

1 FEDERAL TRADE COMMISSION

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4 MARKETING VIOLENT ENTERTAINMENT TO CHILDREN:

5

A WORKSHOP ON INDUSTRY SELF-REGULATION

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11 Wednesday, October 29, 2003

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9:11 a.m.

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Federal Trade Commission

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FTC Conference Center

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FEDERAL TRADE COMMISSION

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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 --

P R O C E E D I N G S

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3 CHAIRMAN MURIS: Good morning. Let's come on
4 and have a seat. Hi, I'm Tim Muris. I'm the Chairman of
5 the Federal Trade Commission and I'd like to welcome you
6 to our workshop on the Marketing of Violent Entertainment
7 to Children, and I want to thank you for joining us
8 today. I'd especially like to thank our distinguished
9 panelists for sharing their insights and expertise on
10 this very important topic.

11 As you know, the Federal Trade Commission has
12 issued four reports on the self-regulatory programs of
13 the motion picture, electronic games and music recording
14 industries. Now, we are working on a fifth report.
15 We've examined an important question for parents in the
16 entertainment industry, namely, whether these industries
17 promote products that they, themselves, acknowledge
18 warrant parental caution in venues where children make up
19 a substantial percentage of the audience.

20 Today, we have assembled an impressive group of
21 industry members, consumer and parent advocacy groups,
22 marketing experts and public health officials to discuss
23 and debate what needs to be done. I expect that during
24 the day we will hear about what has already been
25 accomplished and much more about what could still be

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,
6 I said that culture matters, and it continues to be true
7 today. Youth violence remains a troubling issue for all
8 of us. The exposure of our children to excessively
9 violent media, be it in our entertainment products or on
10 the news, remains a major worry for me as a parent, as
11 I'm sure it does for all of you.

12 At the same time, it is an area of free
13 expression in which the Government may tread only
14 cautiously. Parents must, in large part, rely on
15 themselves and on the self-regulatory efforts of
16 industry. But we in Government have a role of reporting
17 on and illuminating various aspects of this crucial
18 issue. Our approach today is designed to look at what
19 efforts are being made and how well they are working.

20 Let me begin with a few common sense principles
21 that I hope we all, or at least most of us, can agree on.
22 Industry should market its products consistent with their
23 ratings and parental advisories. Parents should have
24 access to useful information on the ratings for products
25 before they purchase them and retailers should consider

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
3 America today, the marketing of violent video games to
4 our children.

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

14 I want you to watch a short video clip. We've
15 taken out most of the violence and, I think, the more
16 offensive stuff. You will see more of these images from
17 another speaker later today, but I thought you needed to
18 see a taste of what is being peddled to our children
19 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 The American Psychiatric Association concurs and it says,
2 I quote, "The debate is over. Over the last three
3 decades the one overriding finding in research on mass
4 media is that exposure to media portrayals of violence
5 increases aggressive behavior in children."

6 Think for a minute about the image, perhaps a
7 famous and beautiful painting or sounds, perhaps the
8 theme from the music of Chariots of Fire, or words,
9 perhaps a prayer from Mother Teresa for which you have
10 found positive inspiration or motivation. I believe that
11 society can be moved for good by what it sees or hears or
12 reads, but isn't the opposite just as logical?

13 If what society, especially the young and the
14 immature in society, sees or hears or reads is filled
15 with violence, is there not motivation associated with
16 these images toward the wrong kinds of behavior? We are
17 running out of time and turning the corner on protecting
18 our children from media violence.

19 The time has come for an aggressive plan, not
20 tomorrow, not next year, but today. How many more
21 Columbines must occur before effective action is taken to
22 keep violent material out of the hands of children? How
23 many more Paducahs? How many more Jonesboroughs. The
24 violence in video games is being acted out in our schools
25 and communities by children imitating the violent acts

1 they see.

2 For the well-being and safety of our children,
3 ways must be found to control the marketing of violent
4 entertainment. According to a recent Gallup poll, boys
5 age 13 to 17, more than 70 percent of them have played
6 the extremely popular video game, Grand Theft Auto.
7 Seventy percent. What good can come out of 70 percent of
8 the young people seeing that? What redeeming social
9 value is there to our society to even produce that, but
10 let alone to see the young people to see it?

11 The most recent installment called Vice City
12 allows players to kill policemen -- my dad was a
13 policeman -- pedestrians and the elderly. Players can
14 even have sex with a prostitute who they can then kill to
15 get their money back.

16 Grand Theft Auto is rated M for mature and is
17 not supposed to be sold to anyone under 17. Then how are
18 13-year-olds playing the game? How are 13-year-olds
19 playing the game and buying the game? How do they know
20 it to describe it as cool? The Gallup survey found that
21 children polled are imitating the violence they see in
22 Grand Theft Auto.

23 The FTC's own undercover survey of stores found
24 that 69 percent of teen shoppers could buy M-rated games,
25 83 percent could purchase explicit label recordings and

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

7 I know we will hear this. Some will say that
8 there are no marketing rules in place to shield children
9 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.
14 What does this mean to our kids? We're in a battle for
15 their hearts, their minds, and the souls of our children.
16 From Paducah to Columbine, we have seen the tragic
17 consequences of youth violence. In the Washington, D.C.
18 area, the sniper, Lee Boyd Malvo, practiced shooting
19 snipers by playing video games. Practiced shooting.
20 Practiced shooting, these video games.

21 Just this summer, two teenage boys in Tennessee
22 who said they were copying Grand Theft Auto II engaged in
23 a fatal sniping spree.

24 We have to do everything in our power to make
25 sure that these tragedies don't happen again. And I

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
3 any policies, and that is why I've introduced this bill
4 and will continue to fight for our children. And will
5 continue to fight for our children.

6 That's why I'm also creating a Congressional
7 sex and violence in the media caucus. I state, that is
8 why I am creating a Congressional sex and violence in the
9 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.

19 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
3 Commission issued its first report three years ago.

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

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

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

22 Mitch Bainwol. Mr. Bainwol is Chairman and CEO
23 of the Recording Industry Association of America, a
24 position he assumed last month. Before joining RIAA, he
25 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
3 has held several leadership positions on the Hill.

4 Patricia Vance. Pat Vance is President of the
5 Entertainment Software Rating Board, a self-regulatory
6 body established in 1994 to apply and enforce ratings,
7 advertising principles and online privacy principles.
8 Ms. Vance came to the ESRB last year from the Princeton
9 Review where she served as Executive Vice President and
10 General Manager for Admission Services. Previously, she
11 was President and CEO of HalfthePlanet.com, an online
12 network resource for people with disabilities.

13 And, now, Mr. Valenti.

14 MR. VALENTI: Thank you, Mary. A long, long
15 time ago, in a galaxy far away, in the Mesozoic area, in
16 fact, I became head of this Motion Picture Association.
17 And the first thing I confronted was a predecessor, Will
18 Hayes, who had the Hayes Code, which was, to me, the most
19 blatant and egregious catalog of censorship that I had
20 encountered. The first thing I did was to junk it. In
21 the interest of full disclosure, I will tell you I am a
22 passionate defender of the First Amendment. I think
23 those 45 words are the one clause in the Constitution
24 which guarantees all the others. I think the First
25 Amendment is the rostrum on which springs this free and

1 loving land.

2 But I found out quickly that nature, politics
3 and the movie industry abhor vacuums and two motion
4 pictures then intruded on my young tenure. One was,
5 Who's Afraid of Virginia Wolf, directed by Mike Nichols,
6 Burton and Taylor the stars, and for the first time you
7 heard on the screen language which had never been heard
8 during the Hayes Code, which literally governed what you
9 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
3 benefit to the people that it aims to serve, in this
4 case, parents of America.

5 So, what we have today, after all these years,
6 are five categories and we give reasons for the ratings.
7 It's usually in ads a fourth of a page larger. We have
8 the reasons for the ratings at filmratings.com, which is
9 -- 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.

14 I need one chart that shows every year since 19
15 -- there we go. Let me just -- I want you to see -- I
16 think you can hear me now. I want you to know, this is
17 1969. This line is people who have never heard of the
18 ratings system. At one time, it was almost 40 percent.
19 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
25 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
3 36,000 screens in this country, and they said, you're
4 doing a good job. I think about 65 percent in their
5 secret surveys, or 66 percent, something like that, are
6 really enforcing this ratings system.

7 There is no law passed by man or woman that is
8 perfect. We have drug laws. People violate them every
9 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.

15 So that nothing you do -- nothing you do is
16 perfect. With the possible exception of my three nearly
17 perfect children, I don't know that anything even
18 approaches perfection.

19 So, I think what we're doing, I'm quite proud
20 of. I think we're fulfilling our obligation to the
21 parents of America and they are responding with large
22 levels of approval. And so, as we approach the 35th
23 anniversary of this ratings system, I feel like we've
24 done something good for America.

25 MS. ENGLE: Mr. Bainwol.

1 MR. BAINWOL: Thank you, Mary, and good morning
2 to everyone. I appreciate the opportunity to participate
3 this morning in this important workshop on behalf of a
4 creative industry that has long sought to balance the
5 goal of providing parents with information with the basic
6 right of artists to express themselves. I will admit
7 that finding this balance can be very, very difficult.

8 I'll also be listening today -- I'm a parent,
9 I'm a dad. My wife and I have three kids. And it's a
10 complicated world in which we raise them, so I'll talk
11 some and I'll listen a lot.

12 Let me quickly set the context for my remarks
13 because the labeling issue really can't be evaluated
14 without looking at how kids get their music. That really
15 has changed in recent years. Let's look at that first
16 slide. It's a then and now slide. Why don't you just
17 digest it as I talk for a second?

18 It used to be that kids got their music by
19 buying physical copies at stores, and occasionally, they
20 might even tape it from the radio. Thankfully, kids are
21 still buying music and mostly large stores, like chains
22 like Best Buy and Wal*Mart and Target. But there's no
23 question that shipments are way down and there's also no
24 question that it's among kids that the purchase of CDs is
25 actually declining.

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
18 column four, is the language that's used in the
19 advisories.

20 And I'd simply just -- if you'd look at the nos
21 and yeses, the implication is fairly obvious. What does
22 it mean? It means that if you deem labeling advisable
23 and if one is concerned about parents having an
24 opportunity to make a choice about what their kids are
25 exposed to, then these multi-million dollar P2P

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
3 improved and we intend to do that.

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

7 MS. ENGLE: Ms. Vance.

8 MS. VANCE: Thank you, Mary. Before I start my
9 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
13 this morning carry prominent labels with rating symbols
14 and content descriptors. Every ad for those games
15 carries the same. The average age of a gamer today is
16 29. There are going to be games created for a more
17 mature market.

18 Eighty-three percent, according to the FTC, of
19 all video game purchases are made by or with adults.
20 It's absolutely critical that those adults understand
21 what the ESRB does and I'm here to talk today about what
22 we do.

23 So, as many of you already know, the ESRB has
24 been in business for nearly a decade. It was created in
25 1994 with one central mission: To provide consumers with

1 the information they need to make informed purchase
2 decisions when it comes to video and computer games.

3 When creating the rating system, ESRB founders
4 worked closely with child development experts and
5 conducted numerous consumer focus groups. They heard
6 loud and clear that parents wanted both an age-based
7 rating system and, equally, if not more importantly, they
8 wanted objective and detailed information about what's in
9 the game. Having this kind of detail empowers parents to
10 make informed purchase decisions based on their personal
11 preferences and their expertise as a parent of their own
12 child's readiness for different kinds of content.

13 Based on that feedback, ESRB created a rating
14 system with two equally important parts. First, rating
15 symbols, which provide general guidance about age
16 appropriateness. Second, content descriptors, short,
17 standardized phrases that alert parents to content
18 elements that may be of interest or concern. Content
19 descriptors also provide insight into why a game received
20 a particular rating.

21 The ESRB uses five age rating categories.
22 Early Childhood means the game may be suitable for ages
23 three and older and is specifically designed for young
24 children.

25 Everyone means the game may be suitable for

1 ages six and older. E-rated games may contain minimal
2 cartoon-like violence or comic mischief and are generally
3 appropriate for a wide range of audiences.

4 Teen means that content may be suitable for
5 ages 13 and older and may contain violent content,
6 limited amounts of strong language or suggestive themes.

7 Mature means that content may be suitable for
8 ages 17 and older and may contain sexual themes, intense
9 violence or strong language.

10 And, finally, Adults Only means that the
11 product is intended for ages 18 and over.

12 It's worth noting that the ratings do not say
13 that a game should or should not be played by anyone,
14 only that the content may be suitable for particular
15 ages. ESRB's job is to give consumers reliable and
16 useful information, but ultimately it's up to parents to
17 decide what games are best for their families.

18 In 2002, of the 1,229 games rated by the ESRB,
19 almost two-thirds were rated E. T ratings were assigned
20 to slightly over one quarter and M ratings were assigned
21 to less than 10 percent.

22 As I mentioned earlier, these rating symbols
23 are only half of the system. The other half is content
24 descriptions, 30 different standardized phrases that
25 alert consumers to content elements. Content descriptors

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
18 consumers understand the meaning of the rating symbols
19 was to add the age 17+ to the Mature rating symbol and
20 18+ to Adults Only.

21 Something else that is critical to a complete
22 understanding of the ESRB rating system is that raters
23 operate completely independently. Game publishers who
24 submit their products to ESRB do not assign ratings to
25 their products; ESRB raters do. Raters have no contact

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
7 for ways to make the system even more helpful to parents
8 and we're always seeking to establish new partnerships
9 and new avenues to educate parents about the ratings.

10 I very much look forward to having a
11 constructive dialogue, answering any questions, and,
12 hopefully, building some of those partnerships here
13 today. Thank you very much.

14 MS. ENGLE: Thank you to the panelists.
15 Because we got a late start, we've already -- we're at
16 the time where we're supposed to break this morning, and
17 so, there's not really time for me to ask the questions I
18 had hoped to. But since these three panelists will all
19 be on the second panel for a dialogue with the consumer
20 and advocacy groups, I think there will be plenty of
21 opportunity to discuss your systems and what changes
22 you've made and how things are working.

23 So, we'll take a break now and reconvene at
24 10:30.

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

1 MR. KELLY: I hope you enjoyed our short break.
2 We're coming back now to continue our discussion about
3 the rating and labeling systems by the motion picture,
4 movie, electronic game and music industries.

5 Chairman Muris opened this workshop this
6 morning asking that we seek to agree on three common
7 sense points. Industry should market its products
8 consistent with their ratings and parental advisories,
9 parents should have access to useful information on the
10 ratings for products before they purchase them, and
11 retailers should consider whether entertainment is rated
12 or labeled as inappropriate for children in adopting
13 sales policies.

14 This panel seeks to explore the first two
15 points, that industry members not target children
16 inappropriately and that parents get access to
17 information they need before they buy products. We have
18 a panel this afternoon, as you know, to focus on retailer
19 efforts.

20 In our first panel, we heard this overview of
21 the rating and labeling systems that have been
22 implemented by these industries. With those
23 presentations as a backdrop, we have asked the panelists
24 from our first group to join us, along with
25 representatives from seven groups, each of whom has

1 something important and interesting to say in our
2 discussion of how these systems assist parents.

3 Over the next hour-and-a-half, our discussions
4 will focus on the effectiveness of industry's programs to
5 help parents and to protect our children.

6 MR. VALENTI: May I interrupt for just a moment
7 just to say that, in the interest of full disclosure, I
8 have an 11:30 appointment. So, I'm going to have to
9 leave here before that hour-and-a-half is over.

10 MR. KELLY: Yes. Thank you. I understand
11 that, Mr. Valenti.

12 MR. VALENTI: Thank you.

13 MR. KELLY: I want to briefly introduce the
14 panelists who have joined with Mr. Valenti and Mr.
15 Bainwol and Ms. Vance, so that you get a little sense of
16 who they are and what their interests and concerns are.

17 Warren Buckleitner is the Editor of Children's
18 Software Revue, which he established in 1993. He's a
19 parent, former preschool and elementary school teacher
20 and is the author of numerous scholarly papers. He holds
21 a B.S. in Elementary Education from Central Michigan
22 University and an M.S. in Human Development. He is
23 currently a Doctoral Candidate in Educational Psychology
24 at Michigan State University.

25 David G. Kinney is President and Chief

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
3 position on ratings in general or any specific rating
4 systems, but what we try to do is conduct research about
5 media, about parents' views of media, about kids and
6 about the rating systems to try to help inform parents,
7 inform the policy-making process and so on.

8 And so, what I'm going to do is really just
9 present sort of the lay of the land as far as what our
10 research has told us about the various rating systems.
11 One thing I want to say is that media, obviously, are a
12 huge presence in children's lives, so that limiting any
13 negative impact and informing parents about their kids'
14 media choices is, obviously, critical. Kids, as a whole,
15 spend an average of five-and-a-half hours a day with
16 media.

17 We just released a new study yesterday that
18 looked at really little kids, and it's so interesting to
19 me, but kids from ages like about three months old on are
20 consumers of videos and TV products and, increasingly, of
21 computer games and video games. Just a couple tidbits
22 from that study, by the time they're four, five and six
23 years old, half of all kids have played video games and
24 70 percent have used computers, mostly for games and
25 little educational activities.

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.

15 A couple of years ago, which was our most
16 recent study, only 7 percent had used the V-chip. Of
17 those who knew they had a V-chip in their TV, who had a
18 new TV with a V-chip and knew about it, a third of them
19 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
3 in children's programming.

4 So, to the extent that we're concerned about
5 the littlest kid and to the extent that we're concerned
6 about the issue of violence, I think the issue of the FV
7 rating -- which many people in the room may not have even
8 heard of -- which is the one -- it's the only rating that
9 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.

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

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

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

1 parents, churches or other social institutions. They
2 will be inculcated by visual electronic media.

3 Now, I don't necessarily agree with Professor
4 Thoreau. I think that presents the challenge, because it
5 is parents and teachers and pediatricians and doctors who
6 have children's welfare as a priority. We can't expect
7 media companies to have that as a priority because they
8 don't. They have profits as a priority. So, it becomes
9 very, very important.

10 When we start to take a look at some of the
11 concerns, if you could advance to the next slide, what
12 brings hearings in the Nation's Capitol, as we are doing
13 today, has to do with media violence. But the work that
14 we do extends well beyond that because we have other
15 concerns as well and one of them, which is a growing,
16 pardon the pun, concern is the overweight and obesity
17 issue and it is very, very clear that one of the major
18 reasons for the epidemic of children's overweight and
19 obesity is the increasing amount of screen time.

20 Media violence -- and the real impact of that,
21 I think, is not so much the violent behavior. Most
22 parents are not afraid that their kids are going to play
23 a violent video game and then go get a gun. I think the
24 real impact of the media violence is that what it's done
25 is created a culture of disrespect. For every kid that

1 brings a gun to school, there are millions of kids who
2 aren't doing it. But they're calling each other a name,
3 putting each other down, et cetera.

4 And then the other concern, leave no child
5 behind, a tremendous concern about literacy and academic
6 performance. And, again, it is very, very clear based on
7 the research that the impact of media -- too much media
8 and the wrong kind have a negative impact on those.

9 So, a large part of our work -- if you'd go to
10 the next slide -- has to do with working with parents.
11 We agree with what many of the speakers have already said
12 today, that one of the major components of this is we
13 have to get the message out to parents. Most parents,
14 the overwhelming majority, want to do the best job that
15 they can for their kids. They are not aware of the power
16 of these powerful teachers. Yesterday, the Kaiser Family
17 Foundation's report that 25 percent of children younger
18 than two years old have televisions in their bedrooms in
19 spite of the American Academy of Pediatrics
20 recommendation that children younger than two not see any
21 television because there are so many important things
22 that are happening in their development. So, our mission
23 is to really help parents address that question, when
24 you're not teaching your children, who is?

25 And then if you go to the next two slides, what

1 we're trying to do is build awareness, knowledge and
2 action and trying to get parents to start to become
3 aware. If you'd go to the last slide. Or things like
4 this, if you believe Sesame Street taught your four-year-
5 old something, then you better believe MTV is teaching
6 your 14-year-old something. And so, we have to help
7 parents become aware because all of the systems that
8 we're going to be talking about -- and we are critical of
9 some of the systems and we'll be talking about those
10 specifically. But I really think that we really have to
11 do a much better job and I think we need to partner with
12 the industries themselves, not just giving the
13 information, but also motivating parents to use it.

14 Thank you.

15 MR. KELLY: Nell Minow, Common Sense Media.

16 MS. MINOW: Thank you very much. You know what
17 I love about this event today is that I love the way
18 everybody introduces themselves by talking about their
19 children, and I think that that's just great. I'm going
20 to -- of course, I have two wonderful children, but I'm
21 going to begin by talking about my dad.

22 My dad, Newton Minow, was the Chairman of the
23 Federal Communications Commission, and in 1961, he told
24 the National Association of Broadcasters that television
25 was a vast wasteland. So, I grew up in a very media-

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
21 representative on the group and not have experts in
22 developmental issues. I think it's time to rethink that
23 as well. And there's really no accountability. If
24 you're not happy with a rating, as I have been very
25 unhappy with some of the ratings, there's really nowhere

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
3 until the limbs come off, having a child slammed by a
4 car, bestiality jokes and humorous gang shooting.

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

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

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

22 Parents need better information, consistent
23 across all platforms. We've got a survey at Common Sense
24 Media that says that. Parents say we want to understand
25 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.

5 When my son was five he once said to me, how
6 old is your grandmother. I said, well, she's 90 years
7 old, honey, why. He said, I bet she can see any movie
8 she wants. I'm not advocating that we have a PG-80
9 rating, but the idea -- maybe Kill Bill would qualify.
10 But I do think that parents need a better system so that
11 they can make the informed choice about what's right for
12 them, their values, their children, their family, and I
13 would call on the FTC to convene a group under the
14 Advisory Committee Act with representatives from all of
15 these groups to see if we can't do a better job.

16 Thank you.

17 Oh, I forgot to show this. This is my visual.
18 This is the Common Sense Media approach, which we would
19 be happy to donate to the cause. But it just shows you
20 that you can have a visual symbol that provides a lot of
21 information that would apply whether you're talking about
22 movies, television, videos, video games, records,
23 whatever.

24 Thank you.

25 MR. KELLY: Thank you, Nell. We'll probably

1 put up that symbol a little bit later.

2 Lara Mahaney from Parents Television Council.

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

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

23 The PTC's most recent analysis shows that Fox
24 is, by far, the worst network. Sixty-three percent of
25 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

1 a hard distinction between a PG or an R-rated film, but
2 for example, Texas Chainsaw Massacre was running ads with
3 not yet rated. I'm not sure that anybody would have
4 wondered that that was going to be an R-rated film,
5 especially if they knew about the first two.

6 We would say it is intellectually dishonest for
7 the entertainment industry to say they're not marketing
8 adult fare to teens when they use subversive tactics to
9 ensure their ads are reaching younger audiences, tactics
10 like placing ads for the Eight Mile DVD on Fox's American
11 Idol and partnering with Teen People to give away free
12 copies of the DVD or creating T-rated video games, like
13 Enter the Matrix, to interest teens in the R-rated film
14 trilogy.

