the entertainment industry's practices with regard to marketing violent entertainment products to children. The April 2001 Report⁽¹⁰⁾ concentrated primarily on advertising practices by the three industries on television, in print media and on the Internet. For the December 2001 Report,⁽¹¹⁾ the Commission staff contacted several companies within each of the three industries and requested marketing documents concerning violent movies, music and electronic games. In addition, the Commission conducted a second mystery shopper survey, like the one from the September 2000 Report. Finally, the Commission staff continued to monitor television, print and Internet advertising for placement and disclosure of rating and labeling information.

These Reports noted progress by the movie and video game industries in providing clear and conspicuous disclosure of rating information in advertising as well as new efforts by both industries to limit advertising for R-rated movies and M-rated games in popular teen media venues. The music industry demonstrated mixed progress. On the plus side, members of the music industry had begun to comply with new industry guidelines encouraging the use of the Parental Advisory Label in advertising. But as for ad placement practices, the music industry continued to place advertisements for explicit-content recordings labeled with parental advisories in popular teen media.⁽¹²⁾

The results of the Commission's second undercover shopper survey were included in the December 2001 Report. Although electronic game retailers showed modest improvement from the results in the Commission's earlier undercover survey, there was no change in sales practices in the movie theater and music retailer industries.

D. Findings of the Commission's June 2002 Report

In June of this year,⁽¹³⁾ the Commission issued its latest Report which looked at industry advertising placements and disclosure of rating and labeling information in television and print media. In addition, the Commission reviewed product packaging to check whether rating information was being disclosed clearly and conspicuously. This Report documented further progress by the movie and games industries in ad placement practices for R-rated movies and M-rated games, and showed continued improvement by all three industries in disclosing rating and labeling information in advertising and product packaging.⁽¹⁴⁾

Movies: In the case of movies, the most recent Report noted significant progress in complying with industry's commitment, issued in response to the Commission's first Report in September 2000, to not "inappropriately, specifically target children" in films rated R for violence.⁽¹⁵⁾ The June 2002 Report found virtually no ads for violent R-rated movies in popular teen magazines. In addition, the movie studios widely complied with industry policies set by several studios not to advertise R-rated movies in venues with a thirty-five percent or more youth audience share. However, even while complying with these policies, studios frequently advertised R-rated movies in television shows that are very popular with teens.⁽¹⁶⁾ Finally, the Report showed further progress by studios in disclosing a movie's rating and rating reasons in advertising, although some studios' rating disclosures were still difficult to read.

Games: The Commission found widespread compliance with video game industry self-regulatory standards limiting the advertising of M-rated games in media where children constitute a certain percentage of the audience (35% for television and 45% for print media). Nonetheless, the Commission did find that some industry members did place advertisements for M-rated games on television shows popular with teens, and in youth-oriented game-enthusiast magazines. As the Commission noted in its December 2001 Report, the industry's anti-targeting standards diminish -

but do not eliminate - placements in programs mainly popular with teens. In addition, the electronic game industry continued to prominently place rating information in most forms of game advertising. Although some areas still could be improved (e.g., adding content descriptors in television advertising), there is much in the game industry's rating disclosure requirements that merits duplication by others.

Music: With regard to music, the Commission did find some progress in placing the Parental Advisory Label in industry advertising. The Commission's review of explicit-content music ad placements, however, showed virtually no change in industry practices since the September 2000 Report. Advertisements continued to be placed on television shows and in print magazines popular with teens. The industry views its Parental Advisory Labeling System as not being an age-based system, but rather an indication to parents that there is explicit content on a certain album. Thus, the industry's self-regulatory code does not include restrictions on ad placement.

In addition, the music industry's labeling program does not require that advertisers indicate why the recording contains a parental advisory. Nonetheless, in June of this year, one industry member, BMG Entertainment, announced that it will begin to specify on the label whether violent content, sexual content or strong language led to the decision to apply the Parental Advisory Label, and include that same information in its advertising.⁽¹⁷⁾

It is not known whether other industry members will also adopt this positive step. In the Commission staff's ongoing monitoring of advertising, they have not yet seen ads by BMG artists that include this new label.

IV. Conclusion

The Commission's follow-up Reports have documented progress by the movie and electronic game industries in complying with and improving their own self-regulatory policies restricting ad placements and requiring rating information in advertising.

Because of First Amendment and other issues, the Commission continues to support private sector initiatives by industry and individual companies to implement these suggestions. To encourage continued voluntary compliance and to document any changes in self-regulatory efforts, the Commission will monitor the entertainment industry's marketing practices through the next year, and will then issue a follow-up report.

This concludes my prepared remarks. I would be pleased to answer any questions you may have.

Endnotes

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

2. 15 U.S.C. § 45(a).

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

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

McCarran-Ferguson Act, 15 U.S.C. § 1012(b).

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

5. The Department of Justice provided the FTC with substantial funding and technical assistance to enable the FTC to collect and analyze public and non-public information about the industries' advertising and marketing policies and procedures, and to prepare the Commission's written Reports. The analysis and conclusions contained in these Reports are those of the FTC.

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

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

8. The Commission's September 2000 Report is available online at: <http://www.ftc.gov/opa/2000/09/youthviol.htm>.

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

10. The Commission's April 2001 Report is available online at: <http://www.ftc.gov/opa/2001/04/youthviol.htm>.

11. The Commission's December 2001 Report is available online at: <http://www.ftc.gov/opa/2001/12/violence.htm>.

12. Music industry members continued to place ads on shows that are highly popular with teens, such as *Total Request Live* on MTV and *106th & Park* on BET.

13. The Commission's June 2002 Report is available online at: <http://www.ftc.gov/opa/2002/06/mvec0602rev.htm>.

14. Commissioner Swindle, in his concurring statement to the Commission's June 2002 Report, noted that "the music industry continues to target young people explicitly in its advertising and, for the most part, refuses to provide content-based information that could help consumers. The motion picture and electronic game industries have acted far more responsibly in improving their self-regulatory programs, yet continue to allow advertising of R-rated movies and M-rated games in venues that attract large numbers of teens."

15. Motion Picture Association of America, *Initiatives of MPAA Member Companies*, Sept. 26, 2000.

16. Movie industry members continue to place ads on shows that are highly popular with teens, such as *Grounded For Life* on Fox, *Gilmore Girls* on WB, *WWF Smackdown* on UPN, and MTV's *The Real World*.

17. See BMG News Release, *BMG Announces Steps to Build On Industry's Parental Advisory Program*, June 3, 2002, available at http://www.bmg.com/news/archive_general/general_frameset.html (visited September 17, 2002).

The revised sticker appears as follows:

