



# Marketing Violent Entertainment to Children:

A Sixth Follow-up Review of  
Industry Practices in the Motion Picture,  
Music Recording & Electronic Game Industries

## **A Report to Congress**

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# Contents

<b>EXECUTIVE SUMMARY</b> .....	<b>i</b>
<b>I. INTRODUCTION</b> .....	<b>1</b>
A. Commission Reports on Marketing Violent Entertainment to Children .....	1
B. Sources of Information for this Report.....	2
<b>II. MOTION PICTURES</b> .....	<b>2</b>
A. Restrictions on Marketing to Children: Ad Placement.....	3
1. Overview .....	5
2. Television ads .....	5
3. Promotional marketing.....	6
4. Print ads.....	8
5. Internet marketing .....	8
B. Disclosure of Ratings and Reasons for Ratings .....	9
1. Disclosures in advertising .....	9
2. Disclosures on DVD packaging - the Commission's 2009 study .....	10
C. Industry Efforts to Enforce Rating System in Theaters and at Point-of-Sale.....	13
1. Box office enforcement of the rating system.....	13
2. Retailer enforcement of the rating system.....	14
3. Gift card purchases.....	14
4. DVD vending kiosks .....	15
5. Other purchase and rental options .....	15
D. Unrated DVDs .....	15
1. Marketing practices.....	15
2. The Commission's 2009 survey on unrated DVDs.....	16
E. Analysis of Current Industry Practices.....	18
<b>III. MUSIC RECORDINGS</b> .....	<b>19</b>
A. Restrictions on Marketing to Children: Ad Placement.....	19
1. Television ads .....	20
2. Print ads.....	20
3. New media and marketing methods.....	20
B. Disclosure of Advisory Labels and Reasons for Labels in Ads.....	21
C. Industry Efforts to Enforce Rating System at Point-of-Sale .....	22
D. Analysis of Current Industry Practices.....	22
<b>IV. ELECTRONIC GAMES</b> .....	<b>23</b>
A. Restrictions on Marketing to Children: Ad Placement.....	24
1. Television ads .....	24
2. Print ads.....	24
3. New media and marketing methods .....	25
B. Disclosure of Ratings and Reasons for Ratings .....	26
1. Advertising review .....	26
2. Rating summaries .....	27

C. Industry Efforts to Enforce Rating System at Point-of-Sale .....	27
1. Mystery shop .....	27
2. Gift card purchases .....	28
3. Mobile phone games .....	28
D. Analysis of Current Industry Practices .....	29
<b>V. CONCLUSION .....</b>	<b>30</b>
<b>Appendix A: Mystery Shopper Survey .....</b>	<b>A-1</b>
<b>Appendix B: The Commission’s Mall Intercept Survey on Disclosure of MPAA Rating Information on DVD Packaging.....</b>	<b>B-1</b>
<b>Appendix C: FTC Telephone Survey on Parental Awareness of and Attitudes About Unrated DVDs .....</b>	<b>C-1</b>
<b>Appendix D: Internet Surveys .....</b>	<b>D-1</b>
<b>Appendix E: Data Collection Methodology and Television, Print, and Internet Demographics...E-1</b>	



## EXECUTIVE SUMMARY

This is the seventh Commission report on the marketing to children of violent entertainment products by the motion picture, music recording, and electronic game industries.

The Commission's initial report, released in September 2000, examined the structure and operation of each industry's self-regulatory program, parental familiarity with and use of those systems, and whether the industries had marketed violent entertainment products in a manner inconsistent with their own parental advisories. The 2000 Report found that industry members routinely targeted children in their advertising and marketing of violent entertainment products and that children under age 17 could purchase these products relatively easily. The Commission called upon the industries to strengthen their self-regulatory programs by: (1) prohibiting target marketing to children and imposing sanctions for violations; (2) improving self-regulatory programs at the retail level; and (3) increasing parental awareness of the ratings and labels.

The Commission has continued to monitor industry self-regulation in this area, mindful of First Amendment considerations. It has released five subsequent reports, all finding that the movie and electronic game industries had made progress in limiting marketing of R- and M-rated products to children, but that the music recording industry had not significantly changed its marketing practices since the Commission's initial report. In its 2007 Report, the Commission specifically recommended that all three industries strengthen restrictions on online and viral marketing to children and more effectively communicate rating information, particularly on packaging. The Commission also called on the movie industry and DVD retailers to ensure that the marketing of unrated, "Director's Cut" DVDs does not undermine the self-regulatory system.

This report documents the current state of marketing of violent entertainment products to children based upon a review of documents from industry members and Commission monitoring of television, print, and Internet advertising. It also assesses pertinent revisions to industry self-regulatory policies since the last report. In addition, it reports on the results of two consumer surveys related to movies released on DVD – one on the adequacy of rating disclosures on DVD cases and one on the marketing of unrated DVDs. This report also provides the results of the Commission's 2009 undercover shopping survey on the progress of the three entertainment sectors in enforcing policies restricting children's access to R-rated movies and unrated DVDs, music with Parental Advisory Labels, and M-rated games.

All three industries generally comply with their own voluntary standards regarding the display of ratings in advertising and labeling, although these standards should be strengthened to increase prominence of the rating and to display more information about the reasons behind the rating. Industry standards against targeting teens and younger children in the marketing of violent entertainment products have not sufficiently curbed marketing that reaches a large youth audience, particularly in online media. These standards need to be tightened and more strictly enforced.

## Movies

The Commission’s review of internal marketing documents for selected R-rated movies revealed no express targeting of the under-17 market, although the Commission’s own monitoring revealed significant television and Internet advertising likely to appeal to and reach a substantial teen audience. Internal marketing documents and Commission monitoring for PG-13-rated movies exposed explicit and pervasive targeting of young children, both directly in advertising on children’s cable networks, and indirectly through promotional tie-ins with foods, toys, and other licensed products. Studios even conducted marketing research for PG-13 films on children under 13, in one case on children as young as 7 years old.

Although the Motion Picture Association of America (“MPAA”) has issued new rules restricting ad placements based on the type and amount of violence and other content shown in the ad, it has not adopted any new rules prohibiting inappropriate targeting of R-rated and PG-13-rated films to teens and younger children. In addition, the revised rules appear to permit studios to run “green tag” theatrical trailers that contain stronger content, not necessarily suitable for all ages, as long as the trailers are targeted to “appropriate audiences,” although the MPAA reports that this is not how it interprets or applies the new rules. Increased posting of more explicit “red tag” trailers for R-rated movies on major video hosting websites also raises new concerns.

The industry continues to do a good job of displaying the MPAA rating in advertising, although ratings are not always prominent and rating reasons are often difficult to read or sometimes omitted altogether. Rating information on DVD cases and other packaging continues to appear in small font on the back panel with rating reasons particularly difficult to read. Results of Commission research confirm that larger, front-panel placement of the rating symbol and reasons would be much more effective in communicating rating information to parents.

The Commission’s undercover shop showed mixed results for the movie industry on rating enforcement. Movie theaters significantly improved their performance from 2006, allowing about three in ten children under age 17 able to gain admission, unaccompanied, to R-rated films. In contrast, retailers who sell R-rated DVDs allowed shoppers under age 17 to purchase these movies slightly more than half the time, with a similar record on the sale of unrated DVDs. Individual theater and retailer performance varied widely. Use of gift cards for online purchase of DVDs and online download to mobile devices were newly identified by the Commission as avenues for easy access to R-rated movies by shoppers under age 17.

Unrated DVD versions of films rated R or PG-13 for theaters are more prevalent than in past years and dramatically outsell rated versions by as much as an eight to one margin. A Commission survey shows that many parents are either unaware that movies can be released as unrated DVDs or are unaware that they may contain additional adult/explicit content. The survey also shows that nearly six out of ten parents are concerned about this practice. Although the MPAA has revised its rules to require disclosure of the original rating and of the presence of additional unrated content, it does not require studios to resubmit DVDs for rating. In addition, the disclosure of the original rating is required only

in print ads and on packaging. The Commission found many examples of television and radio ads with no disclosure, including some that even hype the lack of an MPAA rating. It also found examples of packaging that does not include the required disclosure. The industry has not taken adequate steps to inform parents or to give them a way to assess the appropriateness of unrated DVDs for their children.

## Music

The music industry's Parental Advisory Label ("PAL") alerts parents to explicit lyrics in music recordings, but provides no information about the specific type of explicit content. In addition, the industry has declined to implement rules restricting the marketing of explicit-content labeled music to children. The Commission's review of internal marketing documents and its own ad monitoring provided no indication of specific targeting of children but revealed many examples of ads for explicit-content music on television shows popular with teens. Paid advertising in print and Internet venues popular with teens was less widespread. In some, but not most, instances unpaid viral marketing online drew large tween and teen audiences.

Disclosure of the PAL logo in advertising is still inadequate in nearly all advertising media, most notably on official artist and company websites, where the PAL was readable only 20% of the time. Television ads display the PAL only 50% of the time, and usually the label is not clear and prominent. Only music CD retailers and online download sites did an excellent job of prominently displaying the PAL.

The Commission's undercover shop found that it is relatively easy for underage shoppers to purchase explicit-content music, compared to movies and electronic games. Music retailers sold labeled music to 72% of the undercover shoppers in 2009, compared to 56% in 2008. Parental controls on music download sites allow parents to limit children's access to explicit content.

## Electronic Games

Of the three entertainment sectors, the electronic game industry continues to have the strongest self-regulatory code. It prohibits the target marketing of M-rated games to teens and T-rated games to children under 13 and enforces its code with fines and other sanctions.

Based on the Commission's review of internal marketing documents, its own ad monitoring, and reporting by the Entertainment Software Rating Board ("ESRB"), the Commission found that industry did not specifically target M-rated games to teens or T-rated games to younger children and that compliance with the ESRB code was high in all media. There were only a few instances of M-rated game ads on television shows popular with teens and, compared to the last report, far fewer ads for M-rated and T-rated games on websites popular with teens or younger children. In addition, the ESRB now requires stronger age gates to restrict those under 17 from viewing a demo or trailer of M-rated or AO-rated games on game company websites.

The electronic game industry also performed well with respect to prominent disclosure of rating information in ads and retailer websites, although 60% of game sites required visitors to scroll down to

view the rating and content descriptors. The game industry requires prominent, front-panel display of the rating on game packaging, although content descriptors continue to appear only on the back panel. The ESRB has also instituted a new policy of providing rating summaries on its website, for games rated since July 2008, to help inform parents about the level of violence and other content in games.

The Commission's undercover shop found that retailers are strongly enforcing age restrictions on the sale of M-rated games, with an average denial rate of 80%. Only Toys 'R' Us lags far behind on enforcement (56%). Nearly all retailers use systems to prompt cashiers to request photo ID. Use of gift cards to buy games online, however, represents one potential gap in enforcement against underage purchase.

Finally, the proliferation of game applications available for mobile devices, coupled with the fact that most wireless carriers and content providers do not rate these applications with the ESRB system, is potentially confusing for parents. It is not clear how robust or reliable these other rating systems will prove to be. Age-based parental controls on what games can be downloaded to mobile devices offer another tool for restricting children's access to mature content.

## Recommendations

The Commission recognizes that the movie and electronic game industry in particular have devoted substantial attention to their rating systems and enforcement. Nevertheless, as in prior reports, the Commission recommends that the three industry sectors take the following steps to further strengthen self-regulatory programs restricting the marketing of violent entertainment to children:

- The movie industry and the music industry should develop specific and objective criteria to restrict marketing of violent movies and music to children. The movie industry should implement restrictions not only for advertising R-rated movies in venues reaching a substantial under-17 audience, but also for the advertising of PG-13 movies in venues reaching a substantial under-13 audience. These criteria should apply both to direct advertising of the movie and to indirect promotion of the movie through tie-in advertising of foods, toys, and other licensed products appealing to children. Similarly, the music industry should implement restrictions for all PAL-stickered music in venues reaching a substantial under-17 audience. The criteria implemented by the movie and music industries should include not only the percentage of the underage audience, but other factors like the absolute number of children reached, whether the content is youth-oriented, and the youth popularity and apparent ages of the characters and performers.
- All three industries should evaluate their restrictions and tighten them as necessary, paying particular attention to online and viral marketing, to ensure that advertising is not placed in venues reaching large underage audiences.
- The movie industry should increase enforcement efforts against online posting of "red tag" trailers without adequate age-based restrictions on access.

- The movie industry should carefully examine the content of “appropriate audience” trailers for consistency with the feature films they will precede.
- The movie industry should place all rating information prominently on the front of DVD cases and other packaging for home releases of movies and should make disclosure of both rating and rating reasons prominent in all advertising venues.
- The music industry should display the Parental Advisory Label more prominently in advertising, particularly in television and online venues and should provide information about the specific type of explicit content.
- The electronic game industry should include content descriptors with the rating on the front panel of game packaging and should continue to provide more detailed rating summaries for parents online.
- The movie industry should take steps to better inform parents about additional adult content in unrated DVDs and should give parents a way to assess the appropriateness of unrated versions for their child. Specifically, the industry should either re-rate DVD releases that contain additional content or, at a minimum, extend the new disclosure rule regarding the content of unrated DVDs to all forms of advertising and improve the level of compliance with the rule.
- Retailers and theater owners should continue to strengthen enforcement efforts restricting the sale of tickets to R-rated movies, R-rated and unrated movie DVDs, PAL-stickered music, and M-rated games to children, paying attention to possible enforcement gaps created by the use of gift cards for online purchase.

Given important First Amendment considerations, the Commission supports private sector initiatives by industry and individual companies to implement these suggestions. The Commission will continue to monitor the marketing of violent entertainment products, with particular attention to emerging technologies and new marketing techniques. The Commission will also continue to work with industry and others to encourage efforts to provide parents with the information they need to decide which products are appropriate for their children. Following a reasonable period of monitoring industry practices and consumer concerns, the Commission will issue another report.



# I. INTRODUCTION

## A. Commission Reports on Marketing Violent Entertainment to Children

This is the seventh Commission report on the marketing of violent entertainment products to children by the motion picture, music recording, and video game industries. The Commission's initial report, released in September 2000 ("2000 Report"),<sup>1</sup> examined the structure and operation of each industry's self-regulatory program, parental familiarity and use of those programs, and most importantly, whether the industries had marketed violent entertainment products in a manner inconsistent with their own parental advisories. The 2000 Report found that industry members routinely targeted children in their advertising and marketing of violent entertainment products, despite self-regulatory ratings or labels indicating the products might not be appropriate for children.<sup>2</sup> It also found that children below the age of 17 could purchase products with restrictive ratings or parental advisories relatively easily.<sup>3</sup> The Commission concluded that such advertising and marketing efforts undermined each industry's parental advisories and frustrated parents' attempts to protect their children from possibly inappropriate material. The Commission called upon the industries to strengthen their self-regulatory programs by: (1) prohibiting target marketing to children and imposing sanctions for violations; (2) improving self-regulatory programs at the retail level; and (3) increasing parental awareness of the ratings and labels.<sup>4</sup>

In five subsequent reports, released in April 2001 ("April 2001 Report"),<sup>5</sup> December 2001 ("December 2001 Report"),<sup>6</sup> June 2002 ("2002 Report"),<sup>7</sup> July 2004 ("2004 Report"),<sup>8</sup> and April 2007 ("2007 Report"),<sup>9</sup> the Commission has detailed the entertainment industries' compliance with their self-regulatory programs and made recommendations to tighten enforcement and compliance. In many cases, the industries – particularly the movie and electronic game industries – responded by improving their programs. For example, the Commission found that, although the movie and video game industries had made progress in limiting the marketing of R-rated and M-rated products to children, the music recording industry had not significantly changed its marketing practices since the 2000 Report.

The Commission concluded in its 2007 Report that all three industries still needed to strengthen their standards for restricting marketing of violent entertainment to children, particularly with respect to online and viral marketing.<sup>10</sup> The Commission also made specific recommendations for more effective communication of rating information by all three industries, particularly on packaging.<sup>11</sup> On enforcement of point-of-sale age restrictions, the Commission found significant improvements in restricting the sale of video games, but room for substantial improvement by theaters and music and movie DVD retailers. The Commission's 2007 Report also urged the movie industry and DVD retailers to review current practices related to the marketing and sales of unrated or "Director's Cut" DVDs, to ensure that such practices do not undermine the self-regulatory system.

This report documents the current state of marketing based upon a review of documents from industry members and the Commission's monitoring of television, print, and Internet advertising. It also assesses revisions in industry self-regulatory policies. Additionally, this report analyzes research



on two issues relating to the release of movies on DVD: the adequacy of movie rating disclosures on DVD cases and the marketing of unrated DVDs of movies that had been rated for theaters. As in previous reports, this report tracks, by means of an undercover shopping survey, the progress of the three entertainment sectors in enforcing policies restricting children's access to R-rated movies in theaters, R-rated and unrated DVDs, music with Parental Advisory Labels, and M-rated games.

## **B. Sources of Information for this Report**

To prepare this report, the Commission collected information from several sources. The Commission contacted the major trade and retailer groups for descriptions of any revisions to their self-regulatory programs.<sup>12</sup> The Commission reviewed internal marketing plans from nine industry members for certain PG-13-rated and R-rated movies, explicit-content labeled music recordings, and M-rated and T-Rated games released since the April 2007 Report.<sup>13</sup> The Commission again tracked advertising placements in media popular with youth, and reviewed advertisements to determine whether they included clear and prominent rating and labeling information. In addition, the Commission surveyed promotions and other activities on the Internet to assess the online marketing of entertainment products to children. To aid in its analysis, the Commission obtained data from The Nielsen Company on television shows popular with children and teens, from comScore and Nielsen Online on websites popular with children and teens, and from Nielsen VideoScan regarding the sales of unrated DVD versions of films originally rated R. The Commission also obtained copies of television advertisements for movie, music, and video games from the Video Monitoring Service.

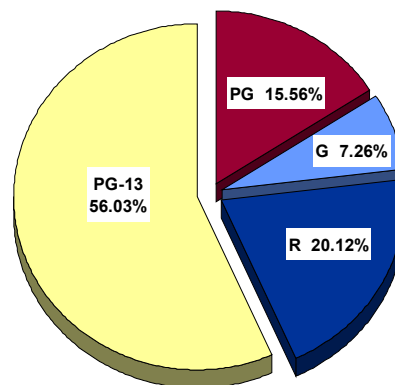
The Commission repeated its nationwide undercover shopping survey in the Spring of 2009. The survey tracks the progress of enforcement efforts at the retail level to restrict the sale to children of products rated or labeled as potentially inappropriate for them. The Commission also contacted the major retailers of R-rated movie DVDs, M-rated video games, and explicit-content music CDs to determine their policies and practices regarding the sale of these products to children. Finally, the Commission conducted two consumer research projects related to specific recommendations that the agency has made in the past regarding movie DVDs. The first study examined the effect of more prominent placement of rating information on the front of the DVD case. The second study assessed parental awareness of, and attitudes about, the marketing of unrated DVDs.

## **II. MOTION PICTURES**

In 2008, the motion picture industry generated \$9.8 billion in domestic box office receipts, up from \$9.6 billion in 2007,<sup>14</sup> although theater admissions were down slightly from 2007.<sup>15</sup> In addition, consumers spent \$14.5 billion to purchase movies on DVD and Blu-Ray disc and \$7.5 billion on rentals.<sup>16</sup> Over 600 films were released in theaters in 2008.<sup>17</sup> Of the top twenty grossing films released domestically, eleven were rated PG-13 and three were rated R.<sup>18</sup> PG-13 movies accounted for more than half of gross domestic box office receipts.



## Gross Box Office Receipts by MPAA Rating (2008)



Data courtesy of Nash Information Services, LLC ([www.the-numbers.com](http://www.the-numbers.com))

### A. Restrictions on Marketing to Children: Ad Placement

Following the Commission’s 2000 Report, which found that target marketing of R-rated movies to children under 17 was pervasive, and target marketing of PG-13-rated movies to children under 12 was common, the MPAA responded with a twelve-point initiative that included a commitment by member studios not to “inappropriately specifically target” children in advertising of films rated R for violence.<sup>19</sup> Three major studios (Fox, Warner Brothers, and MGM) also implemented more specific standards for advertising R-rated movies, prohibiting placement of ads in media with an under-17 audience share over 35%.<sup>20</sup>

In contrast, neither the MPAA nor any studio has implemented similar restrictions on the marketing of violent PG-13 movies. The PG-13 rating indicates that parents are “strongly cautioned” that “some material may be inappropriate for children under 13.” Despite this admonition, the MPAA has taken the position that the marketing of PG-13 movies directly to children under 13 is not necessarily inappropriate; that is, the MPAA sometimes restricts such marketing but sometimes does not.<sup>21</sup> It considers which PG-13 movies may be marketed to children, as well as the content and placement of advertising for those movies, on a case-by-case basis. The MPAA has yet to adopt any explicit policy or objective criteria restricting such marketing.

In addition, in March 2008, MPAA entered into a referral arrangement on advertising of PG-13 and higher movies to children with the Council of Better Business Bureaus’ Children’s Advertising Review Unit (“CARU”) – a self-regulatory body that monitors children’s advertising. However, CARU’s role under this agreement is limited to addressing “inadvertent” placement of ads for films rated PG-13 or higher on children’s programming.<sup>22</sup> The MPAA still makes the final decision on whether it is “appropriate” to target a PG-13 film to a young audience. Since the referral agreement went into effect, CARU has made 15 referrals to the MPAA for PG-13 films that were intentionally advertised

on children’s television – most rated PG-13 at least in part due to violent content. Even though these television programs are directed at, and predominantly watched by, young children, the MPAA determined that on 14 of 15 occasions, ads for films rated PG-13 were “appropriately placed.”<sup>23</sup> The CARU/MPAA referral arrangement, thus, is not a meaningful self-regulatory measure.

The MPAA’s Advertising Administration has made some revisions to its policies since the Commission’s last report. For example, the new rules, issued in January 2009, divide advertising into three categories – “all audience,” “appropriate audience,” and “mature/restricted audience” advertising.<sup>24</sup> “All audience” advertising can be placed in any medium or venue; “appropriate audience” advertising is subject to time, media, and venue restrictions imposed by the MPAA and cannot be directed to audiences that contain a “significant proportion of younger children”; and “mature/restricted audience” advertising also is subject to time, media, and venue restrictions imposed by the MPAA.<sup>25</sup> The rules, however, still do not provide explicit, objective criteria governing ad placements based on the content or rating of the movie. Therefore, they do nothing to curb possible inappropriate target marketing of either R-rated or PG-13-rated films.

The revised rules potentially raise a new concern. They state that the “appropriate audience” category provides movie distributors “greater flexibility to promote a motion picture in a manner that reflects its content and reaches its intended audience.”<sup>26</sup> Specifically, “appropriate audience” advertising, including theatrical trailers,<sup>27</sup> may contain stronger content than traditional “all audience” ads and, therefore, may not be suitable for all ages.<sup>28</sup> Studios could interpret this language as permitting more graphic or explicit content in trailers that run before movies rated NC-17 or R and PG-13 movies that do not draw younger audiences. Further, such trailers are preceded by a green tag indicating that the preview has been approved for “appropriate audiences,” potentially creating confusion with the traditional “all audience” trailer tag, which also is green. *See* graphic below.



The MPAA has reported that it is in the process of phasing out “all audience” trailer tags, thereby eliminating any potential confusion with the new “appropriate audience” tags.<sup>29</sup> Also, the MPAA says that the new rules are not intended to effect a substantive change to its practice of determining the appropriate content and placement of green tag trailers on a film by film basis, and that it intends to revise the rules in the near future to make this point clear. Given the potential confusion over the current rules, however, the MPAA and theater owners need to be especially vigilant when determining whether the new “appropriate audience” trailers are consistent with the content of the feature films they precede.<sup>30</sup>

## 1. Overview

For this report, the Commission reviewed marketing plans from three studios for six PG-13-rated and six R-rated movies. All movies were released in 2008 with at least one rating reason for violence. In addition to the marketing information submitted by studios, the Commission conducted its own monitoring of television advertising, print advertising, and Internet marketing, including the posting of restricted audience or “red tag” trailers on the Internet.

As was found in the 2007 Report,<sup>31</sup> the marketing plans for the six R-rated movies revealed no express targeting of the under-17 market. The Commission’s own monitoring of ads for R-rated movies, however, revealed significant television and Internet advertising likely to appeal to and reach a substantial teen audience.

With respect to violent PG-13 movies, studios continue to market these films purposefully and directly to children under 13. In its review of marketing plans and ad placements, the Commission found explicit and pervasive targeting of very young children for PG-13 movies. The marketing overview for the DVD release of one PG-13 movie, for example, described the movie’s “#1 Key Demo” as parents 25 and older and kids 8 to 14. The marketing overview for another PG-13 DVD release from the same studio identified the primary target as those ages 13 to 49 and the secondary target as “tweens” – that is, children 9 to 14. These findings are consistent with the Commission’s findings in 2000 and in subsequent reports.<sup>32</sup> The studios’ marketing submissions for the six PG-13 movies showed that all were heavily promoted to children under 13 in advertising on children’s cable networks – “Kids’ Cable” – and through promotional tie-ins with candy, snack foods, kids meals, toys, and other licensed products.

Studios also conducted marketing research on young children, including in one instance children as young as 7 years old. When research results showed that children and parents were concerned about the level of violence in the film, studios sometimes even altered their advertising to make the film appear less frightening, rather than market to an older audience. One studio, for example, copy tested ads for its PG-13 movie on various age groups, including children ages 7 to 9 and 10 to 12. The studio found that 80% of boys in these age groups showed definite interest in seeing the movie, but also found that many parents were concerned that the movie was too violent. The written report stated that “parents, in large numbers, complain about the violence in [this movie], saying they wouldn’t want to expose their children to that.” The solution proposed by the studio was to “experiment with spots that include less intense action and more humorous/light-hearted moments in order to convince more parents that [this movie] will be ‘safe’ for their kids to see.”<sup>33</sup>

## 2. Television ads

### a. R-rated movies

Marketing plans for the six R-rated violent movies reviewed for this report showed that television ads for these films most often ran either in late evening time slots or during morning talk shows, daytime soaps, and professional and college sports programs.<sup>34</sup> Nevertheless, the Commission’s independent

ad review showed that a significant number of ads for violent R-movies ran on programs whose under-17 audience met or exceeded 35%, an ad placement threshold that at least three studios claim to observe.<sup>35</sup> For example, numerous ads for Warner Brothers' *Observe & Report* and *Watchmen* aired on MTV's *Room Raiders* (40% under 18) and/or BET's *106 & Park* (37% under 18).<sup>36</sup> Other films that studios advertised on shows that exceeded the 35% threshold include *Crank: High Voltage*, *Last House on the Left*, *Next Day Air*, and *Sunshine Cleaning*.<sup>37</sup> Many other ads for R-rated films ran on shows with under-17 audiences below the 35% cut-off but with a very high percentage of 12- to 17-year-old viewers.<sup>38</sup>

#### b. PG-13-rated movies

Marketing plans for the six violent PG-13 movies reviewed for this report, unlike the R-rated movie plans, revealed evidence of intentional targeting of young children in television advertising. All six of the PG-13 movies were heavily advertised on children's cable networks, particularly Nickelodeon and the Cartoon Network.<sup>39</sup> Audience composition data for both of these networks show that children 2 to 11 comprise at least 50% of the audience, regardless of the time of day.<sup>40</sup> Within the children's television category, studios also appear to be consciously placing ads on shows with the highest children's viewership or the most obvious appeal to younger children. For instance, three of the six movies were advertised during Nickelodeon's 2008 Kids' Choice Awards, among the highest rated shows for children 2 to 11.<sup>41</sup>

### 3. Promotional marketing

The studios also promote violent PG-13 movies to children through tie-ins with food, toys, children's clothing, and other licensed products appealing to young children.<sup>42</sup> All six of the marketing plans for the PG-13 movies reviewed for this report detailed significant cross-promotion with such products.<sup>43</sup> In one instance, the movie studio noted that while the target demographic for the movie was teens and adults, the target demographic for the licensed products was boys 3 to 11.<sup>44</sup> The studio heavily promoted the movie in tie-ins with foods and toys directed at young children, even though its own consumer research found that many parents considered the movie too disturbing for their children.<sup>45</sup> Another studio marketed two violent PG-13 movies through local grocery stores and restaurants using coloring contests, puzzles, and other techniques "to appeal to younger kids."<sup>46</sup>

The widespread cross-promotion of violent PG-13 movies to young children is also evidenced by the FTC's 2008 Food Marketing Report, which describes the marketing of PG-13 movies like *Pirates of the Caribbean: Dead Man's Chest* and *Superman Returns* through special limited edition fruit snacks, cereals, frozen waffles, candies, lunch kits, kids' meals, and other foods popular with children.<sup>47</sup> These cross-promotions reach large children's audiences.<sup>48</sup> Consumer groups have also documented the pervasive advertising of PG-13 movies to children through tie-ins with foods and toys.<sup>49</sup>

The MPAA does not consider cross-promotions or other marketing tie-ins to be within its purview unless the marketing materials specifically promote the movie and not the tied product, for example, by stating the opening date for the movie.<sup>50</sup> Thus, under the current self-regulatory scheme, most ads



for foods, toys, or other products tied to the release of a film are not subject to review for content or placement, even when the ads feature images and video clips from the film.

### Examples of Cross-Promotions for 2008/09 PG-13 Movies <sup>51</sup>



#### 4. Print ads

The Commission reviewed issues of select teen-oriented publications from 2008 and 2009<sup>52</sup> and found no advertisements for R-rated films. Marketing plans reviewed by the Commission, however, showed that at least two violent PG-13 movies were marketed through print advertising, stories, and feature covers in children's magazines including *Scholastic*, *Nickelodeon Magazine*, *Time for Kids*, *National Geographic Kids*, and *Disney Adventures*, some of which are distributed in elementary schools.

#### 5. Internet marketing

##### a. Display ads

Using data from Nielsen Online, the Commission examined Internet display advertising placements (e.g., banner ads) for R- and PG-13-rated films during 2008, to determine if they ran on websites highly popular with children, teens, or both.<sup>53</sup> As it did for the 2007 Report, the Commission examined display ads for twenty R-rated films – specifically, the twenty top-grossing, violent R-rated films for 2008. Nielsen picked up display ads for 75% (15 of 20) of the R-rated movies on websites highly popular with children 2-12 (Neopets, Runescape, and WWE Superstars) and teens 13-16 (Bebo, Runescape, Photobucket, AOL.com AIM Today, imeem, WWE Superstars, and YouTube). These results are comparable to those reported in 2007.<sup>54</sup> More troubling was that 35% of the R-rated movies (7 of 20) ran ads on websites highly popular with children under 13, including Neopets, Runescape, and WWE Superstars. Finally, an analysis of display ads for the twenty top-grossing, violent PG-13-rated films for 2008 found that 40% (8 of 20) of the movies were advertised on sites highly popular with children under 13.<sup>55</sup>

In addition to the Nielsen analysis, the Commission used comScore to analyze display ad placements for forty of the top-grossing R-rated films for 2008 and thirty-five of the top-grossing PG-13-rated films for 2008. According to the data, display ads for 48% (19 of 40) of the R-rated movies ran on numerous websites highly popular with teens 12-17.<sup>56</sup> Similar to the Nielsen data, the comScore data show that ads for nearly one third of the R-rated movies (12 of 40) ran on one or more websites popular with children 2-11, including Maxgames, Neopets, StarWars, and Stickpage. In addition, 30% (12 of 40) of the PG-13 movies were advertised on sites highly popular with children 2-11, including CartoonNetwork, Neopets, and Stickpage.

##### b. Red tag trailers

A new concern in the online venue has been the proliferation of red tag trailers for R-rated movies on websites without adequate age-based access restrictions. Mature Audience trailers (for films expected to be rated R- or NC-17) and Restricted Audience trailers (for films rated R- or NC-17) are preceded by a red tag stating that the preview has been approved for “restricted audiences only” and indicating the movie's rating and rating reasons. Red tag trailers generally contain content that caused the film to be issued a restrictive rating and thus are subject to more stringent time, media, and venue restrictions.<sup>57</sup>

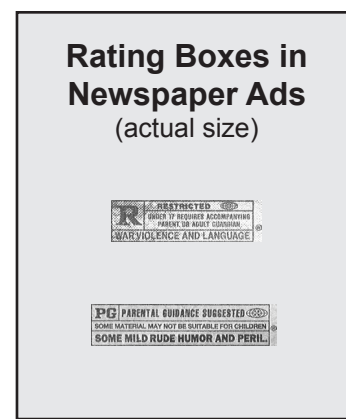
According to the MPAA’s Advertising Administration, red tag trailers on the Internet must be placed behind an age-gate or similar mechanism to ensure that children under the age of 18 will not easily be able to view the material.<sup>58</sup> Further, when these trailers are placed on sites other than the movie’s official website, the Advertising Administration requires that the site have “a significant adult user base.”<sup>59</sup>

For the first time, the Commission examined the practices of six video-hosting websites to see if they showed red tag trailers for R-rated movies.<sup>60</sup> Five of the six sites contained at least one red tag trailer for viewing.<sup>61</sup> Two of the websites did not use any age-screening mechanisms before allowing the user to watch the trailers.<sup>62</sup> Even on the three sites that did, the user could circumvent the age gates by hitting the “back” button to the previous page and re-entering his or her age as 17 or older.<sup>63</sup>

## B. Disclosure of Ratings and Reasons for Ratings

### 1. Disclosures in advertising

As in past reports, the Commission reviewed advertisements in various media to assess whether industry is prominently disclosing ratings and rating reasons. Results for online disclosures are detailed in Appendix D. All 40 television ads reviewed displayed the movie rating, and nearly all used an audio disclosure as well. Although nearly all ads displayed rating reasons, most of the time they were very difficult to read. For newspaper and circular advertisements,<sup>64</sup> the Commission found that the rating symbols in most of the PG-13 and R-rated movie advertisements were displayed clearly,<sup>65</sup> although, depending on the size of the ad, they were not necessarily prominent. When the ads also provided rating reasons (required for newspaper ads five inches or higher), they often were difficult to read because the rating block was reproduced smaller than the MPAA rules require.<sup>66</sup> See box in margin. In some circulars, images of unrated DVDs had the word “Unrated” partially concealed by other text.<sup>67</sup> In the magazine publications reviewed, approximately 10% of the ads did not display rating reasons. When rating reasons were displayed, often they were difficult to see or read. The Commission found that all motion picture,<sup>68</sup> theater,<sup>69</sup> and movie ticket<sup>70</sup> websites displayed ratings and rating reasons, but not always prominently.<sup>71</sup> Eighty-five percent of the motion picture sites required the visitor to scroll down the web page in order to view the rating and rating reasons, and 31% of the movie theater websites required scrolling. None of the movie ticket websites required scrolling.<sup>72</sup>



The Commission reviewed the practices of five online movie retailers’ sites to assess their rating information practices with respect to violent unrated movies also available as an R-rated version.<sup>73</sup> All the sites provided some type of indication that the movie was not rated, such as the label “NR,” “Not Rated,” or “Unrated.” Three of the five sites also provided cautionary statements related to the movies.<sup>74</sup> Consistent with the findings in the 2007 Report, the majority of websites indicated that the unrated movie also had a rated version, but many of the sites did not present this information in a prominent manner.

Online DVD rental websites always displayed the ratings. Two of the three DVD rental websites also displayed the rating reasons. These results are similar to the findings from the 2007 Report.<sup>75</sup>

## 2. Disclosures on DVD packaging - the Commission's 2009 study

Despite the Commission's recommendation that rating information be displayed more prominently on DVD cases,<sup>76</sup> the rating symbol still typically appears at the bottom of the back panel of the DVD case, often in small font, without contrasting color, and in a clutter of other symbols and disclosures. In most instances the rating reasons accompany the rating, but they are sometimes too small to read easily.<sup>77</sup>

To measure the impact of more prominent ratings and rating reasons, the Commission conducted a mall intercept study of 422 parents of children ages 7 to 16 involving four movies rated PG-13 or R for violent content.<sup>78</sup> The survey instrument, annotated with results, along with copies of all unaltered and altered DVD covers used in the study, are reproduced as Appendix B. As shown in the table below, approximately half of the parents were given an unaltered DVD case displaying the rating information as it actually appeared on the back cover. The other half were given an altered DVD case for the same movie, with identical cover art and graphics, but with rating information placed also on the front panel in a white box and in larger font.<sup>79</sup> After being allowed unlimited time to examine the DVD, the parents returned it to the interviewer and were then asked a series of open- and closed-ended questions about the rating and rating information and about whether they would let their child watch the movie.

<b>DVD Mall Intercept Study – Distribution</b>				
	Parent of child Age 7 – 11		Parent of child Age 12 – 16	
<b>Treatment</b>	<b>Package</b>	<b>Interviews</b>	<b>Package</b>	<b>Interviews</b>
Unaltered Packaging (rating on back)	PG-13 <i>Kite Runner</i>	59	R <i>Stop-Loss</i>	52
	PG-13 <i>Jumper</i>	51	R <i>Joy Ride</i>	51
Altered Packaging (rating on both front and back)	PG-13 <i>Kite Runner</i>	54	R <i>Stop-Loss</i>	51
	PG-13 <i>Jumper</i>	53	R <i>Joy Ride</i>	51
<b>TOTAL</b>		<b>217</b>		<b>205</b>

Not surprisingly, more parents noticed and accurately recalled the rating and rating reasons when that information was placed more prominently on the front of the DVD case. When asked whether the case did or did not display the rating of the movie, the altered DVD case performed significantly better, with 81% responding yes, compared to only 63% of those shown the unaltered case.<sup>80</sup> Parents were also





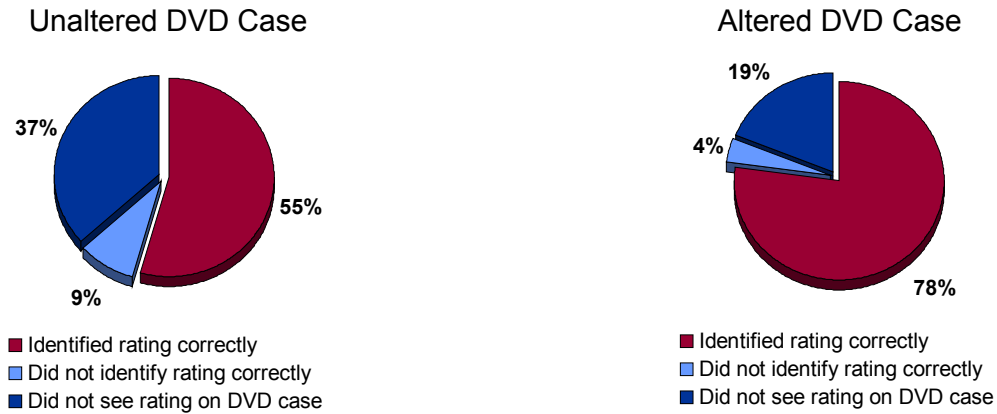
A sample front panel of the altered DVD case for the PG-13 film *Kite Runner*.

significantly less likely to report that the rating was difficult to find when shown the altered DVD case than when shown the unaltered case. The percentage of parents who said the rating was somewhat or very easy to find increased from 48% for the unaltered DVD case, up to 76% for the altered DVD case.

	Unaltered DVD Case (n=213)	Altered DVD Case (n=209)
Yes, DVD case did display the rating.	63.4%	81.3%
The rating was somewhat/very easy to find.	48%	76%

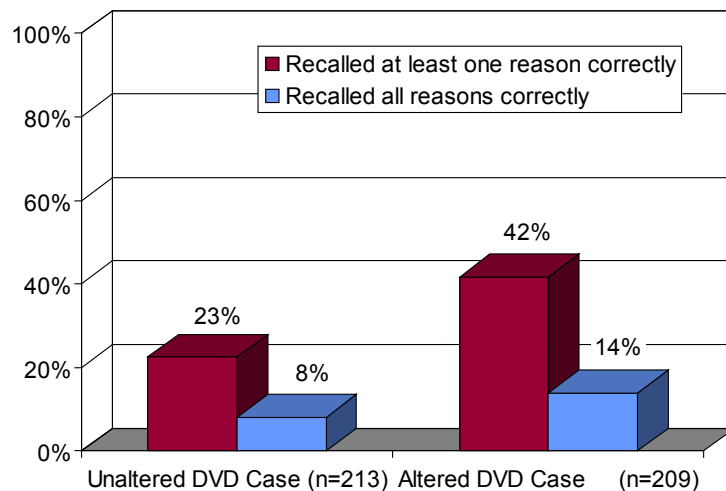
More importantly, parents shown the altered DVD case not only noticed the rating, but were much more likely to accurately recall it than those shown the unaltered DVD. Of those shown the altered DVD case, 78% not only recalled seeing the rating, but also identified the rating correctly, compared to only 55% of those shown the unaltered DVD.

### Notice and Recall of Rating



The altered DVD case also communicated the rating reasons much more effectively. Of parents who saw the altered DVD case, 42% correctly recalled at least one of the rating reasons, compared to only 23% of parents shown the unaltered DVD case.

### Recall of Rating Reasons



Greater parental awareness of the rating and reasons did not necessarily mean that parents were more reluctant to let their children watch the movie.<sup>81</sup> The role that the more prominent rating information played was movie-specific. For instance, the more prominent front-panel rating corresponded with a *lower percentage* of parents likely to let their child watch the R-rated movie *Stop-Loss* (43% vs. 75%), but a *higher percentage* of parents likely to let their child watch the R-rated movie *Joy Ride* (67% vs. 53%).

The Commission's study demonstrates that making rating information more prominent can provide significant benefits to consumers. Featuring the rating information prominently on the front panel of the DVD substantially reduced the percentage of parents who failed to notice or recall the rating. Better informed parents, moreover, would not necessarily mean fewer DVD rentals or purchases.

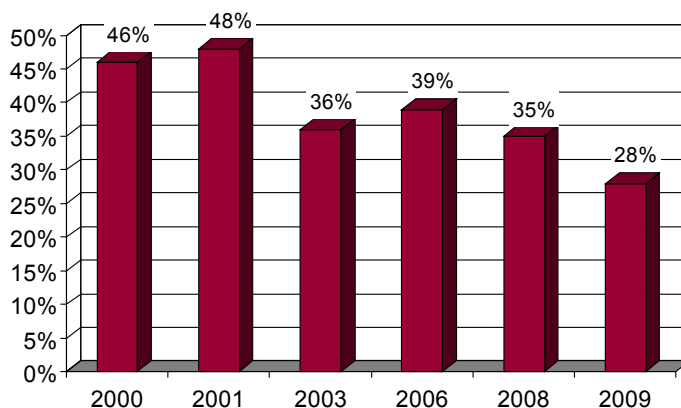
### C. Industry Efforts to Enforce Rating System in Theaters and at Point-of-Sale

#### 1. Box office enforcement of the rating system

The Commission conducted its sixth undercover shop in the Spring of 2009. In these shops, a contractor employed children ages 13 to 16 as shoppers, who, unaccompanied by a parent, attempted to purchase movie tickets, DVDs, music recordings, and video games at theaters and stores across the country.

Overall, theaters denied 72% of underage shoppers admission to R-rated movies, a statistically significant, 11% improvement from the 2006 shop. Three theater chains – Kerasotes Theaters, Regal Entertainment Group, and National Amusements – turned away 80% or more of the underage teens who tried to buy a ticket to an R-rated movie.<sup>82</sup> In contrast, Cinemark USA turned away only 48% of underage teens.<sup>83</sup>

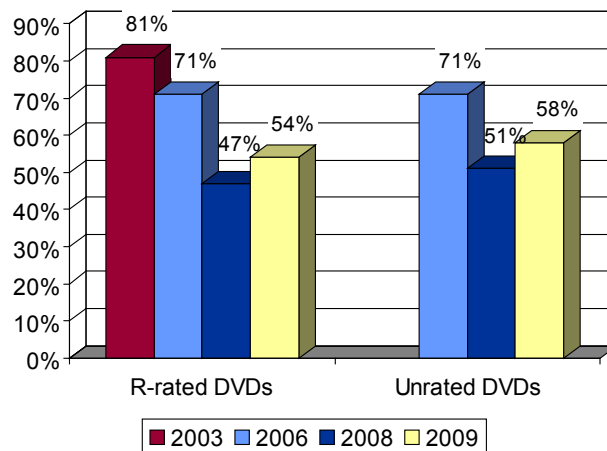
Percent Able to Purchase R-rated Movie Tickets  
(Simple %)



## 2. Retailer enforcement of the rating system

The Commission shopped eight major DVD/home video retailers to assess how well they enforce the MPAA rating system.<sup>84</sup> The survey found that 54% of teen shoppers were able to purchase R-rated movies, and 58% were able to purchase unrated versions of movies that previously had been rated R for theaters.<sup>85</sup> These results were not statistically significant changes from the 2008 survey.<sup>86</sup>

Percent Able to Purchase R-rated and Unrated DVDs  
(Simple %)



Wal-Mart did the best of the major retailers shopped for R-rated movie DVDs, denying sales 65% of the time. Blockbuster performed the best for unrated DVDs, denying sales 70% of the time, with Wal-Mart's denial rate at 62%. Target and Best Buy performed poorly for both types of DVDs, denying purchase of R-rated DVDs at a rate of 35% and 41%, respectively, and unrated DVDs at a rate of 20% and 28%, respectively. Excluding Wal-Mart, which accounted for nearly one quarter of all undercover shops for DVDs, retailers performed poorly overall, with the underage shoppers able to purchase R-rated and unrated DVDs two thirds of the time.<sup>87</sup>

## 3. Gift card purchases

For the first time, the Commission examined the use of gift cards to purchase R-rated movies online. The Commission examined the practices of four retailers that sell R-rated movies – Best Buy, f.y.e., Target, and Wal-Mart. All four of the retailers' gift cards could be purchased for cash.

All four retailers permitted the gift card holder to purchase an R-rated movie at their online websites. All four of the websites showed the MPAA R-rating on the movie's informational page, and three of four sites provided more detailed information on the MPAA rating system.<sup>88</sup> Only one site (Wal-Mart's) provided some type of age-related warning and requested that purchasers certify that they were

age 17 or older,<sup>89</sup> although nothing would have prevented a younger consumer from lying about his or her age to order the movie.

#### 4. DVD vending kiosks

According to the Entertainment Merchants Association (“EMA”), the number of self-service DVD rental kiosks has exploded in the past few years. In 2006, EMA reported that approximately 2,500 such kiosks were in grocery stores and quick service restaurants. It now reports over 15,000, accounting for an estimated 8% of the DVD rental market.<sup>90</sup> Redbox Automated Retail, LLC (operating under the *redbox* brand), TNR Entertainment Corp. (operating as Moviecube and The New Release), and DVDPlay currently are the largest kiosk operators in the United States.<sup>91</sup> All of these kiosks provide movie rating information<sup>92</sup> and require a credit or debit card to rent a movie.<sup>93</sup> Gift cards are not an available option.<sup>94</sup>

#### 5. Other purchase and rental options

Online subscription services like Netflix and Blockbuster.com offer options for on-demand viewing of movies via streaming through a personal computer or directly to a television with certain Blu-Ray players or other devices that link to the Internet. These subscriptions require periodic payment through a credit or debit card or a checking account,<sup>95</sup> and require a password to access the rental queue.<sup>96</sup> Accordingly, these services provide strong protections for parents.

Consumers, including children under 17, are increasingly renting or buying movies to view on mobile devices such as Apple’s iPod touch and iPhone.<sup>97</sup> Because iTunes gift cards can be purchased for cash at many grocery and convenience stores, parents must enable the devices’ parental controls if they wish to limit their children’s access to mature-rated content.<sup>98</sup>

### D. Unrated DVDs

#### 1. Marketing practices

Studios are increasingly releasing unrated versions of films that had been rated R or PG-13 for theaters. These unrated versions sometimes contain content that had been removed from the theater version in order to secure a less restrictive rating; that is, the “unrated” version of an R-rated film might, if rated, receive an NC-17 rating.<sup>99</sup> They also outsell the rated versions. Using purchase scan data from Nielsen VideoScan,<sup>100</sup> the Commission analyzed the retail sales of violent R-rated movies that were subsequently released on DVD in both rated and unrated editions. In 2007, among the twelve top-selling DVDs fitting these criteria, the unrated version outsold the rated version by, on average, a ratio of about eight to one. In 2008, the unrated version outsold the rated version for twelve of the fifteen (80%) top-selling violent DVD titles by, on average, a ratio of more than two to one.

In its April 2007 Report, the Commission expressed concern that the movie industry was undermining its self-regulatory system by releasing unrated DVDs with additional footage that might warrant a more restrictive rating and by glorifying the more restrictive content in advertising.<sup>101</sup> In



response, the MPAA revised its rules so that, effective January 1, 2009, all print advertising and packaging for unrated DVDs of movies that the MPAA previously rated must disclose the original rating and rating reasons, and that the unrated version contains material different from the rated version.<sup>102</sup> The rules also prohibit “derogatory references” to the rating system in advertising of unrated DVDs.<sup>103</sup> The Commission believes that these changes are an improvement.



Despite these rule changes, there are recent examples, such as the excerpts above, of unrated DVD packaging, that exploit the lack of an MPAA rating. In addition, data obtained from the Video Monitoring Service reveal numerous examples of 2009 television and radio ads for unrated DVDs that fail to disclose the rating and rating reasons of the original version (disclosures that the revised MPAA rules do not require).<sup>104</sup> Some of the ads also use the lack of an MPAA rating as a marketing tool, using phrases like “too hardcore for theaters,”<sup>105</sup> “totally unrated,”<sup>106</sup> and “with never before seen footage that was too smokin’ hot for theaters.”<sup>107</sup>

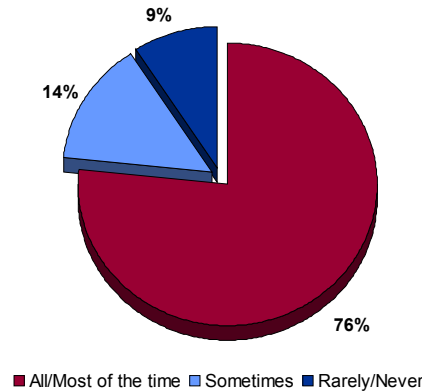
## 2. The Commission’s 2009 survey on unrated DVDs

In order to gauge parental awareness and attitudes about the marketing of unrated DVDs, the Commission conducted a telephone survey of approximately 1,000 parents of children between the ages of 7 and 16. The survey included general questions about parents’ familiarity with and use of the MPAA rating system. The survey then measured parents’ awareness of the practice of releasing unrated DVDs and their understanding of how an unrated DVD might differ from the theatrical release. Finally, parents were asked questions to assess their level of concern about the practice and the basis for their concern. The survey instrument, annotated with results, is reproduced in Appendix C.

The survey results demonstrate a very high level of parental awareness and use of the MPAA rating system. Nearly all parents (94%) were aware that a rating system exists, and almost as many (88%) correctly indicated that an R rating was more restrictive than PG-13.<sup>108</sup>

Parents’ reliance on the rating in making movie selections for their children was also high. Three quarters (76%) reported using the rating system all or most of the time when deciding whether to let their child buy, rent, or watch a movie for the first time. Only 9% of parents indicated that they rarely or never use the rating system.

## Parents' Use of MPAA Rating

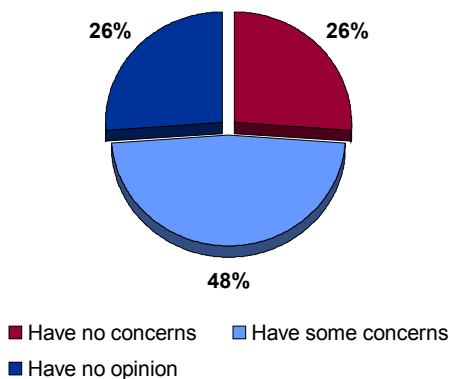


In contrast to the high familiarity with the rating system, many parents were unaware that a movie rated for theaters could be released as an unrated version on DVD. One third of parents (34%) were unaware and either believed that a rated movie could not be released as an unrated DVD or responded that they did not know. Even among those who were aware of the practice, nearly half expressed uncertainty about how an unrated DVD might differ from the rated theatrical version. In response to an open-ended question, 45% of parents said they did not know or were unsure. Only 29% of those parents who were aware of the practice mentioned that the unrated DVD might contain more violence or other additional adult/explicit content.<sup>109</sup>

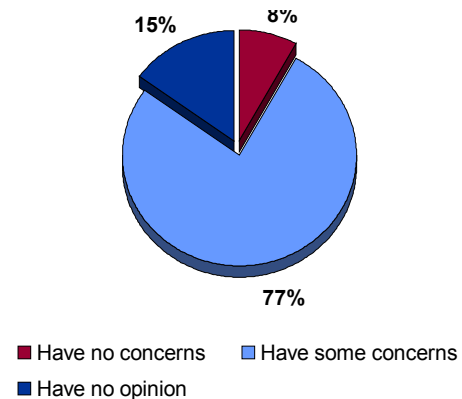
A majority of parents expressed some concern about the release of unrated DVDs with more violence or other adult content than the rated theatrical version. Among all parents surveyed, 58% indicated that they had some concern about the practice, compared to 20% who had no concerns and 22% who had no opinion either way. Parental concern was substantially higher among parents who had not previously been aware that movies rated for theaters could be released as an unrated version on DVD. Among these parents, 77% expressed concerns, while only 8% said they had no concern and 15% had no opinion.

### Parents' Concern About Unrated DVDs with Adult Content Not in Theater Version

Parents Aware of Unrated DVDs



Parents Unaware of Unrated DVDs



Parental concern was also significantly higher among parents who use the MPAA rating most often. Nearly two thirds (63%) of parents who reported using the rating system all or most of the time indicated that they were concerned about the practice of releasing DVDs with unrated or other adult content not in the theatrical version, compared to 40% of parents who reported that they rarely or never used the rating when choosing a movie for their child.

<b>Parental Concern by Use of Rating</b>			
	<b>Total (n=1000)</b>	<b>Use rating always/most of the time (n=779)</b>	<b>Use rating sometimes/ rarely/never (n=213)</b>
<b>Have no concerns about this practice</b>	20%	18%	28%
<b>Have some concerns about this practice</b>	58%	63%	40%
<b>Have no opinion one way or the other</b>	22%	19%	32%

The results of this survey show that the motion picture industry needs to do a better job of making parents aware that unrated DVDs may contain additional violent or adult content. Given the high level of concern about unrated DVDs, especially among parents who rely the most on the rating system, the industry may need to consider additional measures beyond disclosure. Parents need a way to assess whether a DVD with additional content is appropriate for their child. This is especially important in those instances where content that had been removed from the theatrical version to secure a less restrictive rating is then added back to the DVD release. The simplest and most effective approach would be for the movie industry to rerate DVD releases, at little additional cost. At the very least, however, the industry should expand its new disclosure policy to television and radio advertising.

### **E. Analysis of Current Industry Practices**

Since the Commission’s 2000 Report, the motion picture industry has significantly reduced the marketing of R-rated movies to children under 17. Nevertheless, the Commission continues to find a significant number of ads for violent R-rated movies on television shows and Internet sites highly popular with children under 17. Increased posting of red tag trailers for R-rated movies on the Internet without age-based access restrictions raises new concerns. In addition, because of potential confusion over the MPAA’s revised rules regarding the new “appropriate audience” trailers, studios and theater owners need to be especially careful when assessing whether such trailers are consistent with the content of the feature films they precede.

Marketing of PG-13 movies to young children continues to be pervasive on children’s television, as well as in magazines, online, and in other venues. Movies are promoted to young children both directly



and through tie-ins with children's foods, toys, and other licensed products. The extensive marketing of PG-13 movies to young children is particularly troubling given the public perception of "ratings creep" over the years.<sup>110</sup>

With respect to the disclosure of rating information, the industry generally discloses movie ratings in its television, print, and online advertising, although rating reasons do not always accompany the rating or are difficult to read, especially in television and newspaper ads. In addition, the Commission's research shows that parents would benefit from more prominent display of rating information on DVD packaging.

Theaters denied 72% of underage shoppers admission to R-rated movies, a statistically significant improvement from 2006. Most retailers, however, continue their poor record of enforcement against underage purchase of R-rated and unrated DVDs. Excluding Wal-Mart, retailers allowed underage purchases two thirds of the time.

The MPAA has taken some steps since the last report to address the marketing of unrated DVDs by requiring disclosures in print advertising and packaging and prohibiting derogatory references to the rating system. The MPAA, however, should require that all forms of advertising for unrated DVDs (not just print ads and packaging) disclose the movie's original rating and rating reasons and that the unrated version contains material different from the rated version. Further, the release of unrated DVD versions of movies is becoming more common, and some studios continue to hype the unrated content in advertising. The Commission's research shows that parents are not being adequately informed that unrated DVDs may contain additional violent or adult content. The research also shows high levels of parental concern about this practice, especially among parents who rely the most on the rating system.

### III. MUSIC RECORDINGS

In 2008, the recording industry continued its trend of declining revenue, generating just shy of \$8.5 billion in U.S. sales, down from \$10.3 billion in 2007.<sup>111</sup> The Recording Industry Association of America ("RIAA") estimates that consumers acquired nearly 78% of their music in the form of full-length CDs and nearly 13% as digital downloads.<sup>112</sup> Forty-two albums on the 2008 year-end Billboard 200 list carried a Parental Advisory Label ("PAL") for explicit content; thirty-eight of those albums were released as edited versions as well.<sup>113</sup> The edited versions accounted for almost one quarter of album sales for those thirty-eight albums.<sup>114</sup>

#### A. Restrictions on Marketing to Children: Ad Placement

A record company may assign the PAL to a recording to alert parents to explicit lyrics, and to provide notice to consumers that these recordings may contain strong language or references to violence, sex, or substance abuse. The PAL indicates only that the recording contains explicit content. It does not inform consumers about the specific type of explicit content that triggered the PAL, although one company (Sony Music Entertainment) uses an enhanced PAL that provides such additional information (*e.g.*, "Strong Language" or "Sexual Content").

The music industry has not defined the PAL to mean that an explicit-content recording is inappropriate for any particular age group. Consequently, contrary to the Commission's repeated recommendations, the RIAA's guidelines for the parental advisory program do not prohibit companies from advertising explicit-content labeled recordings in media popular with children.

For this Report, the Commission analyzed the marketing plans for 12 explicit-content labeled recordings. The Commission also conducted an independent review of advertising for explicit-content music.

## 1. Television ads

According to company marketing plans, at least two explicit-content albums were advertised on cable television shows that disproportionately attract teens, including BET's *106 & Park* and *College Hill* and MTV's *Viva La Bam* and *Real World*. In addition, Nielsen data show that eighteen explicit-content albums were advertised on *106 & Park* during the 2008-09 television year. Nearly 25% of that show's viewers are teens 12-17, and nearly 38% are under 18. Many MTV shows highly popular with teens also ran ads for explicit-content music, including *Bully Beatdown* (23% 12-17), *Made* (26% 12-17), *Nitro Circus* (24% 12-17), *Room Raiders* (40% under 18), *TI: Road to Redemption* (23% 12-17), and *Viva La Bam* (36% under 2-17).

## 2. Print ads

Continuing a trend for the past five years, ads for explicit-content music are appearing with less frequency in magazines popular with teens. Only one of the marketing plans that the Commission analyzed referred to placing ads for explicit-content music in teen-oriented magazines. No explicit-content labeled albums appeared in any issues of popular teen magazines reviewed by the Commission. This is an improvement from the 2007 Report, which found only three advertisements for explicit-content labeled albums in the issues of the popular teen magazines reviewed.<sup>115</sup>

## 3. New media and marketing methods

### a. Internet and other digital marketing

Using data from Nielsen Online, the Commission examined the Internet advertising placements for twenty top-selling music albums from 2008 and bearing a PAL.<sup>116</sup> This review showed that 35% (7 of 20) of the albums were advertised on websites highly popular with children or teens.<sup>117</sup> These results improve on the 2007 Report, which found that 65% of the albums had been advertised on sites highly popular with persons under 17 during 2006.<sup>118</sup>

Marketing plans sometimes discussed obtaining publicity by providing album assets (e.g., tracks, behind-the-scenes video) to music blogging websites as well as lifestyle, social networking, and video search websites that especially attract tweens ages 9-14 (such as Meebo, My Yearbook, Girls Life, and Elle Girl) and teens (the aforementioned tween sites plus Bebo, Ultimate-Guitar, Artist Direct, KiwiBox, Teen Hollywood, MySpace, Xanga, Alloy, YouTube,<sup>119</sup> and Google Video). The overwhelming majority

of websites that the record companies targeted, however, are not disproportionately visited by teens, although some of these sites (such as MP3.com, MTV.com, Slide.com, and Xbox.com) have several hundred thousand teen visitors per month.<sup>120</sup>

**b. Other non-traditional marketing activities**

According to the marketing plans, companies publicized their explicit-content albums through street marketing. Examples include posters in stores, bars, and tattoo shops; billboard ads; and “snipes” (posters on empty structures, such as walls, bus benches, and traffic poles). Most of the street marketing did not appear to be directed at children.<sup>121</sup>

Companies also deployed street teams of individuals who would carry signs or hand out fliers or stickers promoting the album at certain events. In some instances, participants in these activities would be urged to upload photos and videos of their gatherings to a contest web page, where the content would be judged and possibly shared virally. Again, with one exception,<sup>122</sup> the marketing plans that the Commission analyzed did not appear to directly target children with these promotional efforts.

**B. Disclosure of Advisory Labels and Reasons for Labels in Ads**

Only half of the 24 television ads reviewed displayed a PAL (usually on the album’s cover art), and often the PAL was not readily noticeable. Most of the print ads (95%) for explicit-content recordings reviewed by the Commission<sup>123</sup> contained a PAL; however, nearly half (45%) of the PAL logos in the retailer circulars were very difficult to read because of their small size.<sup>124</sup>

The recording industry’s performance displaying the PAL in online promotions was mixed. Only 50% (10 of 20) of the official artist and record company websites reviewed by the Commission displayed the PAL logo,<sup>125</sup> representing a continued decline from previous reports,<sup>126</sup> and only four of those ten logos were legible. On the positive side, the PAL logo or other cautionary language about the explicit content of the recording was visible at some time during the search or purchase process (often through a link to a third-party retailer) on about 78% (14 of 18) of the websites, approximately the same as in the 2007 Report findings.<sup>127</sup>

In addition to their recording companies’ websites, the recording artists also had promotional MySpace pages offering the ability to view a video or download a track from the album. Improving from 2007,<sup>128</sup> 75% (15 out of 20) of the artists’ MySpace pages displayed the album’s PAL, and almost all indicated an “edited” or “clean” version of the album was available. But consistent with the 2007 Report, only 33% (5 of 15) of the PAL logos were easy to read.<sup>129</sup>

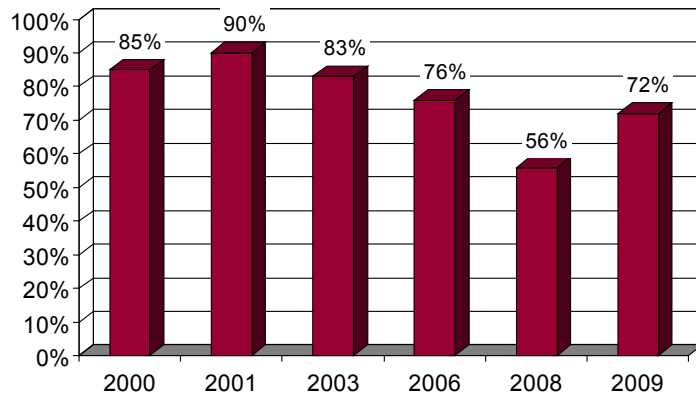
All four of the music retailer websites reviewed indicated, either through a PAL logo or by other language, that the albums had explicit content.<sup>130</sup> Improving from 2007, the PAL logo was readable for most of the albums sold on the sites (14 of 19 instances).<sup>131</sup> Additionally, all of the retailer sites indicated that a “clean” or “edited” version of the album was available.<sup>132</sup>

Finally, the three music download websites examined<sup>133</sup> all generally displayed the music track’s PAL logo somewhere on their websites, and the logo was readable for over half of the downloads. Additionally, all of the websites offered parental controls to limit children’s access to explicit content.<sup>134</sup>

### C. Industry Efforts to Enforce Rating System at Point-of-Sale

The Commission’s underage shoppers historically have had an easier time purchasing explicit-content music compared to movies and video games. Last year, retailers of explicit-content music permitted 56% of underage shoppers to make purchases, their best showing in eight years. The results of this year’s shop show a statistically significant regression: 72% of the Commission’s shoppers were able to purchase explicit-content CDs.<sup>135</sup>

Percent Able to Purchase Explicit Content CDs  
(Simple %)



The Commission obtained information from seven major music retailers regarding their policies, if any, governing the sale of explicit-content music to children.<sup>136</sup> One of those retailers, Wal-Mart, does not carry explicit-content music. Two retailers (Kmart and Borders) have policies restricting the sale of explicit-content music to children under 17.<sup>137</sup> The underage shoppers, however, were just as successful at purchasing explicit-content music at Kmart and Borders as they were at the other music retailers.<sup>138</sup>

### D. Analysis of Current Industry Practices

Despite the Commission’s repeated recommendations that the music industry consider providing more detail about why a particular recording was assigned a PAL, only one company (Sony Music Entertainment) provides this information. The industry also must do a better job of disclosing the PAL in advertising. The Commission found that only 50% of the television ads reviewed displayed a PAL, and most of the time the PAL was not clear and prominent. Also, only 20% of the official artist and company websites surveyed displayed a readable PAL logo, although the artists’ MySpace pages performed much better. Online music CD retailers and online download sites did an excellent job of clearly and conspicuously disclosing explicit content and announcing the availability of an edited version of the album. All of the music download sites offered parental controls to limit children’s access to explicit content.

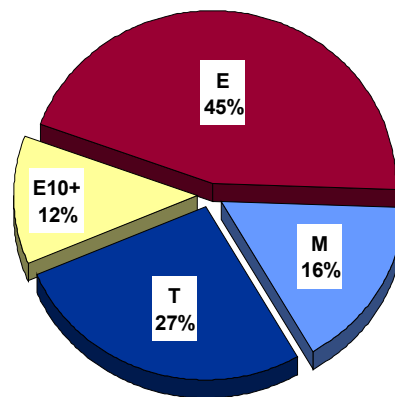
As in prior years, the Commission’s review of television advertising found numerous examples of ads for explicit-content music on television shows that disproportionately attract teens. In contrast, the Commission’s review of paid print and Internet advertising did not reveal the widespread marketing of such products in publications or on websites highly popular with children or teens. Company marketing plans show that the industry marshals unpaid online resources (blogs, social networking sites, video search sites) to market explicit-content music; although some of these resources disproportionately draw tweens and teen visitors, most do not.

Finally, the Commission’s undercover shopper survey found that retailers do not effectively prevent children from buying these products, including retailers who claim to have age-restrictive policies. Seven in ten of the Commission’s shoppers were able to buy explicit-content CDs.

#### IV. ELECTRONIC GAMES

The Entertainment Software Association reports that 68% of American households now play video games, with three quarters of all gamers age 18 or older.<sup>139</sup> Sales of almost 298 million units of video games generated \$11.7 billion in revenue in 2008.<sup>140</sup> Of all games sold in 2008, 57% were rated E (Everyone) or E10+ (Everyone 10 and older), and 16% were rated M (Mature).<sup>141</sup> In addition, four of the top ten console games, and five of the top twenty personal computer games, sold were M-rated.<sup>142</sup>

Game Sales by ESRB Rating (2008)



Source: ESA, Essential Facts (2009)

ESRB research indicates that consumer awareness and use of video game ratings remain high: 87% of consumers with children who play video games are aware of the ESRB system, and 76% check the rating every time or most of the time when buying and renting games.<sup>143</sup>

## A. Restrictions on Marketing to Children: Ad Placement

The game industry's advertising code, embodied in the ESRB's Advertising Review Council ("ARC") Manual, states that companies "must not specifically target advertising for entertainment software products rated 'Teen,' 'Mature,' or 'Adults Only' (or anticipated to receive a 'Teen,' 'Mature' or 'Adults Only' rating) to consumers for whom the product is not rated as appropriate."<sup>144</sup> Specifically, companies may not place ads for M-rated games on television and radio programs with a 35% or more under-17 audience, or in print media or on Internet sites with a 45% or more under-17 audience.<sup>145</sup> When considering the propriety of an ad placement for a T-rated game, the ESRB considers the content of both the game and the ad, the game's target audience, the audience composition of the medium in which the ad ran, and whether the advertiser made "good-faith efforts and reasonable assumptions to project that a significant portion of the audience would not be under 13."<sup>146</sup> The ESRB continues to enforce its rules and assess fines and sanctions for violations.<sup>147</sup>

### 1. Television ads

According to the ESRB, game companies violated the '35% under 17' television standard in only a few instances between July 2006 and December 2008,<sup>148</sup> indicating a high degree of compliance with the ESRB rule. This low level of reported violations appears to be consistent with the company marketing plans that the Commission reviewed. For the most part, these plans did not indicate that the industry targeted a substantial number of children under 17 with television ads for M-rated games or a substantial number of children under 13 with ads for T-rated games. One company document suggests that it is difficult for companies to target children with ads for T-rated games because the cable networks children tend to watch the most – Cartoon Network and Nickelodeon – either prohibit or severely restrict such advertising.<sup>149</sup> The same document indicated that many of the cable networks popular with teens do not allow ads for M-rated games to air before 9:00 or 10:00 p.m.<sup>150</sup>

As in the case of the '35% under 17' standard that some movie studios purportedly follow for placement of R-rated movie ads, the Commission has observed that the ESRB's 35% standard does not necessarily limit the exposure of children under 17 to television ads for M-rated games.<sup>151</sup> Using Nielsen data, the Commission did not find any ads for M-rated games running between 6:00 a.m. and 10:00 p.m. that violated the ESRB's 35% rule. Nevertheless, a handful of game ads ran on shows with very high percentages of teens 12-17, including the MTV shows *Bully Beatdown* (23%), *College Humor Show* (28%), *Rob Dyrdek's Fantasy Factory* (27%), and *TI: Road to Redemption* (23%).<sup>152</sup>

### 2. Print ads

According to the ESRB, game companies ran afoul of the '45% under 17' rule for print magazines in only a few instances between July 2006 and December 2008.<sup>153</sup> As with the ESRB's television standard, the Commission has noted the leniency of the print advertising standard, which permits ads for M-rated games in game magazines widely read by teens.<sup>154</sup> Nevertheless, neither the Commission's ad



monitoring<sup>155</sup> nor its examination of company marketing plans indicated placements of print ads for M- or T-rated games in publications with substantial youth readerships.

### 3. New media and marketing methods

#### a. Internet and other digital marketing

##### *(1) Game publisher websites*

The ESRB requires “age gates” on game company websites for M- and AO-rated games to prevent users under the age of 17 (or 18 for Adults Only) to view a demo, trailer, or video for the game.<sup>156</sup> In addition, new rules now require (instead of recommend) that companies drop a session cookie, disable the back button, or take other reasonable measures (*e.g.*, redirecting the user to the home page) to prevent users from clicking back and re-entering the older age.<sup>157</sup>

The Commission examined fourteen websites for M-rated games to determine their compliance with the ESRB’s age-gate requirements.<sup>158</sup> Thirteen of the fourteen sites asked the visitor to disclose his or her age before viewing the site.<sup>159</sup> Twelve of the fourteen sites prevented the visitor from viewing the site if the visitor entered an age under 17,<sup>160</sup> and also did not let the user into the site if he or she went back and re-entered an age of 17 or older.<sup>161</sup>

##### *(2) Display ads*

In the 2007 Report, the Commission reported that its online ad review for twenty M-rated games revealed that all twenty had been advertised on websites popular with children under 17 during 2006.<sup>162</sup> Nielsen data for 2008 show some improvement; 40% of twenty top-selling M-rated games (with a content descriptor for violence) were advertised on websites highly popular with children 2-12 or teens 13-16.<sup>163</sup> According to Nielsen data, 30% of 20 best-selling T-rated games (with a content descriptor for violence) had been advertised on websites popular with children and teens.<sup>164</sup>

The Commission conducted a similar analysis with comScore data, examining Internet display advertising placements for twenty-four M- and twenty-one T-rated games for the period March through December 2008. According to comScore, 21% (5 of 24) of M-rated games were advertised on websites highly popular with children or teens.<sup>165</sup> Less than 10% (2 of 21) of T-rated games were advertised on websites highly popular with children 2-11.<sup>166</sup>

##### *(3) Viral and word of mouth marketing*

The ESRB has revised its advertising manual so that viral marketing campaigns must comply with ESRB’s target-marketing guidelines.<sup>167</sup> Several company marketing plans for M- and T-rated games submitted to the Commission described viral techniques, including releasing videos on YouTube.<sup>168</sup> One plan discussed creating a series of fake news videos that would be distributed virally. That plan and others mentioned the use of game-specific e-cards that users could send to their friends. The e-cards would direct people to the game website where they could view more game content and possibly acquire “rewards,” such as screensavers, wallpapers, printable stickers, and calendar widgets, that could be

shared with others. One company intended to track these rewards in order to determine how fast the reward was spread and who the “truly influential” were.<sup>169</sup> It is unclear whether these techniques are especially attractive to children.

#### b. Other non-traditional marketing activities

Prior versions of the ESRB’s advertising code prohibited companies from promoting M-rated games with another company’s brands, products, or services that are likely to reach a substantial audience of persons under age 17. The revised code also prohibits the cross-promotion of “adult” products (products or events featuring alcohol, nudity, gambling, or other adult themes) with a game carrying a rating less restrictive than Mature.<sup>170</sup>

For the first time, marketing plans submitted to the Commission mentioned cross-promotional arrangements with quick service restaurants. For example, a marketing plan for a T-rated game discussed a partnership with a quick service restaurant, whereby consumers could go to a website and create their own version of a trailer for the game. Also, it was reported that the M-rated game *Halo 3* was heavily cross-promoted with Burger King, Mountain Dew, and 7-Eleven Slurpees.<sup>171</sup> At this point, these types of promotions do not appear to be directed at younger children. Nevertheless, they likely appeal to many teens under age 17.



## B. Disclosure of Ratings and Reasons for Ratings

### 1. Advertising review

The Commission found that all 20 television ads reviewed displayed the ESRB rating clearly and prominently, along with an audio disclosure; however, only two displayed the games’ content descriptors.<sup>172</sup> An overwhelming majority of advertisers also complied with industry regulations regarding the disclosure of rating information in magazine ads. Furthermore, for the twenty game websites surfed to determine their compliance with certain ESRB disclosure requirements,<sup>173</sup> all displayed the ESRB rating and icon as well as the game’s content descriptors without requiring the



visitor to hold the cursor over the rating icon, findings consistent with the 2007 Report. Sixty percent of the game sites required the visitor to scroll down the web page in order to view the rating and content descriptors. All six retailers surveyed displayed the games' rating icons without scrolling, and five of six displayed the content descriptors for each game.<sup>174</sup>

## 2. Rating summaries

The 2007 Report suggested that the ESRB conduct research into why, according to the Commission's consumer research, a significant minority of parents reported that the system could do a better job of informing them about the level of violence, sex, or profanity in some games.<sup>175</sup> The ESRB followed the Commission's recommendation.<sup>176</sup> Focus groups and a telephone survey conducted by the ESRB in 2008 suggested that parents might benefit from supplemental information about the rating and content descriptors for each game.<sup>177</sup> The ESRB now provides rating summaries for all titles rated since July 2008. The summaries are available on ESRB's website (esrb.org) in a rating search result, on ESRB's mobile website (m.esrb.org), in ESRB's biweekly e-newsletters, and on thousands of websites that have deployed the ESRB widget. An example of a game's rating and content descriptors, as well as its rating summary, is set forth below.<sup>178</sup>



### RATING INFORMATION

#### Bionic Commando

**Platform:** Windows PC, Xbox 360, PlayStation 3

**Rating:** Mature

**Content descriptors:** Blood and Gore, Strong Language, Violence

**Rating summary:** This is a shooting action game in which players control a bionically-enhanced commando who battles a massive terrorist force. Players can traverse through a city in ruins and use a variety of firearms (guns, sniper rifles, etc) on enemy units. Weapons such as the hiker/sniper rifle can decapitate soldiers resulting in blood splatter that stains the environment and the player's screen. Frenetic combat is highlighted by screen shakes and realistic sound effects (gunfire, explosions, demolition) which add to the intensity of battle. Strong profanity (e.g., "f\*ck" and "sh\*t") can be heard in the dialogue.

## C. Industry Efforts to Enforce Rating System at Point-of-Sale

To assist parents in their gate-keeping role, video game retailers have implemented a robust system of checking for age identification when unaccompanied children attempt to buy M-rated games. It is unclear, however, whether or how this system will carry over to the emerging market for mobile games.

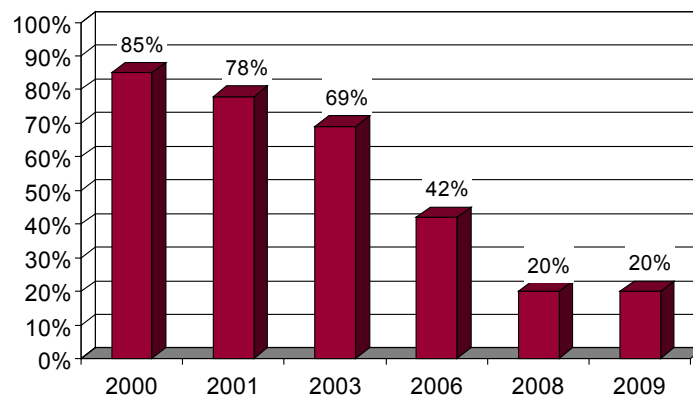
### 1. Mystery shop

The Commission obtained information from major video game retailers regarding their policies, if any, governing the sale of Mature-rated games to children.<sup>179</sup> All eight retailers have policies restricting the sale of M-rated games to children under 17,<sup>180</sup> and seven have implemented point-of-sale register systems that prompt the cashier to request photo identification when an M-rated game is scanned for

purchase. In addition, most of these retailers are part of the ESRB Retail Council (“ERC”),<sup>181</sup> which subjects its member companies to bi-annual mystery shopper audits.<sup>182</sup>

The Commission’s most recent undercover shop found that video game retailers enforced their age-restrictive policies 80% of the time, the same rate as the previous shop.<sup>183</sup> Game Stop and Target each denied sales of M-rated games to about nine of ten underage shoppers, while Wal-Mart, Hollywood Video, Best Buy, and Kmart spurned about three quarters of them. Toys “R” Us was the only retailer that substantially underperformed in the most recent shop, permitting 44% of the undercover shoppers to purchase an M-rated game.<sup>184</sup>

**Percent Able to Purchase M-rated Games**  
(Simple %)



## 2. Gift card purchases

For the first time, the Commission examined the use of gift cards to purchase M-rated games online. The Commission surveyed the practices of six retailers that sell M-rated games online – Best Buy, GameStop, f.y.e., Target, Toys “R” Us, and Wal-Mart. All of these retailers’ gift cards could be purchased with cash.

All six websites permitted the gift card user to purchase an M-rated game. During the purchase process, all six websites showed the ESRB M-rating for the game. Three sites provided some type of age-related warning and required an age certification before purchase,<sup>185</sup> although nothing would have prevented a younger consumer from lying about his or her age to order the game. One site required the user to enter credit card information before completing the purchase with the gift card, although apparently not for age verification purposes.<sup>186</sup>

## 3. Mobile phone games

The ESRB has not rated most mobile games.<sup>187</sup> Given the sheer volume of game applications currently available for mobile devices and the dramatic rate at which applications are proliferating,<sup>188</sup>

in the near term, responsibility falls on wireless carriers and individual publishers to provide content information and effective parental controls.<sup>189</sup>

The Commission examined the websites of AT&T, Apple, Nokia, Sprint, and Verizon Wireless<sup>190</sup> to assess the types of rating information provided for the advertised mobile games. All of the websites offered mobile games that contain violent content; some games were mobile versions of titles to which the ESRB had assigned an M-rating for their home console version. AT&T, Sprint, and Verizon did not offer any rating information for their mobile games.

Nokia displayed the age-based rating and content icons used by the Pan European Game Information (PEGI) system.<sup>191</sup> In the example below, the icon provides a designation of age appropriateness (12+) and the image of a fist to denote violent content.



Currently, Apple assigns games age-based designations (*e.g.*, “Rating 4+,” “Rated 9+,” “Rated 12+,” “Rated 17+”) and content descriptors (*e.g.*, “Frequent/Intense Realistic Violence”). In June 2009, Apple released a new operating system for the iPhone and iPod touch<sup>192</sup> that upgrades the parental control features to restrict downloadable movies based on MPAA rating and applications based on Apple’s age-based designations.<sup>193</sup> With the release of the new parental controls, the App Store now offers applications that carry a 17+ rating.<sup>194</sup>

Although mobile game sellers should be commended for instituting rating systems for their products, the proliferation of different systems has the potential to create consumer confusion with the ESRB ratings, a system with which parents are already familiar. Further, it is important that these alternative systems be credible and comprehensive.<sup>195</sup> For the time being, however, these new systems, coupled with effective parental controls, should assist parents in monitoring the content their children play on mobile devices.

#### **D. Analysis of Current Industry Practices**

As documented in past reports, the video game industry continues to do an excellent job of clearly and prominently disclosing rating information in television, print, and Internet advertising and on product packaging, although the industry still does not require that television ads disclose content descriptors nor that content descriptors appear on the front of the package. Further, the ESRB has been regularly enforcing its advertising code, particularly for the few instances of inappropriate target marketing. The Commission found no evidence of M-rated game ads on television programs with a substantial youth audience that aired prior to 10:00 p.m. and a decrease in the number of M-rated game ads on websites highly popular with teens or children. Nevertheless, a handful of M-rated games were advertised on television shows and Internet sites highly popular with teens. Overall, the Commission uncovered little evidence of inappropriate target marketing through the traditional media.

Major game retailers continue to prevent most children from being able to purchase M-rated games without parental permission. Still, the ESRB should monitor other avenues through which children may be able to obtain M-rated games without their parents' knowledge or consent, including through the use of retailer gift cards.

The ESRB followed the Commission's recommendation to conduct research into why, according to the Commission's 2006 study on video games, some parents felt the system could do a better job of informing them about the level of violence, sex, or profanity in some games. Based at least in part on such research, the ESRB now offers online ratings summaries that provide a more detailed explanation of the content that factored into a game's rating. This new online tool should prove useful to parents.

Finally, the Commission will monitor developments in the rating mechanisms employed for mobile games. In the meantime, carriers and publishers should continue to provide content information about mobile games and parental controls. Parents can use this rating information to assess the content of games that their children want to play.

## V. CONCLUSION

The Commission finds that the video game industry has made great strides in restricting the marketing of violent M-rated games to children. Although there remains room for improvement – particularly in the area of Internet advertising – the video game industry outpaces the movie and music industries in the three key areas that the Commission has been studying for the past decade: (1) restricting target-marketing of mature-rated products to children; (2) clearly and prominently disclosing rating information; and (3) restricting children's access to mature-rated products at retail.

### *Target-Marketing*

The Commission found a few ads for M-rated games on television shows popular with children and teens airing before 10:00 p.m. (although none of these ad placements violated ESRB rules); these placements, however, appear to be the exception. By contrast, many more ads for R-rated movies and explicit-content music ran on television programs that disproportionately attract children and teens. The marketing of R-rated movies on such shows is inconsistent with the rating, which indicates that the movie contains some adult material and advises that children under 17 cannot be admitted without a parent or guardian. Similarly, the marketing of explicit-content music on television shows with a substantial number of child viewers is inconsistent with the PAL, which advises parents that some material may not be appropriate for children. Thus, the movie industry needs to do a better job of policing the shows on which ads for R-rated movies are permitted, and the music industry should establish objective marketing standards to limit the placement of ads for PAL music.

All three industries have done a good job restricting advertising of their mature-rated products in print publications with a significant child readership. These industries, however – especially the movie industry – can do a better job of limiting ads placed on websites that disproportionately attract children and teens. In addition, the movie industry has permitted red tag trailers containing restricted content to proliferate on major video hosting websites that either lack age gates limiting access to the

content or have age gates that are far too easy to bypass. Finally, because of potential confusion over the MPAA's revised rules regarding the new "appropriate audience" trailers, studios and theater owners need to be especially careful when assessing whether such trailers are consistent with the content of the feature films they precede.

Based on the marketing plans the Commission reviewed and the ad placements it tracked, it is apparent that movie studios directly and pervasively market PG-13 movies to children under 13 on television, in print, and on the Internet, even though the rating is supposed to represent a strong caution to parents that some material may be inappropriate for children under 13. The Commission reiterates that this practice is an "end run" around the parental review role. The MPAA should adopt an explicit policy against marketing any PG-13-rated movie directly to children, as the ESRB has done for T-rated games. That policy should include objective criteria about the content and placement of advertising in various media – television, print, the Internet, and other venues popular with young children. Further, the MPAA should broaden its rules to encompass marketing through promotional partnerships with other industries, such as packaged foods, quick service restaurants, and toy manufacturers.

### ***Ratings Disclosure***

All three industries generally do a good job disclosing rating information in television and print advertising, although video game content descriptors generally do not appear in television ads, and movie rating reasons and the PAL often are difficult to read, especially in television and newspaper ads. Further, the movie and video game industries are doing a good job with online disclosures. Not so with the music industry, where only half of the official artist and record company websites reviewed by the Commission displayed the PAL logo, and most of those were not legible; music retailers and online download sites were the exception. The Commission commends the ESRB for its new online ratings summaries, which provide a more detailed explanation of the content that factored into a game's rating. This tool should enhance parental understanding of the ratings and the ratings process.

As to disclosures on product packaging, Commission research confirms that parents would benefit from more prominent display of rating information on DVDs. The Commission again recommends that the MPAA require the rating symbol and rating reasons be displayed prominently on the front panel of DVD cases and other packaging in a specific format and size. Although the PAL and ESRB rating information on packaging is clear and prominent, the Commission renews its recommendations that the ESRB place the content descriptors on the front of the package and that the entire music industry follow the lead of Sony Music Entertainment and use an enhanced PAL that provides additional information about the explicit content (e.g., "Strong Language" or "Sexual Content").

With respect to unrated DVDs, the MPAA should either re-rate DVD releases or, at a minimum, require that all forms of advertising (not just print ads and packaging) disclose the movie's original rating and rating reasons and that the unrated version contains material different from the rated version. The movie industry also needs to rein in DVD packaging that blatantly hypes the lack of an MPAA rating as a selling feature. This practice disparages the MPAA system. Further, the Commission's research shows that many parents do not realize, and are concerned, that unrated DVDs may contain

additional violent or adult content that would have triggered a more restrictive rating had it been included in the theatrical version. Parental concern is all the more palpable when viewed in light of retailers' poor job restricting sales of unrated DVDs to children. The MPAA needs to take additional steps to inform parents and give them the tools to assess whether unrated versions are appropriate for their children.

### *Access Restrictions*

Video game retailers generally are doing a good job restricting children's access to M-rated games, denying sales to 80% of underage shoppers. In contrast, many of these same retailers – particularly Target and Best Buy – are doing a poor job restricting children's access to R-rated and unrated DVDs and PAL music. There is no reason these retailers cannot appropriately restrict sales for these products as well. Theater owners performed much better than DVD retailers, denying admission to 72% of underage shoppers. Finally, retailers need to monitor other avenues through which children may be able to obtain R-rated and unrated DVDs, PAL music, and M-rated games without their parents' knowledge or consent, including through the use of retailer gift cards.

In conclusion, the Commission is committed to ensuring that parents have the information they need to decide which entertainment products are appropriate for their children. Although the Commission has identified areas where the entertainment industry can improve its self-regulatory programs, in light of First Amendment considerations, the Commission continues to support self-regulatory efforts to implement these recommendations. Following a reasonable period of monitoring industry practices and consumer concerns and recognizing the importance of continued oversight in this area, the Commission will issue another report.



## Endnotes

1. Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries: A Report of the Federal Trade Commission (Sept. 2000) (hereafter “2000 Report”), *available at* [www.ftc.gov/reports/violence/vioreport.pdf](http://www.ftc.gov/reports/violence/vioreport.pdf).
2. *Id.* at iii-iv.
3. *See id.* at App. F, *available at* [www.ftc.gov/reports/violence/appendicesviorpt.pdf](http://www.ftc.gov/reports/violence/appendicesviorpt.pdf).
4. *Id.* at 54-55.
5. Marketing Violent Entertainment to Children: A Six-Month Follow-Up Review of Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries: A Report to Congress (Apr. 2001) (hereafter “April 2001 Report”), *available at* [www.ftc.gov/reports/violence/violence010423.pdf](http://www.ftc.gov/reports/violence/violence010423.pdf).
6. Marketing Violent Entertainment to Children: A One-Year Follow-Up Review of Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries (Dec. 2001) (hereafter “December 2001 Report”), *available at* [www.ftc.gov/os/2001/12/violencereport1.pdf](http://www.ftc.gov/os/2001/12/violencereport1.pdf).
7. Marketing Violent Entertainment to Children: A Twenty-One Month Follow-Up Review of Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries (June 2002) (hereafter “2002 Report”), *available at* [www.ftc.gov/reports/violence/mvecrpt0206.pdf](http://www.ftc.gov/reports/violence/mvecrpt0206.pdf).
8. Marketing Violent Entertainment to Children: A Fourth Follow-Up Review of Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries (July 2004) (hereafter “2004 Report”), *available at* [www.ftc.gov/os/2004/07/040708kidsviolencerpt.pdf](http://www.ftc.gov/os/2004/07/040708kidsviolencerpt.pdf).
9. Marketing Violent Entertainment to Children: A Fifth Follow-Up Review of Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries (Apr. 2007) (hereafter “2007 Report”), *available at* [www.ftc.gov/reports/violence/070412MarketingViolentEChildren.pdf](http://www.ftc.gov/reports/violence/070412MarketingViolentEChildren.pdf).
10. The Commission recommended that the video game industry tighten its existing placement restrictions on advertising in venues reaching a significant under-17 audience, and that the movie and music industries adopt specific guidelines on audience share. The Commission also recommended that all three industries consider using a range of factors to identify marketing venues popular with teens, including not just audience share, but also the total number of children reached, the popularity with children, and the apparent ages of characters or performers. *Id.* at 31-32.
11. The Commission recommended that the movie industry place both the rating symbol and reasons on the front of DVD packaging and that the video game industry, which already places its rating on the front of the package, also include the content descriptors on the front. The Commission also urged the music industry to provide more detailed information on packaging and in advertising about the basis for its Parental Advisory Label. *Id.* at 32-33.
12. The Commission contacted the following industry trade associations: the Motion Picture Association of America, Inc., the National Association of Theater Owners, the Recording Industry Association of America, the Entertainment Software Rating Board, and the Entertainment Merchants Association.
13. The Commission obtained information from the following entertainment companies: Paramount Pictures, Universal Studios, Warner Bros. Entertainment, Inc., Sony Music Entertainment, Universal Music Group, Warner Music Group, Electronic Arts, Microsoft Game Studio, and Take-Two Interactive Software, Inc.
14. Motion Picture Association of America (“MPAA”), *Theatrical Market Statistics*, at 1 (2008), *available at* [www.mpa.org/2008%20MPAA%20Theatrical%20Market%20Statistics.pdf](http://www.mpa.org/2008%20MPAA%20Theatrical%20Market%20Statistics.pdf) (last visited Aug. 4, 2009).
15. *Id.* at 4.
16. Diane Garrett, *DVD Sales Down 5.5% in '08*, *Variety* (Jan. 7, 2009), *available at* [www.variety.com/article/VR1117998174.html?categoryid=20&cs=1](http://www.variety.com/article/VR1117998174.html?categoryid=20&cs=1) (last visited Nov. 10, 2009); *DVD Sales Drop Once Again in 2008*, *available at* [www.afterdawn.com/news/archive/16627.cfm](http://www.afterdawn.com/news/archive/16627.cfm) (last visited Nov. 10, 2009).
17. MPAA, *Theatrical Market Statistics*, *supra* note 14, at 6.
18. *Id.* at 7.
19. *See Marketing of Violent Motion Picture Products to Children*, Hearing Before the S. Committee on Commerce, Science, and Transportation (106th Cong.) (Sept. 27, 2000) (Statement of Jack Valenti, President and CEO, MPAA), *available at* [frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106\\_senate\\_hearings&docid=f:85586.wais](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_senate_hearings&docid=f:85586.wais) (last

visited Aug. 21, 2009). Although not every movie studio is an MPAA member, the majority of larger studios subscribe to the twelve-point initiative.

20. *See id.* (statements of Jim Gianopulos, Chairman, Fox Films; Alan Horn, President and COO, Warner Brothers; and Chris McGurk, Vice Chairman and Chief Operating Officer, MGM).  
The Commission previously has observed that the 35% standard has little impact on the studios' ability to place ads for R-rated films on shows popular with children under 17. *See* December 2001 Report, *supra* note 6, at 5. Some cable television shows that disproportionately attract a subset of children under 17 (e.g., a show for which teens 12-17 are 20% or more of the audience) do not trigger the 35% threshold when the entire 2-17 viewership of the show is measured. For example, the MTV show *Double Shot at Love* averaged a 34% 2-17 viewership during the 2008-09 television year, so ad placements on this show would not exceed the 35% threshold. Viewership among teens 12-17 averaged 26%, however, a higher teen percentage than shows that would exceed the 35% threshold, such as *106 & Park*, *Aqua Teen Hungerforce*, *The Kids Choice Awards*, and *The Oblongs*. *See* App. E, Table 1.
21. The MPAA suggests that parents make the decision based on the age, maturity and sensitivity of each child and the content of the movie. The MPAA distinguishes the PG-13 rating from the R rating on the basis that the PG-13 rating imposes no age restriction on admission. According to the MPAA, admission of children under 13 is permitted and may often be appropriate. *See, e.g.*, Letter from Gregory P. Goeckner, Exec. V. Pres. and General Counsel, MPAA, to Josh Golin, Associate Director, Campaign for a Commercial-Free Childhood (May 16, 2008).
22. Specifically, the agreement governs placement of advertising for films rated PG-13 or higher in or adjacent to programming primarily directed to children under 12 years of age. If the ad was placed in error, CARU asks the advertiser to pull the ad and then closes its inquiry once the advertiser complies. If the ad was placed intentionally, CARU refers the matter to the MPAA's Advertising Administration to determine whether the film is appropriate to be advertised to children. *See* CARU, *CARU Refers Advertising for Paramount's 'Drillbit Taylor' to MPAA for Further Review* (May 20, 2007), available at [www.caru.org/news/2008/CARU-Drillbit-Taylor-final.pdf](http://www.caru.org/news/2008/CARU-Drillbit-Taylor-final.pdf) (last visited Aug. 20, 2009).
23. *See* App. E, Table 2a. CARU's referrals document advertising of these films on children's networks, primarily Cartoon Network and Nickelodeon, during all dayparts from 8:30 a.m. to 8:00 p.m., with most examples citing placement between 5:00 p.m. and 7:30 p.m. Nielsen data show that children 2-11 comprised from 46% to 62% of the audience during those times.
24. MPAA Advertising Administration Rules at Article II, § 2 (Jan. 1, 2009) (on file with Commission staff).
25. *Id.* at Art. II, § 5.
26. *Id.*
27. Theatrical trailers promote upcoming motion pictures and appear directly before the feature motion picture but after any in-theater advertising. Trailers also may run as television advertisements.
28. According to MPAA rules, "appropriate audience" advertising "contains some material that is not appropriate for all viewers, but is acceptable for the age-appropriate audiences that will be viewing it." Advertising Administration Rules, *supra* note 24, at Art. II, § 5. Such advertising cannot include "excessive or graphic images of violence or sex, excessive profanity, or drug usage." *Id.* "While some stronger content may be permitted in Appropriate Audience Advertising, not all scenes from a PG-13, R, NC-17 or not yet rated motion picture may be approved for inclusion in such advertising." *Id.* "Appropriate audience" trailers may run only before movies rated NC-17, R, and certain PG-13 movies approved by the MPAA that do not "draw younger audiences." *Id.* at Art. III, § 3. *But see* note 29, *infra*.
29. According to the MPAA, in the near future, all green tag trailers – including trailers for G- and PG-rated films – will be designated as "appropriate audiences" trailers.
30. *See, e.g.*, Nell Minow, *For Trailers, Green Now Means Watch Carefully*, Chicago Sun-Times (Sep. 4, 2009) ("[A] trailer for a film rated PG-13 for violence may appear before a movie rated PG-13 for language, so that might not be an 'appropriate' audience."), available at [www.suntimes.com/entertainment/movies/1752078.MOV-News-trailers04.article](http://www.suntimes.com/entertainment/movies/1752078.MOV-News-trailers04.article) (last visited Sep. 30, 2009).
31. The 2007 Report did not find evidence that studios were explicitly targeting children under 17 in their marketing of R-rated movies, although it did find some examples of marketing to audiences with a substantial portion under 17, including some media campaigns directed at "high school students." Individual studios generally complied with standards that prohibited placement of ads in media with an under-17 audience share over 35%, but this standard had little impact on studios' ability to place ads on television shows popular with teens. The report also found that Internet

and viral marketing for R-rated movies often reached audiences with substantial teen and younger audiences. 2007 Report, *supra* note 9, at 4-6.