15 We would go ahead and say that the burden
16 doesn't fall only on the internet industry. It does fall
17 on parents, and to reflect that, there's a theater chain
18 in Peoria that announced that their plans to get around
19 restrictions on admitting minors to R-rated movies
20 without an adult by selling R cards. So, instead of
21 having to go to an R-rated movie with your kid, all you
22 have to do is buy the R card and then give it to them and
23 they can go on their own. And I can give you some more
24 examples that we found.

25 But American Idol, again, the highest-rated

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 Revue.

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,
3 and I saw some driving that I couldn't believe.

4 If you want to talk to him, he's back there,
5 and I'm embarrassing him. But he has played all the way
6 through Grand Theft Auto. I played the first level and
7 he told me that -- some things about the content that's
8 inside Grand Theft Auto that every parent should know
9 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.

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

24 Now, we publish a publication on children's
25 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
3 information.

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

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

19 In spring of 2003, we commissioned a focus
20 group study of parents across the United States. Our
21 goal was to conduct qualitative research with as diverse
22 a group of parents as possible about the impact of media
23 on their children and their sentiments about existing
24 ratings systems. Parents in the focus groups were
25 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
3 in alternative rating systems. Next, please.

4 Relative to parents' input about the existing
5 industry rating systems, parents say they are confused
6 about the multiple rating systems for major media.
7 Parents are frustrated with needing to learn all the
8 different symbols for each system and what they signify.
9 Parents say the industry standards are useful but
10 inadequate. They get them "in the ballpark," but they
11 need and want more information about the actual content
12 of the media.

13 Parents expressed the sentiment that most often
14 the best source of the actual information they need comes
15 from other parents who have viewed the media and can tell
16 them specifically what is in it. Next, please.

17 So, what is the demand for alternative rating
18 systems? Well, the majority of parents said they would
19 be interested in an alternative rating system that
20 provided greater detail about the content of media
21 products, and that was across the board for all media.
22 They would consider such an alternative rating system to
23 be a valuable resource. Parents said they would
24 voluntarily make an extra effort to access an alternative
25 rating system if it provided them with more content

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.
3 Valenti has to leave, he wanted to make a few comments
4 and he's also going to stay for just a few minutes for
5 questions from the panelists before he goes.

6 Mr. Valenti.

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

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

22 When I look at a picture, I may say, this is a
23 piece of junk and you say, that's an Ellsworth Kelly
24 that's worth \$300,000. I may hear a song that I find
25 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
17 because they could not specify. In the end what we were
18 doing was walking down an ill-lit corridor and coming to
19 a fork in the road and you can barely see it. Which fork
20 do you take? And that's the way these ratings are
21 determined.

22 The rating people and the movie system are
23 neither gods nor fools, they're parents. I don't want
24 child behavioral experts because they failed me in the
25 beginning. I want somebody to look at a film through the

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

5 Now, you're dealing again with subjectivity.
6 How do you know that? With all due respect, a focus
7 group, you can't extrapolate from a focus group. Every
8 market research scientist will tell you that. You can
9 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.

19 I can only offer, from the rating system, these
20 surveys. Anecdotal evidence is fine. Focus groups are
21 fine. Politicians use them a lot. Why? Because it
22 costs a lot less than a big survey. And I've used them
23 before in other things, not the rating system, however.
24 We take surveys of 2,600 people across this country,
25 strict, rigorous market research protocols, random

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

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

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

21 Now, on TV ratings, I disagree with whoever
22 said that TV ratings -- I think the TV ratings are not
23 good. Do you know why? What I wanted to have as
24 chairman of a group with the National Association of
25 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
11 a rating system that was just burdened with complexity,
12 riven with complications and, of course, you don't know
13 what FV means. I don't even know what it means myself
14 and I was part of the group that designed it.

15 So, I think the TV ratings do fail because
16 they're too complicated. One of the reasons why the
17 movie rating system has lasted is its simplicity. You
18 give away things with simplicity, but you also entice
19 people to use them.

20 For those of you who are looking at your watch,
21 I'm almost through.

22 Nobody mentioned -- we're talking about movies
23 and television and video games. Nobody mentioned the
24 intrusions on a young person's life. I think a child
25 learns to put a moral core in his breast from family,

1 church and school. And out of that comes -- nobody
2 mentioned -- child abuse, sexual abuse in the home, drug
3 abuse, alcohol abuse, one-parent, no-parent households,
4 latchkey children, and peer pressures. Nobody mentioned
5 that. That's what forms the platform from which springs
6 a child's future life. And if we ignore that and we
7 spend all our time worrying about the media except those
8 tentacles that rip into a child and rip his moral core
9 apart.

10 Finally, if parents in America knew what was on
11 Kazaa and Morpheus, where any nine or ten-year-old with a
12 click of a mouse can bring it down, is the most squalid,
13 repulsive, unwholesome pornography you will ever see. I
14 thought I knew all about pornography in watching some of
15 those horrible films, but this stored me so unpleasantly,
16 I had to avert my eyes. This is on Kazaa right now. You
17 can bring it down. Ten-year-olds. Well, who's doing
18 anything about that? Well, we're worrying about who sees
19 Kill Bill or something. What every parent ought to do is
20 go on your child's computer and call up Kazaa and bring
21 in German school girls and some of this other stuff. I
22 mean, it will turn your stomach and you will wonder, why
23 on earth didn't you see this before.

24 MR. KELLY: Mr. Valenti, stay for just a couple
25 minutes of questions.

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

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

5 MR. VALENTI: Yes.

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

11 Who has a question? Go ahead, Dave.

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

18 I believe, as you do, Mr. Valenti, that the
19 values should come from family, church and school, but
20 there are thousands of studies that prove conclusively
21 that children today are brought up by the media. And,
22 again, in no way -- every single person -- I mean, I'm
23 only at a point now where I get to speak to Congressional
24 and Senate aides. But in every instance, I have
25 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.

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

9 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.

20 So, I just wanted to clarify that, that in no
21 way were my remarks meant to attack any of the systems,
22 simply to suggest that parents need more information.

23 MR. KELLY: Thank you. Questions? Daphne?

24 MS. WHITE: I've got a question for Mr.

25 Valenti. Mr. Valenti, I heard you try to describe the

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.

19 MS. WHITE: What about labeling? Would you be
20 averse to labeling decapitation --

21 MR. VALENTI: We do label --

22 MS. WHITE: Not the kind of labeling that we
23 see in Kill Bill and these movies.

24 MR. VALENTI: If you'd let me answer your
25 question, I'd be glad to. The answer is, every newspaper

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

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

12 And, by the way, I have a survey that 34 times
13 -- 34 years we've done this with an accredited market
14 research organization. I'm giving you the playback of
15 what parents said. Right now, the highly useful to
16 fairly useful is divided about 50/50. I'd like to make
17 it 75/25. We're doing the best we can. But what parents
18 are telling us is they trust it and they use it. Some
19 sparingly use it, some heavily use it. But each person
20 makes those decisions. We do label these things. We're
21 telling you now the reasons for the ratings. I don't
22 know what else more you can do.

23 You can't -- oh, by the way, I've written every
24 major newspaper in the country saying, when you review a
25 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
3 the space for it, but you can do it. I think the New
4 York Times does it, the L.A. Times does it, another
5 source of wisdom about movie ratings.

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

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

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

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

15 MR. BUCKLEITNER: Yeah, it is. I'm just glad
16 to be alive, frankly. The subjectivity issue is huge.
17 And one obvious solution that I think might work for all
18 of us is to turn the monster on itself with the internet.
19 I know on Amazon.com you can read end user reviews of all
20 these things and if we can gather that information of
21 parents who have just been to a movie -- and what I like
22 about Amazon, there's nuts there, people you agree with,
23 people you don't agree with, left, right, everybody. And
24 you can kind of see and you can say, oh, they're
25 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
3 and kids to put their reviews on and to respond to the
4 MPAA and to what I have to say and for exactly that
5 reason.

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

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

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

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

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

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

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

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

22 Now, we have a sophisticated anti-piracy
23 department in the MPAA and they came to me and showed me
24 that of those 68 titles, 34 were pirated, wound up in
25 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 signed my signature and I pledged they will stay in my
12 home, I will not let them out. I recognize that these
13 screeners are going to be watermarked and identified, and
14 if a screener is pirated and traced back to me, I will be
15 immediately expelled from the Academy, which doesn't
16 sound like much to you, but in Hollywood, being expelled
17 from the Academy is like going for 20 years to Sing-Sing.
18 I mean, it is a severe penalty. And that's why we can't
19 send our screeners.

20 MR. KINNEY: I'd be happy to send our auditors
21 to our screening room and you can make sure they don't
22 have any recording devices.

23 MR. KELLY: I just want to permit one last 10-
24 second question from Vicky Rideout.

25 MS. RIDEOUT: I thought since I'm from a health

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.

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

8 UNIDENTIFIED FEMALE: Violence is legal,
9 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
3 not a substance. There's a big difference. By the way,
4 Professor Graebener of the University of Pennsylvania,
5 somebody mentioned his research. He's a wonderful man
6 and I like him a lot. But under his methodology of a
7 violent act, the most violent program on television or
8 movies was the Three Stooges because they were slapping
9 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
13 moment.

14 MR. KELLY: We need to move on with the
15 program. Mr. Valenti will be back this afternoon for our
16 last panel. Right now, I'm sure the RIAA and the ESRB
17 have been very happy with the discussion so far. We're
18 going to take a two-minute in place stretch break and
19 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
23 do because, obviously, we're already a little behind
24 schedule here. We're going to continue the panel
25 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
13 independent source along the lines of what the software
14 people have rather than the industry doing its own
15 ratings.

16 MR. KELLY: Mr. Bainwol, any reaction? Any
17 comment on that?

18 MR. BAINWOL: No, but I do have one general
19 comment. I have been a professional in this field for
20 two months, but I've been a parent for 11 years, and this
21 discussion today, to me, has been very illuminating. I
22 have spent a great deal of time reflecting on our
23 particular industry approach to this question and what we
24 do, obviously, is not age-based and it's not content-
25 based generally. It is a heads-up, it's a warning. And

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.

15 In the context of music, we say explicit, and
16 if a parent wants to exercise responsibility here, you
17 see explicit, you don't buy the music. It's an easy call
18 and that's something that I think really does reside with
19 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
3 reached back in '85 when the system was launched, and I
4 think when you think about media, you have to reflect on
5 their differences and what's being communicated. If you
6 think of a spectrum, on one hand you have books and
7 poetry, on the other hand you have multimedia with images
8 and words and music and context, and clearly the more
9 information you have with music, videos, context
10 established, it is easier to do those kinds of things,
11 where more like books, more like poetry, it's very, very
12 hard.

13 Different people of different ages and
14 different communities, different family backgrounds, will
15 view music and hear the same thing in a very different
16 way. The industry reached the conclusion that the
17 simplest thing to do and the most effective thing to do
18 was to say, yellow light, watch out, this is explicit,
19 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
23 Daphne White wants to play, I'd appreciate it.

24 DR. WALSH: It's actually not a question, Dick.
25 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
3 there's a difference between market studies and also an
4 attempt to really try to identify the accuracy of the
5 ratings.

6 We did a study which was peer-reviewed and
7 published in Pediatrics, in which we asked parents to
8 take a look at specific media products. And when we talk
9 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.

25 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
15 acceptable as a Mature-rated product for ages 17 and up.
16 Those products all carry lots of descriptors and,
17 ultimately, it's got to be a parent's responsibility
18 whether or not they want to bring that product home. It
19 is not ours. It's not Daphne's. It's not anybody's on
20 this panel.

21 So, I come back to, you know, accuracy is
22 subjective. It's based on what your personal opinion is.
23 Jack's talked about it and others have talked about it.
24 We encourage consumers to go out and get information from
25 as wide a variety of sources as possible and be as

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
3 parents have no idea there's an AO rating. If you were
4 to ask parents whether a game like Grand Theft Auto Vice
5 City should be M or AO, you might get a different answer.