32. Of the 20 violent PG-13 films reviewed for its 2000 Report, the Commission found that nine, or 45%, targeted children 11 and younger, including children as young as 6. The 2000 Report cited ads placed on Cartoon Network and Nickelodeon along with extensive use of tie-ins, noting that “[t]oys, children’s clothing, and fast food appear to be the primary promotional method for generating interest in PG-13 movies among children 11 and younger.” 2000 Report, *supra* note 1, at 13-17. See also 2004 Report, *supra* note 8, at note 30 (citing examples of ads during children’s programming on Cartoon Network, ABC Family, and Nickelodeon).
33. Prior to the release of another PG-13 movie, a second studio conducted copy tests of trailers and television ads among various age groups, including children ages 10 to 12. The copy test included 600 subjects ages 13 to 49 and 200 subjects ages 10 to 12. The studio noted that the “perceived scariness of film is somewhat problematic for many kids.” Instead of deciding not to advertise the movie to young children, the studio chose to alter its advertising approach, recommending that “for kids and women, be sure to avoid making [the main character] seem too scary” in ads.
34. Many of the broadcast and cable networks restrict when and where R-rated movie ads can be placed, based both on the particular movie and on the content of the specific ad. In one instance a network rejected an ad due to violence (depiction of neck being snapped) and profanity.

In some cases, networks limit specific ads to post-9:00 p.m. prime time or later. MTV, for example, limited ad placement for one R-rated movie to post-11:00 p.m. and its adult networks only. Nevertheless, many children and teens watch MTV after 11:00 p.m. For example, nearly 31% of the audience for the 2009 MTV Movie Awards were children and teens, as was the case with the show *From G to Gents: Aftershow*. Both of these shows ran ads for R-rated movies. Similarly, children under 18 make up a very high percentage of the following Adult Swim Network shows, which air post-11:00 p.m.: *American Dad* (43%), *Aqua Teen Hungerforce* (39%), *The Oblongs* (42%), *The PJ’s* (46%), and *Tim & Eric Awesome Show* (40%). According to Nielsen, ads for six violent R-rated films ran on these shows during the 2008-09 television season.

Some networks also prohibit placement of ads for R-rated movies on specific general audience and family-oriented programs. Fox, for example, prohibited ad placement for one R-rated movie during *American Idol*, while TNT/TBS prohibited ads for the same movie during the *Cosby Show* and *Home Improvement*, and ABC during *Extreme Home Makeover*. Others limit placement based on the rating of the television show. MyNetworkTV, for example, restricted certain ads for one movie to TV-14 only, and prohibited other ads on TV-G programs.

35. See *supra* note 20. Although data for audiences under 17 would be the most relevant, age 17 is a standard age break category for television audience measurement.
36. The specific airing of *Room Raiders* on which the ad for *Observe & Report* ran had a 44% under-18 audience.
37. Ads for these movies appeared on one or more of the following MTV shows: *Teen Cribs* (37% under 18), *Parental Control* (36%), *Room Raiders* (40%), and *Viva La Bam* (36%). There also were numerous ads for R-rated films on BET’s *106 & Park* (37%). Some individual airings of these shows had even higher under-18 audience compositions. For example, ads for *Sunshine Cleaning* ran on an episode of *Parental Control* that had a 45% under-18 audience, *Crank* ads ran on an episode of *Room Raiders* with a 44% under-18 audience, and a *Next Day Air* ad ran on an episode of *Viva La Bam* with a 47% under-18 audience.
38. Ads for the violent R-rated films *Crank: High Voltage*, *Last House on the Left*, *Observe & Report*, *Next Day Air*, *Sunshine Cleaning*, and *Taking of Pelham 123* ran on one or more of the following MTV shows with high percentages of 12- to 17-year-olds: *Bully Beatdown* (23%), *Made* (26%) *Nitro Circus* (24%), *Rob Dyrdek’s Fantasy Factory* (27%), and *TI: Road to Redemption* (23%).
39. Both Nickelodeon and the Cartoon Network appear to accept ads for PG-13 movies on a case-by-case basis. In some instances, they restrict advertising for violent PG-13 movies to certain times of day, typically after 5:00 p.m. As noted above, however, a majority of the audience for these networks is between the ages of 2 and 11, regardless of the time of day. See App. E, Tables 2a and 2b.
40. Based on Nielsen Media Research data for 2007, cited at [www.cablemediasales.com](http://www.cablemediasales.com). As noted in Appendix E, for some dayparts and programs the children’s audience is even higher.
41. According to Nickelodeon rating data, the 2008 Kids’ Choice Awards earned the top television spot with kids (6-11) and tweens (9-14) for the week and the highest ratings ever among kids 2-11. The show had a total of 7.4 million viewers, of which 3.8 million were children 2-11. Nickelodeon’s 2008 Kids’ Choice Awards Rating Release (Apr. 1, 2008), available at [www.nickkcapress.com/2008KCA/](http://www.nickkcapress.com/2008KCA/) (last visited Aug. 18, 2009).

42. The Commission noted in its 2000 Report that “[t]oys, children’s clothing, and fast food appear to be the primary promotional methods for generating interest in PG-13 movies among children 11 and younger.” 2000 Report, *supra* note 1, at 17. The studios do not similarly promote R-rated movies with this technique.
43. One major food company, for example, promoted themed products for a violent PG-13 movie across multiple food categories on 170 million packages in the U.S. The tie-in included television ads, packaging featuring the movie, action figures inside cereal boxes, sweepstakes, movie ticket offers, and coupons to purchase toys. The extensive cross-promotion occurred despite the company’s awareness that parents were likely to object. Internal messaging documents and “frequently asked questions” prepared in connection with the cross-promotion included questions like, “So what do you say to parents who get frustrated with [the company] for hyping a film inappropriate for their young children?”
44. The general marketing plan for the movie indicates the studio’s plan to use the film as a marketing tool for the general brand, noting that “consumer products will target boys 3-11 even though the movie will target an older demo.”
45. In conducting consumer research for release of the movie on DVD, the studio found that 22% of women 35-49 responded that they were not interested in buying the DVD because “the movie looks too disturbing for my kids to see.”
46. The studio directed its managers to use such local promotions to “especially target the younger audience that is not as familiar with the [movie’s] franchise.”
47. Marketing Food to Children and Adolescents: A Review of Industry Expenditures, Activities, and Self-Regulation (July 2008) (hereafter “2008 Food Marketing Report”), *available at* [www.ftc.gov/os/2008/07/P064504foodmktgreport.pdf](http://www.ftc.gov/os/2008/07/P064504foodmktgreport.pdf).
48. One studio estimated that its cross promotions with kids’ meals, candy, chips, cupcakes, and other licensed products generated over 1.2 billion impressions and garnered substantial exposure for the movie among children. The studio noted “825 GRP in Kid’s TV Advertising” for one tie-in with a restaurant chain kids’ meal. GRP, or gross rating points, is a measure of the percentage of the target population exposed to an ad times the frequency of exposure. The effectiveness of the tie-ins are also evident from the increase in sales for food companies. Burger King, for example, credited its 2008 cross-promotions of *Iron Man*, *Incredible Hulk*, and *Indiana Jones and the Kingdom of Crystal Skull* with a 5.5% increase in its fourth quarter U.S. sales. Emily Bryson York, *BK Enjoys a Blockbuster Summer: Tie-ins with Action Hits Such As ‘Iron Man’ Help Boost Sales*, Advertising Age (Aug. 21, 2008).
49. The Campaign for a Commercial-Free Childhood (“CCFC”) monitored daytime television ads on children’s networks for four violent PG-13 movies released in 2009. From March 17 through June 14, 2009, the CCFC noted a total of 2,734 television commercials for *X-Men Origins: Wolverine*, *Star Trek: Terminator Salvation*, and *Transformers: Revenge of the Fallen*, all rated PG-13 for violence and other reasons. These ads ran on Nickelodeon, Nicktoons, Cartoon Network, and Disney XD between the hours of 6:00 a.m. and 8:00 p.m. Of the 2,734 ads, 51% were for Burger King Kids Meals (487 ads) or for toys featuring the movie (915 ads). Letter from Susan Linn, Director, CCFC, to Jon Leibowitz, Chairman, FTC (June 24, 2009), *available at* [www.commercialexploitation.org/pdf/lettertoftcjune09.pdf](http://www.commercialexploitation.org/pdf/lettertoftcjune09.pdf) (last visited Aug. 18, 2009). The CCFC also noted that, between July 6 and July 26, 2009, about 200 ads aired on these networks between 7:00 and 8:00 p.m. for the PG-13 movie *GI Joe: The Rise of the Cobra*. In addition, over 500 ads for toys featuring the movie ran during the same time-frame throughout the day. Letter from Susan Linn, Director, CCFC, to Jon Leibowitz, Chairman, FTC (Aug. 5, 2009) (on file with Commission staff).
50. Advertising Administration Rules, *supra* note 24, at Art. II, § 1.
51. The FTC drew these examples from the Internet and not from submissions by studios.
52. The Commission reviewed issues of teen-oriented magazine publications *Cosmo Girl*, *J-14*, *Nickelodeon*, *Nintendo Power*, *Seventeen*, *Sports Illustrated for Kids*, and *Thrasher* from August 2008 through June 2009.
53. See App. E, § III for a discussion of methodology.
54. See 2007 Report, *supra* note 9, at 6 (18 of 20 R-rated films advertised on websites where under-17 visitors constituted one third or more of the audience).
55. Those sites were Runescape, Neopets, and WWE Superstars.
56. Those sites were AnimeCubed, AnimeLyrics, AnimeNewsNetwork, AZLyrics, CheatCodes, Deviantart, FamousVH1Friends, FanFiction, FileFactory, FlavorofLoveWorld, GaiaOnline, GameWinners, HotFreeLayouts, IamonTV, LyricsMania, ModTheSims2, Monstrous, MovieWallpaper, MyYearbook, NextOrNot, Playlist, RuneHQ, SaiyanIsland, SatanSpace, SuperCheats, TeenSpot, The-N, Xfire, and Zwinky.
57. Letter from Gregory P. Goeckner, Exec. V. Pres. and General Counsel, MPAA, to Keith Fentonmiller, Senior Attorney, Federal Trade Commission, at 11 (Mar. 30, 2009) (on file with Commission staff). Between April 2007 and March 2009, the MPAA approved 37 restricted trailers. *Id.*



58. Generally, in the view of the Advertising Administration, a suitable age-gate for the movie's official site demands not only the user's birth date, but additional information, such as a zip code, and confirms the information using a proprietary database to validate the user's identity. *Id.*
59. *Id.* The Advertising Administration reports that, at least on a weekly basis, it "routinely monitors popular websites to ensure that materials approved only for limited audiences are not publicly available" and that since April 1, 2007, it has contacted distributors on over 50 occasions regarding the appearance of restricted material on third-party sites. *Id.* at 12.
60. The Commission surveyed six video-hosting websites – CraveOnline, Hulu, IMDB, VideoAOL, Yahoo (Video Search), and YouTube – with respect to red tag trailers for the following R-rated movies: *Adventureland*, *Bruno*, *Crank 2*, and *Observe & Report*.
61. VideoAOL provided links to other sites hosting red tag trailers, but did not host the trailers on site.
62. Yahoo (Video Search) and YouTube. Three other sites, however, required the visitor to disclose his or her age before viewing the red tag trailer. When attempting to view a red tag trailer at CraveOnline.com, the following message appeared: "WARNING: MATURE CONTENT. The content you requested is intended for viewing by mature audiences only. Some viewers may be offended by the content. Clicking the 'OK' button below certifies that you are 18 years of age or older." When the user attempted to view the trailer at another time on the same computer, this warning no longer preceded the trailer.
- After clicking on a red tag trailer for *Adventureland* or *Bruno* at Hulu.com, the following message appeared, "This video is intended for mature audiences. To view this video, please first login to your account. Or sign up for a Hulu account." Registration at Hulu.com requested date of birth information, and the site would not permit the user to view the trailer if an age under 17 was entered.
- At IMDB.com, after clicking on a red tag trailer for *Adventureland* or *Bruno*, the following message appeared: "The following video contains material that is inappropriate for audiences under the age of 17. If you are 17 or older, please login or register to view this video." Registering at IMBD.com required the user to enter his or her year of birth. The trailers could not be viewed if the user registered an age younger than 17.
63. Appendix D, Table 6 provides complete results of the red tag trailer survey.
64. The Commission reviewed issues of *The New York Times*, *USA Today*, and *The Washington Post* newspaper publications and Best Buy, Target, and Toys "R" Us Sunday circulars from September 2008 through May 2009.
65. One independent film, *Che: Part Two*, did not have any rating advertised, but according to IMDB.com was rated R.
66. According to MPAA rules, the minimum dimensions for the full rating block are 1¾ inches wide by 1½ inches high. Advertising Administration Rules, *supra* note 24, at Art. III, § 3.
67. For example, in the *Best Buy* circular for the week of October 26, 2008, the word "Unrated" on the *SAW IV* DVD was covered by another DVD, and in the *Best Buy* circular for the week of March 4, 2009, the word "Unrated" on the *Role Models* DVD was covered by the item's price.
68. *See* App. D, § 1.
69. The Commission examined the practices of 12 motion picture theater chain websites in February 2009 – AMC Entertainment Inc., Carmike Cinemas, Inc., Cinemark USA, Inc., Consolidated Theatres, Dickinson Theaters, Harkins Theatres, Hollywood Theatres, Kerasotes Theatres, Marcus Theatres Corp., National Amusements, Inc., Rave Motion Pictures, and Regal Entertainment Group. The theaters were selected because they each comprise at least 1% of the market based on number of screens, according to data from the National Association of Theater Owners ("NATO"). With the exception of Hollywood Theaters and Rave Motion Pictures, these theater chains are all members of NATO.
70. The Commission examined the practices of two online movie ticket sellers in February 2009 – Fandango.com and Movietickets.com.
71. *See* App. D, Tables 1-3.
72. *See* App. D, Table 1.
73. *See* App. D, Table 4. The Commission examined the practices of five online retailers in February 2009 – Amazon.com, BestBuy.com, eBay.com, fye.com, and Walmart.com – with respect to the following unrated movie DVDs: *My Best Friend's Girl*, *Pineapple Express*, *Postal*, *Saw V*, and *Tropic Thunder*.

74. Best Buy, f.y.e., and Wal-Mart all provided cautionary statements before purchasing the DVD. Best Buy provided a link on the movie's informational page to the Common Sense Media website, which provided a more detailed review of the movie as well as a recommended age for viewing. At f.y.e., unrated films were marked with "flags" that provide information akin to rating reasons, such as "Violence, Profanity, Sexual Situations, Drug Content." Additionally, when putting an unrated DVD in the user's cart at fye.com, a warning at the top of the page stated, "Please Note: You must be 18 years of age or older to purchase any product with a rating of R, NC-17, M or AO." Similarly, at Walmart.com, when attempting to add an unrated movie to the user's shopping cart, the following warning appeared: "Warning: This title is intended for mature audiences. You must be 17 or older to purchase this item. It may contain intense violence, blood and gore, sexual content or strong language. By ordering this item, you are certifying that you are at least 17 years of age. If you agree to the above terms and conditions, click I Agree. To close this window without ordering the selected item, click Cancel."
75. See App. D, Table 5. In the 2007 Report, all of the DVD rental websites displayed the movie's correct MPAA rating, and three of the five displayed the movie's official rating reasons. See 2007 Report, *supra* note 9, at 7 & App. D at D-5.
76. The FTC made this recommendation initially as part of its June 2002 Report and reiterated it in two subsequent reports. 2002 Report, *supra* note 7, at 10-11; see also 2004 Report, *supra* note 8, at 29 and 2007 Report, *supra* note 9, at 32. As the Commission noted in its July 2004 Report, more prominent rating information on DVD packaging would make it easier for parents to use and would also assist retail store clerks in enforcing policies against selling R-rated DVDs to children. 2004 Report, *supra* note 8, at 29.
77. The 2009 MPAA Advertising Administration Rules require that home entertainment packaging, like other advertising, include the rating symbol and specific rating reasons "displayed in upper-case lettering, of sufficient contrast to the background and large enough to be legible, and placed in a prominent position." Advertising Administration Rules, *supra* note 24, at Art. III, § 3. These recently updated rules, like earlier guidelines, do not appear to be consistently followed by the industry, however, nor do they include specific standards governing the location or size of rating information on DVD cases.

By contrast, the Entertainment Software Rating Board ("ESRB") requires that the rating be prominently displayed in a fixed size, format, and location on the front panel of video game packaging. The rating is repeated on the back with additional rating information. As a result, video game rating graphics are substantially larger and more prominent than those for DVD cases and other movie packaging. The ESRB rating symbol must appear on the front lower corner of the package, with dimensions of either 12x17mm, 14x21mm, or larger, depending on the size of the package. The content descriptor box must be on the back lower corner of the package, again in a specific font and size. See ESRB, ARC Manual: Principles and Guidelines for Responsible Advertising Practices & Advertising Code of Conduct for the Interactive Entertainment Software Industry, at § IV.A.1 (effective June 15, 2009) ("ARC Manual") (on file with Commission staff). The MPAA rating symbol (without the rating reasons box) is often as small as 5x5mm and appears on the lower back panel.

78. Movies were selected that included violent content as one of the rating reasons, but did not contain obvious depictions of violence in the cover art.
79. The altered graphic of the rating information adhered to the MPAA format and design, but was enlarged to approximate the size of rating graphics used by the ESRB for front-of-pack display.
80. All differences reported are statistically significant at  $p < .05$  (two-tailed test), unless otherwise noted.
81. As a secondary focus, the study also attempted to measure the impact of rating placement on parents' decision about whether to let their child watch a movie. The rating appears to be a significant, but not overriding, factor parents consider in their decision. Approximately one fourth (24%) of all parents mentioned the rating as either the main reason or one reason why they would or would not let their child watch the DVD. Other reasons given related to the genre and subject of the movie, the likely appeal for their child, and a variety of other factors. Because many factors go into the decision, it is difficult to isolate the role of rating placement on parents' decisions and draw any clear conclusions. Of the 209 parents shown an altered DVD case, 58.4% said they were very or somewhat likely to let their child watch the movie. Of the 213 parents shown an unaltered DVD case, 65.7% were very or somewhat likely to let their child watch the movie. The difference was not statistically significant.
82. The undercover shops have shown steady improvement in the percentage of movie cashiers who ask the shoppers for age identification – from a low of 39% in the 2001 survey to a high of 70% in the most recent shop. The 4% improvement from last year's shop is not statistically significant. See App. A, Table 4.
83. See App. A, Table 2. Appendix A includes a discussion of the methodology used to select the theater chains and retailers for the shops, as well as the number of shops at each theater and retailer. Retailers with relatively small market



shares ended up being oversampled because the Commission established a minimum number of shops for each retailer (at least 14 or 15). Consequently, the results may change when adjusted for market share.