6 What I would suggest --

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

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

19 MR. KELLY: Lara?

20 MS. MAHANEY: Two quick comments for just the
21 folks from the video game industry and even I wish Mr.
22 Valenti were here, but we know that parents -- it's up to
23 them to help their kids out. But I think there should be
24 an equal amount of pressure applied to retailers -- I
25 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.

15 MS. VANCE: There's no one in this room that
16 has worked more this year with retailers to try to get
17 ratings awareness information, where the product is
18 displayed, to train store associates, and to make sure
19 the policies are being enforced and the rating system is
20 being enforced. I've met with every major retailer this
21 year. As I said in my presentation, we have six major
22 retailers relaunching a completely new rating awareness
23 program utilizing our training materials, updating their
24 websites, et cetera. So, I think we are trying and we're
25 doing a lot.

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
3 Ratings, ScreenIt, Kids in Mind, all of the other people
4 out there who are trying to do something. I think part
5 of what we need is to have the access.

6 And as a businessman, I respect the concerns
7 about piracy. But, again, even if it were that we had to
8 go to a screening room somewhere with our auditors or
9 whatever, the whole idea here is access. We've got
10 freedom of expression and freedom of information and
11 there's not a balance here and that's simply, I think,
12 the major issue.

13 MR. KELLY: Warren, you have the last question
14 from the panel and then we'll open it up to the audience.

15 MR. BUCKLEITNER: Thank you. I think we all
16 care about children and we all care about what they see,
17 and the stuff we saw on the screen, we don't want our
18 kids to have. I think we would agree with that pretty
19 much across the board. The reality is what we all have
20 to be driven by.

21 The reality is that kids are getting access to
22 this stuff a lot of times because of confusion. It may
23 not be that you go out and buy it for your children and
24 discover it later on, it could be they're at a friend's
25 house. It could be my daughter who's watching over a

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
3 Government do from here on in?

4 MS. WHITE: Well, the Government is not doing
5 anything right now really. I mean, they're holding this
6 workshop, they've done reports. But as far as, you know,
7 helping parents, I don't think that anything is being
8 done at the moment. Everyone is hiding behind this cloak
9 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.

15 The sense I get from the panel this morning,
16 both from Patricia Vance and from Jack Valenti,
17 basically, is I feel like they're kind of throwing up
18 their hands and basically saying, don't use our ratings,
19 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
3 alcohol, pornography and tobacco. We have the same
4 minimum wage clerks, we have high turnover, we have the
5 same retail situation, but there are fines in place for
6 that. And Congressman Baca's bill would impose fines on
7 people who market this adult only stuff -- or what should
8 be adult only stuff to kids. That would take care of it
9 at the retail level.

10 MS. MINOW: I think each of the people we've
11 heard from today has had different strengths in their
12 rating systems, the MPAA, the RIAA, the ESRB, and what I
13 would love to see, as I said, is some across the platform
14 system that would be consistent enough so that it would
15 be meaningful to parents and that would take the best of
16 each of the systems.

17 What Government can do is very, very limited
18 here and should be very limited here. But I think the
19 Government can do what it's doing right now, which is
20 haul everybody in here and embarrass them if they don't
21 do a better job, and I hope we come back next year and do
22 it again and again and again and again until it gets
23 better.

24 MR. KELLY: I mean, the focus of the Commission
25 has been to study this area, to issue reports, to provide

1 facts, to provide forums, to provide opportunities for
2 discussion and, perhaps, generate some thought upon the
3 self-regulatory bodies about making improvements.

4 MS. MINOW: I would love to make an argument.
5 I am a lawyer, by the way, and I would love to make an
6 argument that, say, calling Scary Movie 3 a PG-13 is de
7 facto deceptive advertising.

8 MS. WHITE: And I would say that having as many
9 different rating systems as we do with all these
10 different alphabet soups, there's the V-chip, there's
11 the ESRB, there's the movie rating, RIAA doesn't even
12 have any for music, I would also say that's unfair
13 and deceptive and I really do wish the FTC would
14 start looking at it in some kind of holistic way to
15 make sense.

16 MR. DAVIS: Good morning. My name is Alderman
17 Joe Davis. I'm officially here representing the City of
18 Milwaukee. I'm a member of the Milwaukee Common Council.
19 Our senator, Herb Kohl, was co-sponsor of a piece of
20 legislation within the Senate that's currently pending in
21 Congress, and I also have a meeting scheduled with
22 Senator Feingold tomorrow to brief him on what this
23 conference was all about.

24 My concern is this: I love this country, I was
25 born in this country. I think this country has a lot of

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

24

(1:34 p.m.)

25

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

1 have lunch and get it down. We got back in an hour and
2 10 minutes. Not too bad.

3 We are back here this afternoon to discuss an
4 area of growing importance to the entertainment industry
5 and to parents, the cross-marketing of movies, music and
6 electronic games.

7 Just yesterday, what is billed as the First
8 Annual New Orleans Experience, experts in the field of
9 film, music, video games and advertising spent two days
10 in panel discussions focused on the intertwined future of
11 these four industries. Promoted as a convergence
12 festival, panels discussed video games and traditional
13 media properties, music and video games marketing
14 alliance, and sorry, MPAA, is film dead.

15 Sponsored by the New Orleans Media Experience,
16 the goal of conference was to facilitate the intersection
17 of the film, music, advertising and video games
18 industries for these increasingly interrelated
19 businesses. The cost of that experience, by the way, in
20 New Orleans, was \$395 for the week plus travel. But that
21 includes an opportunity to play some games and view some
22 movies. But, of course, your cost here today for being
23 here is free. And instead of two days, we're going to
24 try over the next, I think, about 45 minutes, to discuss
25 some of the very same issues that I imagine were talked

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 gamer myself. I go to concerts and all these wonderful
2 things that our kids are into and it gives me an
3 interesting perspective that certainly my friends like to
4 try and capitalize on in dealing with their children.

5 I'll take you through a couple of slides. Go
6 to the next one. Everyone knows what we're talking
7 about. Teen media and entertainment is -- their behavior
8 is different from adults. It's also different from
9 adults experienced as teens. Because of that, marketers
10 who are adults are very uncomfortable with the world of
11 teens, and that makes them -- I won't say prone -- but
12 they're sensitive to the idea that this is an elusive
13 market that they're uncomfortable with and that they want
14 to reach because, as we just saw, there's a lot of money
15 in this market and there are a number of them with
16 products that they want to sell to kids, teens and
17 'tweens.

18 Now, I will say within that -- and, certainly,
19 I've been asked the question before, you know, how can
20 you live with yourself, you're helping these people sell
21 things to your children. My bias and my response to that
22 is, as soon as I gave my son an allowance that made him a
23 consumer and I want him to make mistakes buying pop
24 before he makes mistakes buying cars. That doesn't mean
25 that I think that everything is fair game.

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 aren't watching as much. It's a lot in the trade press.

2 Now, underneath that you'll see that that's
3 because -- it's not that they're consuming less media,
4 they're consuming it differently. So, they're more
5 likely to be watching DVDs and videos, they're far more
6 likely to be using the internet and they're far more
7 likely to be playing video games. But I certainly heard
8 recognition this morning that kids are playing video
9 games. I don't think I have to argue that point. That's
10 been made abundantly clear. They're also key users of
11 music and they're more likely to be going to the movies.
12 I think we have agreement there.

13 Go on to the next, please. Let me get to -- I
14 think what this panel's dealing with is the chicken and
15 the egg, I call it, what comes first anymore, and
16 frankly, I'm confused often as well when my son comes
17 home with things like these beans that are so popular
18 right now. I don't know where that came from.

19 What comes first? The toy, the show, the
20 movie, the fast food premium, the trading cards, the
21 magazine, the video game? I don't know. It can be any
22 of those. It can start as a toy, it can start as a game,
23 it can start as a show, and then it is taken into the
24 other media or other ways of extending that brand or that
25 product for consumption by kids. This is standard

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

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

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

21 I can go to the movies with him and I will
22 choose sometimes to disregard what the rating for a movie
23 is. For instance, Billy Elliott, that was an amazing
24 movie and I chose to take him to it, but explained to him
25 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
3 of making sure that they're not crossing the line.

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

8 What we also did in this most recent survey is
9 we looked at the behavior of parents and where the
10 parents are spending their time with their kids and we
11 gave the choices out there of books, of video games, of
12 watching TV, and we found -- this should be no surprise
13 either -- a bit of a digital divide. That parents were
14 40 percent much less likely to spend time with their kids
15 playing video games or watching video games than they
16 were reading or watching TV. For parents, this is an
17 explosive industry. You need to be able to understand
18 what your kids are doing there. Parents need to be able
19 to -- whether you're not a good gamer like Michele may
20 be, you need to at least watch and see what's happening
21 out there.

22 Thank you.

23 MR. KELLY: In looking at this slide, one of
24 the interesting things when you look at some of the
25 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 ways are, I think, inevitably going to create an interest
2 among kids for products that may not be appropriate for
3 them. And so, the kid who really enjoys playing -- to
4 use the example, really enjoys playing Enter the Matrix
5 video game is much more likely to be interested - well, I
6 want to go see that movie.

7 So, because there is nothing in those -- in
8 that decision-making process to figure out, okay, how can
9 we market this in a way that's going to be appropriate
10 for children. I don't think that that's the major
11 motivator that's going on in these discussions. They're
12 all business discussions. How can we maximize the
13 profit? You know, so to use a television example, you
14 know, the World Wrestling -- WWE now -- World Wrestling
15 Entertainment, when they license their logo and image
16 onto t-shirts that come in baby sizes, they are doing
17 that for one reason. How can we make as much money as
18 possible off this brand?

19 And so, since child welfare is not part of that
20 calculus, then I think it becomes all the more important
21 to ask industries -- I think there needs to be some
22 pressure from the outside to make that at least part of
23 the reasoning process or we're going to get more and more
24 examples like that. I think everyone agrees that what
25 the speakers so far have said, it's just going to keep

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 has some comments as well.

18 MS. WHITE: Thank you. As we've started to get
19 an idea from the two marketing experts who spoke before,
20 cross-marketing and branding are absolutely huge. This
21 marriage is very strong, as you suggested.

22 What really disappoints me today, though, I
23 have to say, is that none of the companies who are
24 actually doing the cross-marketing and branding, such as
25 people who are actually selling the Matrix rated T to

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 I can only think of one reason why they didn't want
8 to come, which is they don't want parents to understand.

9 So, I am a mother, I'm a parent, I'm an
10 advocate. I'm not a marketing expert, but I've had to
11 teach myself a lot so I can help explain why it's so hard
12 for parents, so I can understand it and help others.

13 So, if I could have the first slide, please?
14 The first thing I learned about was actually a toy fair a
15 few years ago, and it's an expression that I think the
16 toy industry or one of the marketing industries came up
17 with, which is KAGOY, kids are growing older younger.
18 The reason -- one of the reasons children are growing up
19 so fast in this country where eight-year-old girls are
20 being sold thong underwear and four-year-old boys are
21 being sold Transformer and Hulk and things, which are
22 supposedly for teens and adults, is because of the
23 marketing and the cross-marketing. Every day, more adult
24 level violence is being sold to younger children.

25 Last week, Quentin Tarantino, as someone

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
16 trade association now called ESA. Licenses are indeed
17 the single most important driver of a title's success.
18 So, again, they're selling the brand, the Pepsi or the
19 Coke to our kids, not -- it's not kind of how much
20 violence is or isn't in a game and we talked about how
21 much -- in the earlier panel, how much violence gets in
22 anyway. Next slide.

23 This is another example of Matrix, which was an
24 R-rated movie. When it came out, the first Matrix, it
25 was one of the most violent movies I had ever seen.

1 There was a lot of talk about how violent it was. They
2 are marketing that -- the second one, also, with action
3 figures, a video game rated T for Teen, and I don't know
4 how many of you noticed in the videotape I showed earlier
5 how interconnected the movie scenes were with the game
6 play. It was just very seamless, you couldn't tell when
7 the movie ends, when you were playing a game, and they
8 took a mature rated -- R-rated movie and took the
9 violence out and made it okay for teens.

10 Anyway, they were selling drinks, cell phones,
11 MTV, DVDs, it just goes on and on. So, that's why it's
12 really hard for parents to "just say no." I mean, the
13 Just Say No campaign did not work with drugs. Everybody
14 laughed at it. But all of a sudden when it comes to
15 media products, we're told to just say no. I mean,
16 parents are not told to supervise their kids buying
17 alcohol or cigarettes at retail. We have laws about that
18 and we need the same kind of laws with this kind of
19 branding going on. Next slide.

20 I think this is the last slide. Again, it's an
21 example of cross-marketing. The three examples at the
22 bottom, Hulk, Spiderman, Pirates of the Caribbean and X-
23 Men were PG-13 movies. They came out with E for
24 Everyone, games for six-year-olds to get six-year-olds
25 into the product, and then the action figures like the

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
8 Entertainment Software Rating Board because the ESRB in
9 their ad code of conduct does have provisions that seek
10 to deal with some of these cross promotions. Ms. Vance,
11 do you want to talk about that?

12 MS. VANCE: Sure. As I mentioned earlier
13 today, we do have a very strict advertising code of
14 conduct which not just regulates or provides guidelines
15 in terms of where rating symbols or content descriptors
16 need to appear, what size, what the location is, et
17 cetera, in both packaging and advertising, but where
18 those ads can be targeted and where those games can be
19 marketed. So, we do it in several ways.

20 We are very clear about targeting media
21 vehicles that reach predominantly a youth audience, and
22 as I indicated earlier today, our guidelines restrict
23 advertising M-rated games in television media that
24 attract 35 percent or more of minors, as well as in
25 print, it's 45 percent. Those guidelines are strictly

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
16 being based upon an R-rated movie or an M-rated video
17 game, which do attempt to restrict the distribution of
18 those products. They may say, for example, they should
19 be not distributed to toy stores or they should be put in
20 separate areas of the toy store away from the other toys,
21 and they may also require labeling, which says that this
22 product is based upon a mature-rated video game or this
23 product is intended for someone 17 and over.

24 So, we've seen a number of examples in the
25 market that are developing in both areas, but we haven't

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.
21 But I think there are two presumptions, one of which was
22 already raised, that underlie a lot of the discussion
23 thus far today.

24 One is that the media is all the same, and as
25 Michele pointed out, it's not. There isn't necessarily a

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 these movie products, these comic book
17 products, super heroes or whatever, they're licenses and
18 they go to the highest bidder and then those companies go
19 out and create products based on the license. And in the
20 case of video games, those products come to the ESRB, we
21 rate them. We typically don't have a clue what the movie
22 rating is at the time we get the game. It never would
23 play into how we rate a game because we have to rate
24 based on the content that we see and that gets submitted.

25 The idea that these 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
3 Matrix, there was no footage from the movie in the
4 Matrix. The selling point of the Matrix is that they
5 created all this original footage for the video game.
6 You know, it didn't -- it wasn't about editing the movie
7 down for the video game, it was about creating a video
8 game in its own right that would stand on its own.

9 Yes, it's based on a license. It helps.

10 Brands help in terms of sales in many cases.

11 So, I guess I would just like to say that I
12 think this is an issue and I think that we need to get
13 our arms around solutions, but, you know, I think it's
14 not about this theme -- what seems to be, you know, kind
15 of a conspiracy theory. It's not that at all.

16 MR. KELLY: Dr. Walsh has his card up. Again,
17 if you want to participate in the discussion, if you'd
18 put your card up, then I'll be able to recognize you.
19 Okay.

20 MS. VANCE: One more point. When it comes to
21 movie licenses used in video games, most of the time the
22 games come out with the same rating, similar ratings.
23 You know, if it's a PG-13 movie, typically it's a T-rated
24 product. In cases when he differs, we have rated it more
25 restrictively as frequently as less restrictively.

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.

22 So that you, as part of your code of conduct,
23 which I think is the model for all the entertainment
24 sectors, your code of advertising conduct is that if you
25 make an M-rated video game, you cannot market a product

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
12 Nuke'Em, which has earlier on come out in an E-rated
13 version or in a T or Resident Evil -- I can list a bunch
14 which have been cross-rated, you know, down, either by
15 platform, like it was rated Mature for the console, but T
16 for the handheld. That shouldn't happen. You're
17 marketing a brand. To pretend that this isn't about
18 branding is to live in some kind of a dream world. It's
19 about branding, and if you have a Mature-rated brand,
20 everything should go with that brand.

21 MS. VANCE: Our focus is --

22 MS. WHITE: Otherwise, it's deceptive to
23 parents.

24 MS. VANCE: Our focus is just accurately rating
25 the products that get published. If Duke Nuke'Em, the

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

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

21 Duke Nuke'Em, as you know, has prostitutes in
22 it, has strip bars. I don't care what you take out of
23 it, it's a brand. If it's no longer Duke Nuke'Em, call
24 it something else. That's what I'm saying. If it's a
25 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
3 or the Resident Evil brand, it's the brand. And that's
4 why I showed that slide about the neurons in the brain
5 and how, you know, branding can override what even people
6 like.

7 MR. KELLY: I was gratified to hear Dr. Walsh
8 talk about possible solutions as well. So, Pete, you
9 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
13 and video games and you said that no one who markets
14 those or no one who maybe produces them are here, but I'm
15 on this panel and I'm proud of the work that we do and
16 we've never had an instance where we worked with a studio
17 or a video game producer where we were crossing those
18 lines or marketing down.

19 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
23 before the movies.

24 MR. SNYDER: They existed and I used to play
25 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
17 could think of where I was given pause to think about
18 what was going on and disturbed was a game called Halo,
19 which is a Mature-rated game. It's been rated. I know
20 it's not appropriate for my nine-year-old, but it's
21 stocked in the shop with everything else, at least in the
22 retailer that we go to, and right beside it are some
23 action figures. And so, my nine-year-old said, well, it
24 has action figures, why can't I have it. And I don't
25 know how you get around that. But somehow it needs to be

1 addressed.

2 MR. KELLY: Let's have a question from Fritz or
3 a comment and then we're going to wrap up.

4 MR. ATTAWAY: Actually, Dick, it's a question
5 to you, and the question is, I'm a little confused about
6 -- as to what we're discussing has to do with your
7 inquiry, which is the marketing of violent entertainment
8 to children. If the charge is that action figures and
9 other merchandise are being marketed to entice children
10 to see movies and other content that are rated as
11 inappropriate for children, then I can see that that's an
12 appropriate subject for this panel.

13 But my experience has been that most of this
14 merchandise and action figures are marketed for purposes
15 of selling the merchandise, not getting people to watch
16 the movie or buy the video game. And in that instance,
17 it's not a matter of marketing inappropriate material to
18 children. I think an action figure of an X-Man is
19 certainly as benign as marketing a toy pistol to a child,
20 and I would argue a lot more benign actually.

21 Haven't we strayed kind of far afield from the
22 subject of your inquiry?

23 MR. KELLY: Well, I don't think we've strayed
24 far afield. I think what we're seeing in the
25 developments in this area is some beginnings of

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
19 developing area and it is an area that is potentially of
20 concern to parents.

21 With that, we're going to try to get back on
22 schedule. So, I want to greatly thank the panelists for
23 this discussion. I realize we've only touched the
24 surface of this issue. We, obviously, can return to it
25 perhaps a little bit in the Next Steps panel. Thank you

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
3 since 1997 and she's responsible for providing legal
4 counseling on advertising, marketing, regulatory and
5 operational standards and practices.

6 Jonathan Potter is Executive Director of the
7 Digital Media Association. He's responsible for DMA's
8 public policy and industry advocacy activities in the
9 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.

17 I really want to thank all the panelists for
18 coming and especially the individual retailers for coming
19 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
3 and theaters. Then we report on the practices.

4 This time we looked at 899 theaters and stores
5 around the country and we found that on the purchase
6 question, whether the teens were able to purchase, 69
7 percent of the teenage shoppers were able to buy M-rated
8 electronic games, 83 percent were able to buy explicit-
9 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 things were moving in the right direction, as well.
2 Although, in most cases, the changes weren't significant.
3 But, basically, there was improvement in all the
4 industries from last time, especially in the purchase
5 area.

6 With that, I think we'll go ahead and turn to
7 the statements. Sean, would you begin?

8 MR. BERSELL: Great, thank you. I'm here on
9 behalf of the Video Software Viewers Association and
10 we're the international trade association of video stores
11 in the home video industry, and I want to talk with you
12 about what the home video industry is doing to educate
13 parents about the rating systems for movies and video
14 games, and how video stores are voluntarily enforcing
15 those ratings.

16 We have a strong history in the home video
17 industry, both through VSDA and through our member
18 retailers, of helping parents control their children's
19 access to entertainment and we're pleased that the
20 previous Federal Trade Commission reports have
21 acknowledged that.

22 We've heard several times today that you cannot
23 replace good parenting. I would agree with that. We in
24 the home video industry, however, understand that we have
25 a role to play in helping parents make good decisions

1 about the entertainment that they bring into their homes
2 for their children.

3 So, for the past 16 years, VSDA and video
4 retailers have proactively helped parents make well-
5 informed choices regarding the movies and video games
6 rented and sold to their children. I'd like to emphasize
7 that practically every video rental company has an
8 effective ratings education and voluntary ratings
9 enforcement program in place in its stores. These
10 programs include VSDA's model program called Pledge to
11 Parents, which is used by Movie Gallery and many
12 independent retailers, and the very similar company-
13 specific plans used by Hollywood Video, Blockbuster and
14 others.

15 And regardless of what these programs are
16 called, they share common elements. The first is ratings
17 education in the store, putting materials in the store
18 regarding the rating system to educate parents. The
19 hallmark is a policy of these retailers not to rent or
20 sell R-rated videos or M-rated video games to anyone
21 under 17 without parental consent and, also, not to rent
22 or sell NC-17 movies or Adults Only video games to anyone
23 under 18. I should add that a number of retailers have
24 stricter guidelines or allow parents to impose their own
25 restrictions for their children. These restrictions are

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.

7 Thank you.

8 MR. EICHORN: Thank you, Sean. Jim.

9 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.

16 NARM is a not-for-profit trade association.
17 We've been around for going on 50 years now serving the
18 music retailing community. Our members represent about
19 80 percent of the industry, including retailers,
20 wholesalers, distributors, suppliers of products and
21 services, as well as individual industry professionals
22 and educators.

23 To echo what Mitch Bainwol said this morning,
24 we've always been supportive of balance and think that
25 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
3 inappropriate for a minor. Retailers may add their own
4 rules, their own guidelines and choose to employ and
5 adopt the program in a variety of ways, which I'll speak
6 about in a minute. And even with all the diverse
7 approaches, the common thread among all NARM members is
8 that they support this program.

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

16 And let me review some of the ways that
17 retailers use the program. Some stores choose simply not
18 to stock the parental advisory product. Some stores let
19 their parental advisory speak for itself. Some retailers
20 do add an age-based sales policy on their own. Some
21 retailers do check IDs when they suspect that a customer
22 may be too young or may not have parental permission to
23 buy a certain recording. Some retailers incorporate a
24 prompt to check ID in a store's POS system that appears
25 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
3 without regard to age.