84. Those retailers were: Barnes & Noble, Best Buy, Blockbuster, Borders, Kmart, Target Corporation, Trans World Entertainment, and Wal-Mart Stores, Inc. The Commission also obtained information from these retailers regarding their policies, if any, governing the sale of R-rated and unrated movies to children under 17. In the past, retailers had pointed out the difficulty of establishing age enforcement policies for unrated DVDs because many do not necessarily contain restricted or adult content. *See* Letter from Crossan R. Andersen, President, Entertainment Merchants Association, to Richard F. Kelly, Senior Attorney, FTC, at 6 (Sept. 15, 2006). In theory, this difficulty might be eased by the MPAA's new rule requiring that packages for unrated DVDs of previously rated movies disclose the original rating. *See infra* note 102.
85. *See* App. A, Table 1. When weighted for market share, 42% of shoppers were able to purchase the R-rated DVDs, and 47% were able to purchase the unrated DVDs. This figure reflects both Wal-Mart's large market share and its superior performance in restricting underage sales.
86. *See* App. A, Table 5. Cashiers performed slightly better in asking the underage shoppers their age when presented with an R-rated or unrated DVD for purchase. For R-rated DVDs, less than five in ten cashiers asked for age identification (six in ten when weighted by market share). For unrated DVDs, about four in ten asked the age question (five in ten when weighted by market share). *See* App. A, Table 4. From a statistical standpoint, these results represent no change from retailers' performance last year.
87. *See* App. A, Tables 2B and 2C. Only three of the retailers subject to the Commission's undercover shop have policies restricting the sale of R-rated and/or unrated DVDs to children. Blockbuster, Kmart, and Wal-Mart have implemented automated systems that prompt cashiers to ask for age identification whenever an R-rated DVD is scanned for purchase. Blockbuster and Kmart also have a register prompt for unrated DVDs. A fourth retailer, Trans World, has a policy not to sell "mature" content movies to children, but this policy does not cover R-rated and unrated movies with previously rated versions.
88. The f.y.e. website did not provide any information on the MPAA rating system.
89. Walmart.com advised that users must be at least 17 or older in order to purchase either an M-rated game or an R-rated movie. Before adding either game or movie to the shopping cart, the users had to click on the "I Agree" button to certify they were at least 17 years of age, or click on the "Cancel" button to close the window without ordering the selected item.
90. Letter from Crossan R. Andersen, President & CEO, EMA, to Keith Fentonmiller, Senior Attorney, Federal Trade Commission, at 4 (Mar. 19, 2009) (hereafter "2009 EMA Letter") (on file with Commission staff).
91. *Id.*
92. *Id.*; *see also* 2007 Report, *supra* note 9, at 10.
93. 2009 EMA Letter, *supra* note 90, at 4.
94. Redbox, by far the largest of the kiosk providers, does not rent movies rated NC-17 or unrated versions of previously rated films. Although its kiosks do not provide rating reasons, Redbox warns consumers who select an R-rated movie that the DVD "likely contains scenes with violence, nudity, or graphic language or all three, that are unsuitable for children" and requires them to confirm that they are at least 18 years old.
95. In addition to surveying Blockbuster and Netflix, the Commission surveyed three other online movie subscription sites to determine their rating information practices for five movies rated R for violence, as well for five violent unrated movies that also have an R-rated version. All five of the sites required a form of payment, such as a credit card, to which many children may not have access.
96. Netflix allows account owners to create separate sub-accounts for their children and limit what their children can rent according to MPAA rating.
97. According to The Nielsen Company, children 13-17 constitute 5% of the 6.4 million iPhone users as of April 2009. *See* The Nielsen Company, iPhone Users Watch More Video... and Are Older than You Think (June 10, 2009), available at [www.blog.nielsen.com/nielsenwire/online\\_mobile/iphone-users-watch-more-video-and-are-older-than-you-think/](http://www.blog.nielsen.com/nielsenwire/online_mobile/iphone-users-watch-more-video-and-are-older-than-you-think/) (last visited June 16, 2009); *see also id.* (reporting that 37% of iPhone users watch video on their phone, a rate six times higher than the typical mobile phone subscriber); Kimberly Hill, *The Plight of Advertisers in a Multichannel World*, E-Commerce Times (Jan. 9, 2009).

98. After registering an iPod Touch at the iTunes store as a fictitious 13-year-old boy, the Commission successfully purchased an explicit-content song and rented and downloaded the unrated Director's Cut of *Saw V* and the R-rated version of *300*. Payment was made with an iTunes gift card purchased with cash. Effective June 2009, new Apple software includes enhanced parental controls that permit parents to restrict the movies, based on MPAA rating, that can be directly downloaded to the device.
99. Sales data submitted by the three studios contacted for this report indicated that at least six of their top-selling unrated DVD titles over the past two years contain content that they had removed in order to secure a less restrictive MPAA rating for theaters. Four of the six movies were rated PG-13 for theaters, and two were originally rated R. The unrated DVD versions for five of those six titles outsold their rated versions; the sixth title was released only as an unrated version.
100. Data on unit sales derive only from Nielsen VideoScan reporting retailers. Wal-Mart, Sam's Club, and Toys "R" Us are not reporting retailers.
101. 2007 Report, *supra* note 9, at 8-11.
102. Advertising Administration Rules, *supra* note 24, at Art. III, § 1. Rated DVDs that contain unrated bonus materials or special features, such as deleted scenes, interviews, and commentary, must contain a "Not Rated" designation in close proximity to the rating. *Id.* at Art. III, § 3.
103. *Id.*
104. These ads were for the following movies: *Babylon A.D.* (television ad), *College* (television ad), *Disaster Movie* (television ad), *Max Payne* (four different television ads), *Mirrors* (television ad), *My Best Friend's Girl* (three different television ads), *Notorious* (radio ad), *Pineapple Express* (television ad and radio ad), *Role Models* (three different television ads), and *Saw V* (two different television ads).
105. *Babylon A.D.* (television ad).
106. *College* (television ad).
107. *Pineapple Express* (television ad).
108. While parents understood that R was more restrictive than PG-13, they were not as familiar with the NC-17 rating and showed confusion about whether it was more or less restrictive than the R rating. More than half of parents (56%), when asked to rank the restrictiveness of the PG-13, R, and NC-17 ratings, incorrectly ranked R as more restrictive than NC-17.
109. Following these open-ended questions, parents were then asked a more pointed, closed-ended question about whether unrated DVDs sometimes contain violence or other adult content not in the version rated for theaters. When parents were given this express alternative, 90% said yes, acknowledging that unrated DVDs might contain additional unrated adult content.
110. In its 2007 Report, the Commission discussed this perception of many critics and urged the movie industry to "evaluate the need to clarify its standards to better distinguish the level of violence in PG-13 movies compared to R-rated movies." 2007 Report, *supra* note 9, at 33. The industry has not done so.
111. The Recording Industry Association of America, *2008 Consumer Profile* (hereafter "*2008 Consumer Profile*"), available at [76.74.24.142/CA052A55-9910-2DAC-925F-27663DCFFF3.pdf](http://76.74.24.142/CA052A55-9910-2DAC-925F-27663DCFFF3.pdf) (last visited June 22, 2009).
112. *Id.*
113. According to the RIAA, the other four albums were not owned or controlled by RIAA members. See Letter from Jennifer L. Pariser, Senior Vice President, Litigation, Recording Industry Association of America, to Keith Fentonmiller, FTC, at 3 (Mar. 13, 2009) (hereafter "RIAA Letter") (on file with Commission staff).
114. *Id.*
115. 2007 Report, *supra* note 9, at 13.
116. See App. E, § III for a discussion of methodology.
117. Nielsen found display ads for PAL music on WWE Superstars (popular with children and teens), imeem (popular with teens), and YouTube (popular with teens).
118. See 2007 Report, *supra* note 9, at 13-14.

119. According to a recent nationwide survey of children ages 8-14, YouTube.com is the most popular website among kids. Of those surveyed, 58% had visited the site in the past month. *See Kids Speak Out*, Sports Illustrated Kids at 38 (July 2009) (nationwide survey of 1,004 boys and girls ages 8-14).
120. In addition to partnerships with blogs, recording companies partnered with mobile phone companies to sell ringtones based on the album. In at least one instance, the artist was featured on the phone company's main page promoting media for purchase. The same artist created an iPhone application in which fans could upload their pictures and customize them to look like the artist. Recording companies also encouraged user-generated content. Plans for two albums discussed contests using video-mixing tools available at Eyespot.com. Fans would use these tools to create their own content promoting the artist, and the winner would receive promotional items. Another promotion involved creating a slideshow of personal photos with an artist's track as the background music and a contest in which musicians would cover a song on the album, then post their videos on a viral video website.
121. The Commission did find one example of a record company heavily promoting an explicit-content album in stores that sell clothing, footwear, and accessories primarily to tweens and teens. Even in that instance, however, most of the other street marketing was not teen-directed.
122. One explicit-content album was promoted by handing out stickers at showings of the *Twilight* and *High School Musical* 3 movies, which had high tween and teen girl audiences.
123. The Commission reviewed Best Buy, Target, and Toys "R" Us Sunday circulars from September 2008 through May 2009. As noted previously, the Commission did not find any explicit-content recordings advertised in other print publications.
124. Best Buy circulars, which displayed CDs with PAL logos, also showed a PAL icon key at the bottom of these pages that read "Represents Parental Advisory."
125. The Commission reviewed official artist and recording company websites for 20 different explicit-content labeled recordings. The recordings were selected based on their release date and by their appearance in *Billboard's* list of top-selling music recordings. The websites reviewed were: 3oh3music.com, common-music.com, disturbed1.com, suburbannoizerecords.com, hindermusic.com, site.hollywoodundead.com, jamiefoxx.com, lilwayne-online.com, linkinpark.com, defjam.com/site/artist\_home.php?artist\_id=308, mudvayne.com/swf/mudvayne\_intro.html, pinkspage.com/us/home, pliesworld.com, slipknot1.com, staind.com, community.trapmuzik.com, t-pain.net, comptongame.com, theoryofadeadman.com, and defjam.com/site/artist\_home.php?artist\_id=567.
126. Compared to 60% in the 2004 Report, and 55% in the 2007 Report. *See* 2007 Report, *supra* note 9, at 15; 2004 Report, *supra* note 8, at 15.
127. *See* App. D, Table 7. Ninety percent (18 of 20) of the websites offered the opportunity to purchase the explicit-content labeled recording, either from an official recording company website or through a link to a third-party online retailer.
128. In the 2007 Report, only 35% (7 of 20) of the artists' MySpace pages displayed the album's PAL anywhere on the page, and in those instances, the PAL was very difficult to read.
129. *See* App. D, Table 7
130. The Commission reviewed four music retailer sites: Amazon.com, BarnesandNoble.com, BestBuy.com, and eBay.com. The recordings examined at these retailers' websites were *Intuition* by Jamie Foxx, *Tha Carter III* by Lil' Wayne, *Theater of the Mind* by Ludacris, *Funhouse* by Pink, and *Paper Trail* by T.I.
131. The Commission's 2007 Internet survey found that the PAL logo on the music retailer websites was difficult to read 60% of the time (15 of 25 instances).
132. *See* App. D, Table 8.
133. The Commission reviewed three online music download websites: iTunes, Napster, and RealNetworks' RealOne Rhapsody. The music tracks examined at these sites were *Live Your Life* by T.I., *Whatever You Like* by T.I., *Dead And Gone* by T.I., *So What* by Pink, and *Sober* by Pink. These songs were the top-5 downloaded tracks labeled with a PAL on Billboard.com's Hot 100 chart as of January 23, 2009.
134. *See* App. D, Table 9.
135. In addition, whereas in 2008, retailers asked 44% of the shoppers their age, in 2009, retailers asked only three in ten shoppers their age. *See* App. A, Table 5.
136. Barnes & Noble, Best Buy, Borders, Kmart, Target Corporation, Trans World Entertainment, and Wal-Mart Stores, Inc.

137. Transworld Entertainment prohibits the sale of explicit-content music to children under 13.
138. *See* App. A, Table 2D. Further, although Kmart has implemented a point-of-sale register system that prompts the cashier to request photo identification when PAL-stickered music is scanned for purchase, Kmart performed no better than Borders in refusing to sell explicit-content music to children.
139. Entertainment Software Association, *Industry Facts: Sales & Genre Data at 2*, available at [www.theesa.com/facts/salesandgenre.asp](http://www.theesa.com/facts/salesandgenre.asp) (last visited June 22, 2009).
140. *Id.* at 11 (citing NPD Group data).
141. *Id.* at 7.
142. *Id.* at 8 (citing NPD Group data).
143. Peter D. Hart Research Associates, Inc., ESRB 2009 Ratings Awareness and Use Study at 1-2 (June 17, 2009) (on file with Commission staff) (interviews of 503 parents with at least one child who plays games and is between the ages of 3 and 17). Nearly seven in ten parents are aware of content descriptors, and about six in ten say they check them every time they purchase or rent a game. *Id.* at 4.
144. ARC Manual, *supra* note 77, at § III.
145. *Id.* § III.B. A “safe harbor” allows companies to advertise M-rated games in programs telecast between 10:00 p.m. and 6:00 a.m. on a local time-zone basis, regardless of the audience composition. *Id.* § III.D.
146. *Id.* § III.A. The ARC Manual’s guidelines for marketing Teen-rated games provide:
- In determining whether an advertisement for a Teen-rated game is being appropriately placed or targeted, [ESRB] will consider the following factors:
- *The content in the game (i.e., where the game falls on the content spectrum in the Teen category);*
  - *The content in the advertisement (i.e., how prominently the game is promoted in the ad or how explicit the depictions);*
  - *The game’s target audience, as stated in its media and/or marketing plan;*
  - *The audience composition or median age of the media vehicle(s) in which the advertisement is placed; and*
  - *Evidence that, prior to the media buy, the advertiser made good-faith efforts and reasonable assumptions to project that a significant portion of the audience would not be under 13 (e.g., audience composition data used at time of buy).*
- Id.*
147. From July 2006 through December 2008, the ESRB issued several hundred citations for non-compliance with ESRB rules, about 80% of which were technical in nature. *See* Letter from Patricia E. Vance, President, ESRB, to Keith Fentonmiller, Senior Attorney, FTC, at Tab J (May 13, 2009) (on file with Commission) (hereafter “ESRB Letter”). The ESRB assessed monetary penalties for the following types of violations: inappropriate target marketing; incomplete, inaccurate, or inconsistent content in rating submission materials discovered during the rating process; non-compliance with ESRB inquiries and sanctions and willful violations of, and patterns of noncompliance with, ESRB rules; failure to disclose pertinent content discovered after the rating had been assigned; failure to display rating information; and failure to display the correct rating icon and/or content descriptors.
148. *Id.* at 10.
149. According to the company document, Cartoon Network does not accept advertising for T-rated games, and Nickelodeon accepts such ads on a case-by-case basis and only in programming where at least 50% of the audience is age 13 or older.
150. According to the company document, the following networks will not air M-rated game ads before 9:00 p.m.: MTV, USA, Bravo, Fuse, and F/X. The following will not air such ads before 10:00 p.m.: TNT (except for NBA games airing after 6:00 p.m.), TBS, G4, and VH1. Adult Swim will air M-rated game ads only between 12:00 midnight and 5:00 a.m.
151. *See* 2007 Report, *supra* note 9, at 31-32; *see also supra* note 20. Nevertheless, the ESRB does not intend to alter this standard. *See* ESRB Letter, *supra* note 147, at 13.
152. The advertised games were *Godfather II*, *Killzone 2*, and *Wanted: Weapons of Fate*.
153. ESRB Letter, *supra* note 147, at 10. There also were a few instances where a print ad for an M-rated game had been included with E- and T-rated games. *Id.*

154. See 2007 Report, *supra* note 9, at 21.
155. As with past reports, the Commission reviewed *Electronic Gaming Monthly*, *GamePro*, and *Nintendo Power* for ad placements for M- and T-rated games. Although the Commission found 14 ads for M-rated games in *EGM* and 11 ads for M-rated games in the subscription edition of *Game Pro*, the most recent demographic data indicate that *Game Pro* (17% under 18) and *EGM* (14% under 18) now skew toward an older readership. In addition, although the Commission found ads for ten T-rated games in *Nintendo Power*, only 13% of the magazine's readers are under age 12. Accordingly, as was not the case in past reports, M-rated game ads in *EGM* and *Game Pro* and T-rated game ads in *Nintendo Power* no longer appear to be inappropriate.
156. ESRB rules long have prohibited websites from mentioning the minimum age required for access or make any leading statements about Mature content being contained in the demo, trailer, or video, either on the age-screen page itself or in a message appearing after the age information has been submitted. ARC Manual, *supra* note 77, at § VI.E.4.a(iv).
157. ESRB Letter, *supra* note 147, at 3.
158. The Commission examined websites for the following M-rated games in February 2009: *Bioshock*, *Call of Duty: World at War*, *Call of Duty 4: Modern Warfare*, *Fable II*, *Fallout 3*, *Gears of War 2*, *Halo 3*, *Killzone 2*, *Left 4 Dead*, *Mass Effect*, *Metal Gear Solid 4: Guns of the Patriots*, *Resident Evil 5*, *Resistance 2*, and *Warhammer 40,000: Dawn of War 2*. See App. D, § III.A.
159. The website for the M-rated game *Left for Dead* was the only site that did not ask the visitor to disclose his or her age at any point.
160. The website for *Fable II* asked the visitor to disclose his/her age before viewing a trailer for the game, and would not let the user view the trailer if an age under 17 was entered.
161. See App. D, Table 10.
162. 2007 Report, *supra* note 9, at 21.
163. See App. E, § III for a discussion of methodology. The websites that ran display ads for these M-rated games were AOL.com AIM Today (popular with teens), Photobucket (popular with teens), Runescape (popular with children and teens), WWE Superstars (popular with children and teens), and YouTube (popular with teens). According to Nielsen data, only Runescape exceeded the threshold of 45% children under 17 set by the ESRB, and then only for the month of January 2008, when 51% of the audience was within that age range.
164. Those websites were WWE Superstars (popular with children and teens) and YouTube (popular with teens); see also *Kids Speak Out*, *supra* note 119 (Sports Illustrated Kids survey finding that YouTube.com is the most popular website among children 8-14).
165. Those websites popular with children that ran ads for M-rated games were CartoonNetwork, Maxgames, and Stickpage. Sites popular with teens that ran M-rated game ads were CheatCodes, FamousVH1, MMORPG, ModtheSims2, Monstrous, Nextornot, Playlist, and SuperCheats. Also, the Commission's review of company marketing plans found that one company intended to provide an exclusive video documentary on its M-rated game to FHM.com, a site that tends to be very popular with children 2-11. Only the ads on CartoonNetwork, however, violated the ESRB's '45% under 17' rule for M-rated game ads. Nevertheless, according to the ESRB, advertising an M-rated game on CartoonNetwork.com would have violated its target-marketing rules because of the site's youth-oriented nature. ESRB Letter, *supra* note 147, at 9.
166. Those websites were Maxgames, StarWars, and Stickpage.
167. See ARC Manual, *supra* note 77, at VI.F.5. The dramatic rise in popularity of the Apple iPhone and iPod touch, and the App Store from which mobile games can be purchased, likely will impact the use of viral marketing to promote games. Whereas developers of traditional games more typically rely on a television advertising campaign or major print advertising to promote their games, emerging mobile game developers tend to rely on viral and digital marketing. See Troy Wolverton, *iPhone Shakes up the Video Game Industry*, Siliconvalley.com (June 12, 2009) (In contrast to traditional game developers, one game developer for the iPhone and iPod touch "is using more viral and digital marketing, posting videos on its Web site, encouraging users to post scores on Facebook and using one game to promote another."), available at [www.siliconvalley.com/ci\\_12573355?nlick\\_check=1](http://www.siliconvalley.com/ci_12573355?nlick_check=1) (last visited June 18, 2009).
168. The marketing plan for a T-rated game noted that many gaming sites use YouTube as a host and embed the YouTube video on their sites. A plan for an M-rated game stressed the "importance of viral distribution through YouTube as a way to change how advertising reaches consumers. 'The 60 sec. spot lives and is supplemented with online distribution.'"