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

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

21 In addition to the retailers' initiatives, NARM
22 also posts information, which is available to all
23 visitors to our site, about the program. And we provide
24 a link to the RIAA site for additional information about
25 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 with offensive language; others are more concerned with
2 sexual content; still others are concerned with violence.
3 We all know that children like to test limits, whether
4 they're imposed by parents or retailers, and sales
5 policies are no substitute for parenting and no single
6 sales policy can meet the needs of all parents.

7 Over the years we've learned that parents, too,
8 use the parental advisory in a variety of ways.
9 Ultimately, we hope that parents discuss lyrics with
10 their children and use the purchase of a specific title
11 as an opportunity to better understand a child's
12 attraction to a certain kind of music. We believe that
13 the majority of parents feel that the best arbiters of
14 what their children should listen to are the parents and
15 not retailers and not the government.

16 Thanks.

17 MR. EICHORN: Thank you. John Fithian.

18 MR. FITHIAN: Thanks, Mark. I represent the
19 National Association of Theatre Owners, which is the
20 world's largest trade organization for the operators of
21 motion picture cinemas.

22 Randy Smith, who is on this panel as well,
23 represents Regal Entertainment Group, one of our members.
24 We also have three other members in the audience. So,
25 afterwards, if you want to talk to individual theater

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

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

16 I also want to thank the FTC for its history of
17 respecting an important balance, a balance between
18 encouraging all of us in the industry to use and improve
19 our voluntary rating systems, while at the same time
20 respecting the voluntary nature of those systems. And
21 I'm delighted today that with a very few exceptions, what
22 panelists across the day have not been calling for is
23 legislation, legislation which would be violently
24 unconstitutional, legislation like that that we saw in
25 1999 in the wake of Columbine. The focus has changed

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
3 enforcement number now is 64 percent. That means that 64
4 percent of these kids that attempted to buy tickets to R-
5 rated movies were denied those tickets. To me, that's
6 the most important question that the FTC asks, whether or
7 not we do that by asking them their age, asking for ID or
8 just spotting the fact that they are too young, a
9 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 will continue to turn away a whole lot of money by
2 denying kids access to these movies.

3 Some of the specific methods that we take that
4 has produced this improvement in our ratings numbers I
5 want to highlight. If we can go to the PowerPoint
6 presentation, I'll use some visual back-up for some of
7 these points.

8 Some of the materials that NATO produces are
9 going to be shown here, but certainly not all of them.
10 This is an order form that we regularly distribute to our
11 members allowing them to obtain for free educational
12 materials to use at their locations. This one shows one
13 example of a ratings poster and one example of an ID
14 required placard to be posted in their theaters. Next
15 slide, please.

16 This is available outside -- or was earlier, I
17 don't know if all the copies are still there or not. But
18 this is an explanation of the rating system itself, which
19 we make available free of charge to all of our members to
20 use not just to educate their own staff members, but to
21 have available for America's parents if they want to
22 learn more about the rating system. Next slide.

23 Anyone who joins NATO learns of the policies
24 that NATO has adopted across the industry, and probably
25 the most important policy that we've adopted is the ID

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.
20 This is a publication that we send to all of our members
21 in our magazine. It's all available online for our
22 members. There are additional updates on a regular basis
23 so that they know for the movies currently playing in
24 their cinemas not just what the rating is, but why the
25 film was rated that way. That way, our box office

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

4 We produced a training tape which is too long
5 to show today, but it's extremely informative for our
6 members on how to train their box office attendants and
7 other employees how to enforce the rating system and I
8 brought a copy of it here today. I'll give it to the
9 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
13 information in the theater complex that explains the ID
14 check so that patrons are not surprised when they get to
15 the front of the line. All those types of questions are
16 answered in our training video, again, distributed to
17 members upon request free of charge. Next slide.

18 This is just to show that we do this also
19 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
23 the last four slides. These are individual posters
24 explaining the rating system which we encourage all of
25 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.

25 MR. EICHORN: Thanks. Hal Halpin.

1 MR. HALPIN: Thanks, Mark. First, I'd like to
2 thank the FTC for giving me the opportunity to discuss
3 the initiatives that IEMA member retailers have made with
4 regards to enforcement and education of the ESRB rating
5 system. The Interactive Entertainment Merchants
6 Association is the non-profit trade association of major
7 retailers of computer and video game products in the
8 United States. Member companies of the IEMA collectively
9 account for almost 90 percent of the \$10 billion annual
10 interactive entertainment business in North America.

11 The IEMA and its members have taken some
12 important and tangible steps toward educating parents and
13 employees about the rating system and toward restricting
14 minor's access to Mature-rated games. Many of our member
15 companies range from Wal*Mart to Blockbuster, Toys "R" Us
16 to Electronics Boutique and Target to Circuit City, just
17 to name a few, have adopted the store policies
18 restricting the sale of mature games at the point of
19 sale.

20 Furthermore, our retail members have committed
21 themselves to educating both employees and consumers
22 about the games rating system through in-store
23 initiatives in conjunction with the Entertainment
24 Software Ratings Board, the video game rating system.

25 Since parents are involved in over 80 percent

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
3 about the ratings.

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

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

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

25 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
3 shop for and take children to the stores, government
4 officials and everyone else concerned about this issue,
5 to make it a joint goal to increase education and
6 awareness. Thanks, Mark.

7 MR. EICHORN: Jonathan.

8 MR. POTTER: Thank you, Mark. I'm pleased to
9 be here today on behalf of America's leading online music
10 and media services. The Digital Media Association was
11 founded in 1998 to support the development of a healthy,
12 competitive commercial marketplace for digitally
13 performed and distributed entertainment. DMA's goal is
14 to ensure that consumers and creators both benefit from
15 the digital revolution. Our members develop and utilize
16 technological advances to enable innovative efficient
17 business models that reduce costs, enhance consumer value
18 and optimize royalties and other benefits for creators.

19 DMA companies include Amazon.com, America
20 Online, Apple, Microsoft, Napster, Real Networks, and
21 Yahoo, as well as smaller companies such as Live 385,
22 Music Match and Music Now that have survived the dot-com
23 meltdown and have successfully captured a share of the
24 online music market. Each of these companies has a
25 direct relationship to consumers who are exploring,

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

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

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

21 Online media companies are in the same position
22 and must also help America's parents make smart decisions
23 with and on behalf of their kids. An additional
24 challenge facing online media companies is the relative
25 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.
22 Subscribers can set up a separate password overlaying the
23 option to exclude such songs so children using the
24 account can be shielded from parental advisory albums,
25 though a parent will not be.

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,
24 unfiltered, black market networks whose greatest strength
25 is generally that they are free and that make available

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.

3 But, Beverly, why don't you start?

4 MS. PORWAY: I also want to thank Mark and the
5 FTC for inviting Toys "R" Us to participate. I
6 understand in some of the past workshops, retailers
7 haven't had as much of a voice and we've relied on some
8 of our partners in groups that are represented here, and
9 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.

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

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

16 We've found that it's a very successful
17 program. It's been working well for us and we've taken
18 it one step further. We post, and I have -- I,
19 unfortunately didn't do a PowerPoint, but I do have an
20 example of the cards that we post in our stores that
21 describe the policy, that specifically states, it's the
22 policy of Toys "R" Us not to sell M-rated video games to
23 individuals under the age of 17. We have the ESRB rating
24 M here. Cashiers may ask for proof of age if a guest
25 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
3 any particular film are appropriate with respect to the
4 content and who they're being marketed to with respect to
5 the feature film being shown on that particular day.

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

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

20 Now, how we do that specifically is that we
21 have designed certain policies and procedures to ensure
22 that these things are monitored and controlled.
23 Primarily, we begin with an education process and that
24 requires a two-fold approach. We have to educate our
25 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 facilities and want to buy a ticket to Kill Bill and you
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
14 going to see. The individuals that were here on some of
15 the earlier panels also have some wonderful information.
16 If you want it, you should go out and look at it before
17 you go see these films.

18 The second approach we take is educating our
19 employees and we went through a very sensitive process of
20 training our box office personnel with respect to the
21 ratings compliance and what our policies and procedures
22 are, as well as our ushers who are the people that are
23 basically monitoring and roaming the facility to make
24 certain that these procedures are being complied with.
25 And that's very important in our business because the

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

7 In addition to that, some of our box office
8 personnel, when you have a minor come up to the facility,
9 many times they'll think that they look old enough to buy
10 one of these tickets, so they'll come up and they'll say
11 I want a ticket to Kill Bill and they'll promptly be
12 carded and be denied a ticket. So, they'll buy another
13 ticket. Well, typically what we do in a situation like
14 that is when that minor purchases a ticket, we flag the
15 ticket. There is a mark that's put on the ticket
16 specifically to notify the usher that this person needs
17 to be monitored while they're in the facility because a
18 large percentage of time these individuals will then
19 promptly leave the auditorium they were in, go to the
20 restroom and mistakenly go into that R-rated movie
21 afterwards.

22 So, the policies and the procedures and the
23 enforcement and the education are very important. The
24 last portion of this is the accountability, and we have a
25 very strict policy with respect to this. We hold our

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

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

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

15 I was telling a story to John at lunchtime.
16 It's a challenge every day. We've had an employee once
17 making money on the side selling tickets to minors
18 because they knew that they couldn't purchase them. We
19 had an individual who was, I guess, running a business
20 out of some of our Southern California theaters because
21 she was going from theater to theater standing in front
22 of a box office buying tickets for minors and I assume
23 she's getting a fee for that because she keeps popping up
24 and we keep denying her access to our facilities after
25 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
3 AOL is doing.

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

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

23 So, if I open up an account for a kid, for
24 instance, I actually don't have access to Music Net.
25 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
3 because of the uncertainties about what can be downloaded
4 and what's appropriate or what isn't appropriate. And
5 so, one of the things I just want to flag is that,
6 although we do an awful lot on the service to remind
7 parents that it's their responsibility and they've got to
8 take charge and they've got to have the computer in an
9 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
13 standards that we can look to, it's been incredibly
14 useful to leverage off those so that we can make
15 decisions about what's either on the service or what
16 advertisers can promote onto the service.

17 MR. EICHORN: Thank you. Go ahead.

18 MR. PORWAY: I just wanted to add that I know
19 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
23 descriptors. What we have is special messaging. The way
24 that our site works is that when you go to home page or R
25 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
3 also for five to seven and three to four and exactly
4 what's on the video games.

5 So, we also try to give as much information as
6 you can on a website without having the interaction of
7 being live and giving the information that we can, that
8 mom needs to choose what she needs to choose for the
9 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

1 our stores -- they're placed high up so that a younger
2 child can't get to them. That's not working as well as
3 we would like it to be, so we're now moving towards, and
4 we've actually done it in about 80 of our some 700 U.S.
5 stores, we're taking all the M games and we're moving
6 them behind the counter, so that somebody can't even get
7 to them, so that a younger child has to actually ask the
8 cashier, I want that game, and the cashier is going to
9 go, no, you're kidding, you can't have that.

10 So, we're keeping them away, we're pulling them
11 out of full view. We keep it in a totally separate area
12 so that if you want to get that game, you have to go into
13 that area and you have to ask for it and it's going to be
14 behind the counter, in hoping that that's another step
15 that we can take so that we can keep these games out of
16 the hands of kids who shouldn't have them.

17 MR. EICHORN: We're trying to keep on track
18 here with the panel and we have probably about like four
19 minutes left. So, if anyone wants to ask questions, I'll
20 allow that for the next few minutes. Nell, go ahead.

21 MS. MINOW: Thank you, Mark. I have a question
22 for Sean.

23 MR. BERSELL: Sure.

24 MS. MINOW: Sean, that was a terrific -- all of
25 you, congratulations. That was tremendously constructive

1 and wonderful presentations, but particularly for you,
2 Sean. Two issues that I have had with video stores, one
3 is very often the clerks, who are young, will be showing
4 videos on the monitors in the store and they're sometimes
5 PG-13 or even R-rated videos. Is there any kind of a
6 policy on that?

7 And the other one is the more complicated issue
8 of the unrated video and the unrated material. Very
9 often, Disney or someone will come out with a video that
10 will have all kinds of fabulous extras on DVD and they'll
11 say this material is unrated. That doesn't mean there's
12 anything inappropriate, it just means it hasn't got a
13 rating. And then, on the other hand, there is this other
14 category of American Pie and Old School, where they
15 intentionally add material that would not have qualified
16 for an R rating as a marketing device. How do the video
17 stores deal with those two issues?

18 MR. BERSELL: Okay, on the first, generally,
19 retailers will have policies regarding what can be shown
20 in the store. Many retailers contract with third-party
21 providers to develop in-store previews. Those are
22 developed with the broad audience in mind and shouldn't
23 have any inappropriate content in it.

24 Regarding people showing an actual movie in the
25 store, the retailers that I've talked to have established

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 MR. BERSELL: You're not going to be surprised
2 if I disagree with you on that, that a retailer should
3 carry any product that they don't feel comfortable
4 carrying. If they have a policy and their brand is we're
5 family-friendly, if they don't want to bring in NC-17, I
6 don't think we should be telling them that they have to
7 carry that product.

8 MR. FITHIAN: I can't regulate my members
9 either. All I'm saying to you is help educate them that
10 their policy is actually counterintuitive for family
11 friendliness, because if stores and retailers will not
12 use the NC-17 rating, then producers and movies will not
13 make movies for the NC-17, and this is part of the reason
14 why we have a way too wide swath of R-rated movies, and
15 Billy Elliott and Kill Bill end up in the same rating
16 because NC-17 is viewed as unviable.

17 We are trying to make NC-17 much more viable.
18 We're working with Directors Guild and others to get that
19 rating used again. And part of this is an educational
20 process, and I'll, hopefully, help educate your retailers
21 that not carrying NC-17s is actually counterproductive on
22 a family-friendly basis.

23 MR. EICHORN: Okay. Dr. Walsh, one last
24 question.

25 DR. WALSH: Do we have time for one more?

1 MR. EICHORN: One quick question.

2 DR. WALSH: I'm not going to be nearly as kind
3 as Nell who complimented the entire panel, not the
4 panelists, but the policies, because I think although
5 there's a lot of variation across the various industries,
6 in some of the categories that we're talking about, the
7 retail is the weak link in the chain.

8 If we listened to just what everyone said, this
9 is great news. But if you look at these statistics,
10 these are not good. I mean, 81 percent of the time, four
11 out of five times a kid can buy an inappropriately rated
12 DVD, music recording, electronic game.

13 As Dick knows, we do our own secret shopper
14 survey and we do it in the video game industry and we'll
15 include that on our video game report card next month.
16 We were not nearly as generous as the FTC was. We sent a
17 seven-year-old in who looked like he was five, and in a
18 store with a policy, with a cash register prompt, the
19 seven-year-old couldn't even see above the counter and
20 the clerk helped him count out the money to buy Grand
21 Theft Auto Vice City. Now, that's an extreme example,
22 but our results aren't much better. I think that the --
23 I think -- and it was not a Toys "R" Us.

24 But I think on the retail, in terms of buying
25 hard product, there's a lot of progress to be made and I

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.

7 MR. HALPIN: Can I respond to that?

8 MR. EICHORN: Sure.

9 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
7 of the last year and that's the trajectory. We'll all
8 continue to work to improve what we're doing. But we've
9 been doing it for 35 years and some of these industries
10 didn't exist 10 years ago.

11 MR. EICHORN: On that note, I want to thank all
12 the panelists for a great panel, and please, if you're on
13 the Next Steps panel, please come on up.

14 **(Applause.)**

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

16 MS. ENGLE: Good afternoon. The final panel of
17 the day is something we've entitled Next Steps, and we're
18 hoping to look towards the future a little bit on where
19 we can go from here. Most of the panelists have been
20 introduced previously, so I won't introduce them. But I
21 wanted to briefly introduce the two new panelists.

22 First, Doug Lowenstein. Doug is President of
23 the Entertainment Software Association and he's held that
24 position since its inception in 1994.

25 And Dr. Michael Rich, Dr. Rich is Assistant

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.

15 DR. RICH: Thank you, Mary. If I could have
16 the first slide.

17 As Mary said, I'm here representing not only
18 the Center on Media and Child Health, which is trying to
19 use the tools of evidence-based medicine in public
20 health, rigorous objective scientific studies to better
21 characterize and respond to the effects of media, both
22 positive and negative on the physical and mental health
23 of children and adolescents.

24 In addition, and perhaps with the most
25 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
15 heard, a sense that the folks in the industry are doing
16 everything they can and the feeling that other people
17 feel that it's not good enough. I think that from my
18 perspective I can possibly offer a ray of hope. Next
19 slide.

20 I have to say I think I've got the best job in
21 the world. I get to keep healthy kids healthy. Very
22 little of my work is involved with pulling kids from the
23 brink of death. But it's a tougher job than it appears.
24 It is really one of education, one of educating children
25 and parents about the risks inherent in that. I have the

1 wrong number up here. I got informed that we are now
2 2,000 more members than I thought. But I and my
3 pediatric colleagues do take care of the single parented
4 kids, the latchkey kids, the kids who are physically and
5 sexually abused. We're the ones who see them first in
6 the emergency departments of this country, sometimes in
7 police stations and incarceration centers.

8 The fact that we are concerned about media
9 effects on these kids' health is neither inconsistent
10 with our care for those kids, nor is it a distraction
11 from them. Indeed, I think it is the kids who have
12 limited or no parents who, in many ways, are most
13 vulnerable to the effects of media because that expands
14 to fill the available space in terms of role model
15 setting, et cetera.

16 And I also agree with what has been said here,
17 that our First Amendment right should be preserved at all
18 costs. It is the core to our freedom and that that
19 includes our right to choose what we listen to here and
20 play as far as games, and that is the mark of a humane
21 and compassionate society, which I think we also are.

22 In order to do this, as with the case of
23 nutrition or immunizations or anything else we talk about
24 in our day-to-day practice, we must be guided by science,
25 not opinion, not values or ethics, but science, in making

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

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

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

25 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.

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

7 So, one of the things we have at our disposal
8 is to try to figure out what we can do, what science can
9 tell us in this case and how we can base this on
10 measurable health outcomes. One of the problems has
11 been, quite frankly, that this research has been done in
12 at least nine major academic disciplines, none of whom
13 read each other's literature. There is no cross
14 communication or there is very little.

15 So, one of the things that we're trying to do
16 right now is to collect the literature and to review it
17 for scientific rigor and validity. We have, at present,
18 over 5,100 papers that deal with this issue and this
19 comprehensive library of the existing research is going
20 to be mounted on the web, hopefully, by the end of this
21 year for everyone to access and to use in their decision-
22 making. The website is under construction, but that is
23 its URL right there. Next slide.

24 I will be the first to admit that the research
25 is of variable quality. That means that there is some

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.

9 So, how real are these health effects of media
10 exposure? And the best way to do it in, you know, sort
11 of colloquial terms is, what is the strength of the
12 correlation between exposure and health risks and how
13 does it compare to other known health risks that I and
14 your pediatricians probably talk about every day. Next.

15 Let me show you the size of the correlation
16 between calcium intake and bone mass. Drink your milk.
17 Next.

18 Between passive smoke and lung cancer. Next.

19 Between lead exposure, eating of paint chips
20 and lower IQs. Next.

21 Between condom non-use and HIV acquisition.
22 Next.

23 And between media exposure and aggressive
24 behavior. This is a meta analysis of hundreds of
25 studies. This is not a single study. This is shown time

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 practitioner,
13 is right on from our experience as child developmental
14 experts.

15 We have decided, as a society, that we want
16 objective, valid information as to what is in the food
17 that we feed our children's bodies. We want to pick up
18 the can and read the content labels and we want to trust
19 that that is a scientific and objective report of what
20 we're feeding our kids' bodies. We do not have the same
21 thing for what we feed our kids' minds. We need to know
22 what we're feeding them in an objective and quantifiable
23 way. And we need to know what the outcomes of that
24 exposure are likely to be in our best guess.

25 We can't tell you that if you smoke that

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

4 So, finally, how do we deal with this in our
5 next steps? First of all, I think we would all agree in
6 the spirit of collaboration we've had today that parents
7 and children need the tools to protect their health and
8 safety. Just like we talk about car seats and seatbelts
9 and bicycle helmets and not smoking.

10 I think we need to take a step back and instead
11 of tinkering and fixing little things about systems that
12 have been around for a long time, in some cases, and less
13 long in others, to step back and say, let's apply
14 scientific measurement tools to these and see how well
15 they work, see how well they're going.

16 I applaud the industries' desire to create
17 these systems and to improve them and work them, and the
18 American Academy of Pediatrics, in fact, has a brochure
19 that we give to our constituency, our pediatricians to
20 put in their office waiting rooms that educate people
21 about the rating systems so they can use them. We also
22 recognize, however, that they are an imperfect system and
23 that's something I think we've talked about here today in
24 three ways.

25 One is that parents do, as we have heard, find

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 I'd be interested in
21 knowing -- hearing from the industry members about what
22 they know about if parents are accessing that or if
23 that's something that parents are aware of. So, could
24 any of you speak to that?

25 Parentalguide.org is a joint project of the

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
18 more depth and more information, that they can find it
19 that way.

20 I think the hallmark of what we've tried to do
21 as an industry over the 10 years that I've been part of
22 this industry is to continue to find ways to meet that
23 balance between giving people reliable and credible
24 information, and we remain committed to that. I'll never
25 say the job is ever done. I also would reject the

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.

7 David, earlier, alluded to his conversations
8 with the ESRB people on the rating review. They didn't
9 just talk to David, they talked to about 40 people. When
10 the system was originally set up, it was actually set up
11 by an expert in child psychology and child development.
12 So, suffice it to say that looking for ways to get
13 information out is something I'm personally committed to
14 and I think our industry is as well.

15 MS. ENGLE: Dr. Rich, you mentioned that AAP
16 has put together a brochure on the rating systems. Do
17 you have any information about whether parents are using
18 that or find it helpful to them or where they're getting
19 information or where they see -- where parents see the
20 information deficit as being?

21 DR. RICH: Yes. Actually, that is just one
22 piece of a much larger initiative called Media Matters
23 that the AAP instituted in 1997, which has a multi-
24 pronged approach. It is one of educating our member
25 pediatricians in issues around media, encouraging them to

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
8 talk to people about it, I have found that some people
9 say, yeah, I was amazed my pediatrician brought that up
10 or suggested that. But other people have said, no, it's
11 never been brought up. So, I think that we have more
12 work to do, quite frankly, in educating our
13 pediatricians, many of whom feel very time-pressured, you
14 know, when they're seeing a kid's one year visit and
15 they're limited to as little as seven minutes by an HMO
16 to catch up on your seven-year-old. And it's hard.

17 We added on a lot when we added car seats and
18 immunizations, et cetera, et cetera, et cetera. We do a
19 lot in that period of time, however long that may be.

20 But I think that the other side of that is for
21 those parents for whom a pediatrician has said, this is
22 important, pay attention to this, it carries a lot of
23 weight and it makes a big difference. So, we have stayed
24 the course with that and continued and expanded it as
25 much as we could because we realize how important an

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.

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

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

16 MS. ENGLE: Given the amount of time that kids
17 are spending with media, do you have a sense of whether
18 parents are concerned about this issue that they think --
19 you know, whether they are even trying to monitor their
20 kids' involvement and not being successful or they're not
21 even really monitoring it?

22 DR. RICH: I think that if I were to
23 characterize the general feeling among parents in this
24 country that I've talked to, both in my own practice and
25 in related practices, but also in talks that I give about

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
3 think it's parent motivation.

4 I don't think enough parents really do take
5 this seriously enough because they don't realize how
6 powerful it is. And I think every study that comes out
7 almost reinforces that.

8 As I was talking with Doug before the panel
9 started, I think part of our role is to always kind of
10 keep heat on the industry. But I really believe that a
11 major part of our effort now is going to be directed at
12 parents because we have to motivate parents -- parents
13 aren't going to use the rating systems if they don't
14 think they're important. And so, a large part of our
15 effort is what I mentioned earlier, this media-wise
16 movement, which is really to build awareness first.

17 Until parents understand the impact of the
18 information that Dr. Rich had on that slide, they're not
19 going to be motivated to take it as seriously as putting
20 their kids in a seatbelt or some of those other things.
21 And so, I think going forward, I think that we have a lot
22 of work to do and that's where, I think, we're going to
23 put a lot of our -- have been putting a lot of efforts.
24 And if there is an opportunity to partner with various
25 sectors of the industry itself to try to build that level

1 of awareness, I think that could be a powerful thing.

2 MR. LOWENSTEIN: Mary, if I could just add a
3 couple points. First of all, I really appreciate your
4 keeping the heat on the industry. It is so cold in this
5 room that we've. . .

6 The second comment I'd make is, we heard the
7 statistics several times today. The FTC found that 83
8 percent of the time parents are involved in the purchase
9 and rental of games for their children. That's important
10 to understand because what it tells you is the chances
11 are, if a child has Grand Theft Auto, if a 12-year-old
12 has it, mom and dad gave it to him. Now, you can't
13 indict the industry for that.

14 You may not like the game, I may not like the
15 game, that's not the point. The point is people are
16 making decisions at the point of sale, they're ignoring
17 information that's available to them. Maybe they're not
18 aware of all the information. But I completely agree, we
19 need to pound on that, and we will work with your
20 organization and Dr. Rich to do that in any reasonable
21 way we can.

22 I think that, you know, you had a six-point set
23 of principles that I've read about parents and their
24 habits, what they ought to be doing, how much time kids
25 should watch TV, play video games. I didn't see anything

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

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

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

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

25 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 --

7 MS. WHITE: In two years.

8 MR. LOWENSTEIN: In two years is better than no
9 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,
3 we're going to keep working at it, doing what we can.
4 I'll work with you at it. But we will continue to
5 litigate against laws that we believe infringe on the
6 First Amendment because I don't think they're healthy for
7 this country. Leave aside whether they're healthy for
8 this industry. I think they're bad policy and I think we
9 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 --
13 legal restrictions on purchases is not a panacea. I
14 mean, I can understand how it could help. But it's not
15 going to solve the problem. In the alcohol industry, 20
16 percent of the alcohol in this country is consumed by
17 underage people even though there are age restrictions
18 there, obviously, that are legally enforced. So, that's
19 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
23 we've got to take some strong steps somehow and I think
24 the industry is sounding very reasonable and keeps
25 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
3 gutter, if I might say so, and the other industries are
4 following.

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

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

23 MS. ENGLE: Well, Daphne, as the head of a
24 grassroots organization, what's your experience been in
25 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
3 is -- certainly, there's information that's available.
4 It could be improved, more information could be made
5 available and we don't want search costs to be too high.
6 I mean, not everyone has access to the internet and you
7 don't necessarily want to have to go online every time to
8 figure out if you want to take your child to this movie
9 or allow them to see it.

10 But, in your experience, what's motivating
11 parents?

12 MS. WHITE: Well, I mean, I would say the
13 parents that I deal with, which are obviously the
14 subgroup -- I deal with parents who are very concerned.
15 I think they just feel overwhelmed and frustrated by the
16 amount of violence that's marketed to kids and there's
17 really no one to talk to or no one to complain to. I
18 mean, if a movie director or producer doesn't like the
19 rating they got, they can go to the MPAA ratings board
20 and appeal it and shave a few seconds off here and there,
21 get a change.

22 I don't know if the same is true with video
23 game ratings or not, if you have appeals process. But
24 parents have nowhere to go, no one to talk to. So, the
25 ones I deal with feel very frustrated. It's not also

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
11 are marketed to kids.

12 I mean, unfortunately, it's the violent things
13 that teenage boys want, and when the industry talks about
14 the average age of players, half of players are women,
15 women are playing mahjong, they're playing other games
16 other than the violence. It's the violence that's
17 marketed to kids. So, that's what I hear is the
18 frustration.

19 MR. LOWENSTEIN: Mary, just a very brief data
20 point. To suggest that the only games the industry is
21 making and marketing are violent games is pure bull. If
22 you look at the numbers, 90 percent of the top 20 best-
23 selling computer games in 2002 were rated E or T, 80
24 percent of the top 20 selling console games were rated E
25 or T, 60 percent of all games in 2002 were rated E, 23

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.

3 MS. ENGLE: Any other comments?

4 DR. RICH: I'd like to second what Dr. Walsh
5 just said. I think we have proven time and time again as
6 a society that we can wrestle with complex problems, with
7 lots of gray areas, lots of confounders, lots of issues
8 that play, and come up with a consensus response that is,
9 first of all, you know, not perfect for everybody but
10 better than what we had and is always dynamic, is always
11 changing. So, I think that the frustration we are
12 expressing and hearing today is partly part of that
13 process.

14 While making absolutely no parallels in terms
15 of the severity of the danger, I want to remind us all
16 that in the space of a generation, we have completely
17 changed our attitude toward tobacco, and that has been a
18 public education, public motivation campaign that has
19 happened from the top down, from the bottom up, from the
20 inside out, and we -- you know, the attitude of kids
21 toward tobacco today compared to the attitude of kids
22 toward tobacco in 1960 is probably 180 degrees different.

23 So, I want to offer a sense of hope that we can
24 deal with this, we can deal with this all together.
25 We're dealing with an industry that is not producing a

1 product that is, when used as directed, fatal to people
2 the way the tobacco industry is doing. We're dealing
3 with an industry that has also been responsible for
4 giving us experiences we could never have in real life.
5 Very good experiences, very educational, very life-
6 enhancing experiences.

7 And I think that one of the things that
8 attracted me and I think some of the other people on this
9 panel who are concerned about the power of media is that
10 we love media, that it is something that we love and care
11 about and also respect as a very, very powerful tool,
12 that when used thoughtlessly can hurt, but when used
13 thoughtfully can make us better than ourselves. And I
14 think that that is the task, I think, ahead of us now is
15 to educate and get this information out there that
16 science has taught us, that experience has taught us and
17 come up with a common solution that works so that we can
18 all find where our compassion, our humanity, our ability
19 to care for our children can be best expressed.

20 MR. VALENTI: I want to pay tribute to the
21 National Association of Theatre Owners whose President,
22 John Fithian, is in this audience. I think they have
23 done so splendidly in a very difficult task of being able
24 to bar our children from seeing certain movies. It's not
25 easy to do and it's costly. And I think the Federal

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,
5 John. It's been a great job. You've done an
6 extraordinary job.

7 MS. ENGLE: And he's a fellow UVA law grad.

8 MR. VALENTI: And I want to point out, I think
9 Dr. Rich is right on relying on surveys, we certainly do.
10 And I think the studies that you've had are compelling
11 and persuasive and they intrude in on us. We've done the
12 same thing, Dr. Rich, and the voice we most admire and
13 the voice we listen to with the greatest interest and
14 attention is the voice of the parent.

15 So, we have, as you were probably here this
16 morning and I won't bore you with that same slide in
17 which for the last 34 years -- Dr. Walsh, you've been in
18 the rating business, I guess, 10 years, so has Doug, and
19 I've been in it longer than Methuselah, for God's sake,
20 but I must say that we rely on the rating system. We
21 rely on the polling that we do, 2,600 people, as I said
22 earlier this morning, nationwide, strict market research
23 protocols. And the parents are responding. Parents with
24 children under 13 like this rating system, trust it and
25 we have a 98 percent recognition of the rating system.

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
12 front of a television set.

13 But I had a personal experience, Dr. Rich. A
14 friend of mine -- more than an acquaintance, I think, I
15 went into an R-rated movie in a theater -- I go to the
16 theater at least once or twice a week because I want to
17 see a film the way it ought to be seen so you have an
18 epic viewing experience you can't duplicate in your own
19 home. But this was a pretty tough R-rated movie.

20 And I saw this friend with his seven-year-old
21 son in there and I went up to him and I said, Jim, you
22 know, I don't want to intrude, but I think you ought not
23 be taking your seven-year-old son. He turned on me like
24 a jaguar springing out of a tree as if he -- he said, I
25 don't need you to tell me how I conduct the life of my

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 was a young couple that came in and I just saw them come
2 in and they sat in the back. Then afterward they came up
3 -- this was an hour-and-a-half workshop and the young
4 woman introduced her husband and she had dragged him
5 there and she said that. She said, I brought my husband
6 here. And I didn't know what this was all about, so she
7 said, the reason is is because he's been playing Grand
8 Theft Auto Vice City with our three-year-old on his lap.

9 And so, I just looked at him and I said, did
10 anything I said make sense tonight? And he looked at me
11 and he said, I am so ashamed of myself. He said, I had
12 no idea what the impact was. And I say that because I
13 think that's where we have to go back to. We can't just
14 give parents the information, they have to be motivated
15 to use it, and I think we have a job to teach parents the
16 power of this and I would invite the professionals in the
17 media industry, because that's what you're so good at.
18 You are very, very good at shaping attitudes and values.

19 And so, I think maybe one of the greatest
20 things that could come out of this is that if we work
21 together that, among other things, we try to help parents
22 understand these are powerful teachers. Just as I
23 wouldn't let somebody come in and spend 40 hours a week
24 teaching my kids a set of values that I didn't agree
25 with, well, that's what's happening and we need to have

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
3 like to also know more specifically and some of the
4 theaters, like Regal, I think, is doing a very good job,
5 Toys "R" Us sounds like they're doing a good job. But,
6 overall, the fact is this stuff is still being marketed
7 to kids. It has an impact, as Dr. Rich said, and I think
8 we all have to work together to be responsible rather
9 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 is such a desperate last resort that ought never be
2 adhered to. But it's rated R. And I went on television
3 saying, take your kids to this picture.

4 Scarface, one of the most violent films, and
5 yet it's the decline and sordid fall of a gang boss. If
6 anybody wants to make Al Pacino a role model in that
7 film, they need serious medical attention. That's all I
8 can tell you. Because that's a film that's so anti-drug
9 and, yet, you got an R rating, how do you deal with that?

10 This is not easy. As I said earlier, this is
11 not physics, this is not geometry. This is something
12 that's very vapory and we have to deal with it, because
13 all three of those films have killing. So, if you were
14 going to say you cannot show any killing in this film,
15 then High Noon has to be R -- they all have to be R and,
16 yet, maybe they shouldn't be R because they teach lessons
17 to children.

18 So, I'm saying to you that this is complexity
19 wrapped in contradictions and inserted into
20 complications. It's not easy to deal with.

21 MS. ENGLE: Well, I think I would echo that
22 last comment. It's not easy to deal with. We're
23 approaching 5:00, so we need to wrap things up. I wanted
24 to thank all of our panelists and participants today for
25 coming. I think it's been a very helpful and

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

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CASE TITLE: ENTERTAINMENT INDUSTRY SELF-REGULATION

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DATE: OCTOBER 29, 2003

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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