169. One marketing plan recommended holding receptions for “influencers.” These events would give individuals opportunities to play the game before its introduction to the general public. The hope was that these influencers would create a buzz for the game among other influencers and on well-read blogs.
170. ARC Manual, *supra* note 77, at § III.E.1.
171. See Nick Wingfield, *Here Comes ‘Halo 3’ – with a Side Order of Fries*, The Wall Street Journal, at B1 (Aug. 9, 2007) (Burger King would serve “king-sized” meals with Halo 3-themed wrappers around food, including a 42-ounce soda cup and french fry container; Pepsi created Mountain Dew Game Fuel with the bottle featuring the game’s brand and characters; 7-Eleven stores offered branded Slurpee cups branded with *Halo 3* images), available at [www.online.wsj.com/public/article/SB118662363769092549-rzvX5I5krFTML7QqeGfA5gI1BJ8\\_20070907.html?mod=tff\\_main\\_tff\\_top](http://www.online.wsj.com/public/article/SB118662363769092549-rzvX5I5krFTML7QqeGfA5gI1BJ8_20070907.html?mod=tff_main_tff_top) (last visited July 7, 2007).
172. ESRB rules do not require disclosure of content descriptors in television ads.
173. The Commission examined the following 20 electronic game websites in February 2009: *Bioshock* (M), *Call of Duty: World at War* (M), *Call of Duty 4: Modern Warfare* (M), *Fable II* (M), *Fallout 3* (M), *Gears of War 2* (M), *Halo 3* (M), *Killzone 2* (M), *Left 4 Dead* (M), *Lord of the Rings: Conquest* (T), *Mass Effect* (M), *Metal Gear Solid 4: Guns of the Patriots* (M), *Resident Evil 5* (M), *Resistance 2* (M), *Skate 2* (T), *Street Fighter IV* (T), *Super Smash Bros. Brawl* (T), *The Legend of Zelda: Twilight Princess* (T), *Uncharted: Drake’s Fortune* (T), and *Warhammer 40,000: Dawn of War 2* (M). See App. D, § III.A.
174. See App. D, Table 11. The Commission reviewed six retailer websites: Amazon.com, BestBuy.com, eBay.com, GameStop.com, Toysrus.com, and Walmart.com. The games surveyed at these sites were *Call of Duty: World at War*, *Fable II*, *Gears of War 2*, *Halo 3*, and *Killzone 2*.
175. The Commission’s survey found that 36% of parents believe that the ESRB system does a “fair” or “poor” job of informing them about the level of violence in games versus 60% who believe the system does a “good” or “excellent” job. *Id.* at 29-30.
176. 2007 Report, *supra* note 9, at 33.
177. *Id.* at 16-17.
178. The ESRB also considered the Commission’s recommendation to place both the rating icon and content descriptors on the front of game packaging; currently, the rating icon appears on the front, and the icon and descriptors appear on the back. See 2007 Report, *supra* note 9, at 32. The ESRB declined to change its rule on the ground that “the back of the box is where consumers naturally turn for information about a game.” ESRB Letter, *supra* note 147, at 12. The ESRB points to consumer research showing consumer awareness of content descriptors to be at an all-time high, with 69% of parents indicating awareness of content descriptors, and 56% of those parents indicating they check the descriptors every time they buy or rent a game. See June 2009 Hart survey, *supra* note 143. A 2008 study reported similar results. See ESRB Letter, *supra* note 147, at 12 & App. M at 2 (March 2008 Hart survey) (66% of parents are aware of content descriptors, and 60% of those parents check the descriptors every time).
179. Best Buy, Gamestop, Hollywood Entertainment, Kmart, Target Corporation, Toys “R” Us, Trans World Entertainment, and Wal-Mart Stores, Inc.
180. Trans World Entertainment also carries AO-rated games, and its policy is not to sell such games to children under age 18.
181. ERC members include Best Buy, Blockbuster, Gamestop, Hollywood Entertainment, Sears HC, Target, Toys “R” Us, and Wal-Mart.
182. Finally, all three of the major game console systems – Playstation 3, Xbox 360, and Wii – have passcode-protected parental control mechanisms that permit an adult to limit the games children can play by ESRB rating. Thus, even if children are able to purchase or rent an M-rated game without their parents’ knowledge or consent, they will not be able to play it at home when parents have set the controls accordingly.
183. See App. A, Table 5. Retailers asked for age identification in 80% of the shops. See App. A, Table 4. Consistent with the FTC’s survey, the ESRB reports that its November 2008 mystery shopper audit of ERC members showed that children attempting to purchase M-rated games were turned away 80% of the time. ESRB Letter, *supra* note 147, at 11.
184. See App. A, Table 2E.
185. At the Target and Toys “R” Us websites, the user had to certify he or she was at least 17 years of age before purchasing the item. Both sites required the user to either click a “Yes, I am age 17 or older” button or “No, I am under age 17”



- button. If the user clicked on the “No, I am under age 17” button at the Toys “R” Us site, the user was brought back to the game’s informational page, and at Target the item was taken out of the shopping cart. If the user added the game to the cart again, and clicked on the “Yes, I am age 17 or older,” the user was able to continue on to the checkout page.
186. Even with a gift card, Toys “R” Us required the purchaser to enter a valid credit card. Under its FAQs section, Toys “R” Us explained that it would charge the credit card only if the value of the order was greater than the value on the gift card.
187. A search on the ESRB website on November 10, 2009 revealed 75 rated games for mobile phone platforms.
188. For example, as of November 4, 2009, over 100,000 applications were available in Apple’s App Store for download to an iPhone or iPod touch, with games being the most popular application. *See* Apple Inc. Press Release, *Over 100,000 Apps Now Available on the App Store*, available at [www.apple.com/hotnews/](http://www.apple.com/hotnews/) (last visited Nov. 4, 2009); *see also* Ki Mae Heussner, Ned Potter & Liam Berkowitz, *VW Launches Car With iPhone App: Play the Game, Win a Car* (Oct. 22, 2009), available at [www.abcnews.go.com/Technology/AheadoftheCurve/vw-launches-car-iphone-app-play-game-win/story?id=8889617](http://www.abcnews.go.com/Technology/AheadoftheCurve/vw-launches-car-iphone-app-play-game-win/story?id=8889617) (last visited Oct. 22, 2009); Wolverson, *supra* note 167 (noting research showing that there are now 50,000 programs in Apple’s application store, of which nearly 12,000 are games); *see also* ESRB Letter, *supra* note 147, at 6-7 (citing Complete Smartphone Intelligence Report (May 5, 2009), available at [www.mediapost.com/publications/?fa=Articles.showArticle&art\\_aid=105273](http://www.mediapost.com/publications/?fa=Articles.showArticle&art_aid=105273)); Wolverson, *supra* note 167 (noting that “sales of iPhone platforms have already exceeded those of two of the major game consoles – Microsoft’s Xbox 360 and Sony’s PlayStation 3 – and are within spitting distance of Nintendo’s Wii and Sony’s PlayStation Portable.... Some 30 to 35 percent of the 1 billion applications downloaded from the app store so far have been games ....”); Spanner Spencer, *Apple Accounts for 10 Per Cent of Mobile Gaming Market*, *Pocketgamer.biz* (June 11, 2009) (noting report finding that the iPhone was responsible for 10 per cent of U.S. and Canadian mobile game sales in 2008; adding that “were the Apple platform to be considered a gaming device over a mobile phone, it’s in position to become the market leader”) (last visited June 16, 2009); James Quintana Pearce, *Smartphones Driving Interest in Mobile Games*, *mocoNews.net* (Feb. 18, 2009) (noting comScore study finding that the App Store accounted for 14% of all people who downloaded a game, despite the iPhone only having a 1.1% market share worldwide), available at [www.moconews.net/entry/419-smartphones-driving-interest-in-mobile-games/](http://www.moconews.net/entry/419-smartphones-driving-interest-in-mobile-games/) (last visited June 16, 2009).
189. For an overview of the current state of filtering and blocking technology for mobile phones, see Federal Communication Commission, *In re* Implementation of the Child Safe Viewing Act; Examination of Parental Control Technologies for Video or Audio Programming, MB Docket No. 09-26, at 41-48 (Aug. 31, 2009), available at [www.hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-09-69A1.pdf](http://www.hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-09-69A1.pdf) (last visited Sept. 1, 2009).
190. The websites were att.com, apple.com, n-game.com, sprintpcs.com, and products.vzw.com.
191. Nokia’s mobile game store links to N-Gage.com, which provides the rating information.
192. According to Apple, the upgrade to the iPhone operating system, including the new parental controls, is available for the iPod touch. *See* [www.apple.com/ipodtouch/softwareupdate.html](http://www.apple.com/ipodtouch/softwareupdate.html) (last visited July 17, 2009).
193. *See* AppChatter, *A Tour of Parental Controls on iPhone OS 3.0* (June 26, 2009), available at [www.appchatter.com/2009/06/a-tour-of-parental-controls-on-iphone-os-30/#comments](http://www.appchatter.com/2009/06/a-tour-of-parental-controls-on-iphone-os-30/#comments) (last visited July 17, 2009).
194. *Id.*
195. The Commission has noted that an effective self-regulatory model restricting the marketing of violent entertainment products to children generally has: (1) a code that prohibits target marketing to children; (2) a mechanism for monitoring compliance with the code and imposing sanctions for violations; and (3) clear and fair procedures in the design, implementation, and enforcement of such restrictions. *See* Prepared Statement of the FTC on the Antitrust Implications of Entertainment Industry Self-Regulation to Curb the Marketing of Violent Entertainment Products to Children (Sept. 20, 2000), available at [www.ftc.gov/os/2000/09/jctestimony.htm](http://www.ftc.gov/os/2000/09/jctestimony.htm); 2000 Report, *supra* note 1, at 56.



## Appendix A: Mystery Shopper Survey

This Appendix reports on the sixth nationwide undercover or “mystery shopper” survey, which the Commission conducted in the Spring of 2009, to determine the extent to which the entertainment industries restrict children’s access to R-rated movies, R-rated and unrated movie DVDs, explicit-content labeled music recordings, and M-rated games at the retail level. The Commission first conducted an undercover “mystery shopper” survey for its 2000 Report to determine whether unaccompanied 13- to 16-year-olds could purchase tickets to R-rated movies, explicit-content labeled recordings, and M-rated games.<sup>1</sup> Follow-up surveys were published in the December 2001, 2004, and 2007 Reports and in a 2008 press release.<sup>2</sup> Beginning with the 2004 Report, the Commission also surveyed practices at stores selling R-rated movies on DVD, and beginning with the 2007 Report, the Commission added to the survey unrated DVDs of movies that were rated R when in theaters.

### A. Industry Self-Regulatory Policies for Limiting Access

It is the retailers who implement any sales restrictions included in the self-regulatory rating and labeling programs. For movies, in response to the 2000 Report, the National Association of Theatre Owners (“NATO”) adopted a twelve-point initiative that, among other things, reaffirmed its existing ID-check policy for R-rated and NC-17-rated films and promised to take steps to encourage theaters to enforce the rating system. In addition, NATO members appointed compliance officers to strengthen enforcement of the program.

The Entertainment Merchants Association (“EMA”), an industry trade group representing DVD and video game retailers, has sought to adopt a uniform policy among its members on sales to children of R-rated videos and DVDs.<sup>3</sup> As the survey results that follow indicate, this program is clearly not yet in place, given the ability of the mystery shoppers to purchase R-rated and unrated movie DVDs. Only three of the seven major DVD retailers subject to the Commission’s undercover shop have policies restricting the sale of R-rated and/or unrated DVDs to children.<sup>4</sup>

By contrast, most major retailers of video games – including all of the retailers subject to the FTC’s mystery shop<sup>5</sup> – have now adopted express policies restricting sales to those under 17. Many of these retailers are members of the ESRB Retail Council (“ERC”),<sup>6</sup> which subjects its member companies to bi-annual mystery shopper audits. The ESRB reports that its November 2008 mystery shopper audit of ERC members showed that children attempting to purchase M-rated games were turned away 80% of the time.<sup>7</sup>

As noted in the report, the music recording industry’s labeling program provides no age-based guidance. The Commission obtained information from seven major music retailers that sell CDs at physical store locations.<sup>8</sup> One of those retailers, Wal-Mart, does not carry explicit-content music. Two of the other retailers (Kmart and Borders) have policies restricting the sale of explicit-content music to children under 17, and one (Trans World) restricts the sale to children under 13.

## B. Survey Methodology

The 2009 mystery shopper survey followed substantially the same methodology as the 2008 survey. Through a contractor,<sup>9</sup> the Commission recruited 13- to 16-year-olds across the country to attempt to purchase movie tickets, DVDs, music, or electronic games. For all undercover shops prior to 2008, the child shoppers were instructed to attempt their purchases at the nearest theater or store. Beginning in 2008 (the fifth shop), the Commission allocated the number of shops to retailers based on their respective market shares for each of the products. The Commission obtained data from the NPD Group showing the top brick-and-mortar retailers for movie DVDs, music CDs, and video games. The National Association of Theatre Owners provided the Commission with a list of theater chains ranked by number of screens. The Commission then instructed the contractor to assign shops at the retail and theater chains approximately in proportion to their respective brick-and-mortar market share percentages for each product.

Parents transported their children to the assigned store or theater but were instructed not to accompany the children during the transaction.<sup>10</sup> Shoppers attempted to purchase either a ticket to an R-rated movie, an R-rated movie DVD,<sup>11</sup> an unrated version of a movie that had been rated R for theaters,<sup>12</sup> an explicit-content labeled CD,<sup>13</sup> or an M-rated video game.<sup>14</sup> The contractor required shoppers to submit proof of age and verification for completed purchases by submission of a receipt.<sup>15</sup> After attempting a purchase, the shopper completed a questionnaire on the contractor's proprietary website.<sup>16</sup>

In the 2009 survey, shoppers from 49 states plus the District of Columbia attempted to purchase movie tickets, DVDs, music recordings, or video games at 1,250 theaters and stores. There were 250 shops each of movie theaters, R-rated movie DVD retailers, unrated movie DVD retailers, video game retailers, and sellers of explicit-content CDs. All of the shops occurred between March and May 2009.

## C. Results

**Table 1**  
**2009 Survey Data by Question and Product Category**  
**(Percent “No” and “Yes”)**

		<i>Was Rating Information Posted?</i>	<i>Did an Employee Ask the Child’s Age?</i>	<i>Was the Child Able to Make a Purchase?</i>
<b>R-rated Movie Tickets*</b>	No	31	30	72
	Yes	69	70	28
<b>R-rated Movie DVDs*</b>	No	65	54	46
	Yes	35	46	54
<b>Unrated Movie DVDs*</b>	No	64	57	42
	Yes	36	43	58
<b>Explicit-Content Music CDs*</b>	No	71	71	28
	Yes	29	29	72
<b>M-rated Video Games*</b>	No	30	20	80
	Yes	70	80	20

\*Percentage of 250 shoppers.

**Table 2**  
**Major Chain<sup>17</sup> Comparisons on Ability to Buy**  
**Product or Admission Ticket (2009)**

<b>Table 2A: R-rated Movie Theater Tickets</b>		
<b>Chain</b>	<b># of Shops</b>	<b>% Able to Purchase</b>
<i>Other</i>	63	33
Regal Entertainment Group	48	17
American Multi-Cinema	35	34
Cinemark USA	27	52
Carmike Cinemas	17	24
Hollywood Theaters	15	27
Kerasotes Theaters	15	7
Marcus Theaters	15	27
National Amusements	15	20

<b>Table 2B: R-rated Movie DVDs</b>		
<b>Chain</b>	<b># of Shops</b>	<b>% Able to Purchase</b>
Wal-Mart	81	35
Best Buy	39	59
Target	34	65
Barnes & Noble	19	79
Blockbuster	20	40
Transworld Ent.	19	8
Borders	19	63
Kmart	19	58

<b>Table 2C: Unrated Movie DVDs</b>		
<b>Chain</b>	<b># of Shops</b>	<b>% Able to Purchase</b>
Wal-Mart	79	38
Best Buy	39	72
Target	35	80
Barnes & Noble	20	80
Blockbuster	20	30
Transworld Ent.	21	71
Borders	18	83
Kmart	18	39



<b>Table 2D: Explicit-Content Music CDs</b>		
<b>Chain</b>	<b># of Shops</b>	<b>% Able to Purchase</b>
Best Buy	60	72
<i>Other</i>	55	67
Transworld Ent.	36	72
Target	33	82
Barnes & Noble	21	71
Borders	21	71
Kmart	24	67

<b>Table 2E: Video Games (M-rated)</b>		
<b>Chain</b>	<b># of Shops</b>	<b>% Able to Purchase</b>
Game Stop/EB Games	67	9
Wal-Mart	62	21
Best Buy	39	26
Target	28	11
Hollywood Video	18	22
Kmart	18	28
Toys R Us	18	44

**Table 3**  
**Historical Trend Data on Availability of Rating Information at Retailer**  
**(Percent “Yes”)**

	<b>2000</b>	<b>2001</b>	<b>2003</b>	<b>2006</b>	<b>2008</b>	<b>2009</b>
<b>R-rated Movie Tickets</b>	54	59	62	56	67*	69
<b>R-rated Movie DVDs</b>	n/a	n/a	26	19	42*	36
<b>Unrated Movie DVDs</b>	n/a	n/a	n/a	21	37*	37
<b>Explicit-Content Music CDs</b>	12	12	21*	17	36*	28
<b>M-rated Video Games</b>	12	26*	27	41*	72*	70

\*Denotes a statistically significant difference from the prior survey. Data for comparison were not available for R-rated DVDs prior to 2003 and for unrated DVDs prior to 2006.

**Table 4**  
**Historical Trend Data on Cashier Asking Shoppers' Age**  
**(Percent "Yes")**

	<i>2000</i>	<i>2001</i>	<i>2003</i>	<i>2006</i>	<i>2008</i>	<i>2009</i>
<b>R-rated Movie Tickets</b>	48	39*	48*	56	66*	70
<b>R-rated Movie DVDs</b>	n/a	n/a	19	28*	52*	46
<b>Unrated Movie DVDs</b>	n/a	n/a	n/a	28	49*	43
<b>Explicit-Content Music CDs</b>	17	10*	13	21*	44*	29*
<b>M-rated Video Games</b>	15	21	24	51*	77*	80

\*Denotes a statistically significant difference from the prior survey. Data for comparison were not available for R-rated DVDs prior to 2003 and for unrated DVDs prior to 2006.

**Table 5**  
**Historical Trend Data on Ability to Buy Product or Admission Ticket**  
**(Percent "Yes")**

	<i>2000</i>	<i>2001</i>	<i>2003</i>	<i>2006</i>	<i>2008</i>	<i>2009</i>
<b>R-rated Movie Tickets</b>	46	48	36*	39	35	28†
<b>R-rated Movie DVDs‡</b>	n/a	n/a	81	71*	47*	54
<b>Unrated Movie DVDs‡</b>	n/a	n/a	n/a	71	51*	58
<b>Explicit-Content Music CDs</b>	85	90	83	76*	56*	72*
<b>M-rated Video Games</b>	85	78*	69*	42*	20*	20

\* Denotes a statistically significant difference from the prior survey.

† Denotes a statistically significant difference from the 2006 survey.

‡ Data for comparison were not available for R-rated DVDs prior to 2003 and for unrated DVDs prior to 2006.

## Endnotes

1. See Appendix F, Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries (“2000 Report”), available at [www.ftc.gov/reports/violence/appendicesviorpt.pdf](http://www.ftc.gov/reports/violence/appendicesviorpt.pdf).
2. See Appendix B, Marketing Violent Entertainment to Children: A One-Year Follow-Up Review of Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries (“December 2001 Report”), available at [www.ftc.gov/os/2001/12/violencereport1.pdf](http://www.ftc.gov/os/2001/12/violencereport1.pdf); Appendix B, Marketing Violent Entertainment to Children: A Fourth Follow-Up Review of Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries (“2004 Report”), available at [www.ftc.gov/os/2004/07/040708kidsviolencertpt.pdf](http://www.ftc.gov/os/2004/07/040708kidsviolencertpt.pdf); Appendix B, Marketing Violent Entertainment to Children: A Fifth Follow-Up Review of Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries (“2007 Report”), available at [www.ftc.gov/reports/violence/070412MarketingViolentEChildren.pdf](http://www.ftc.gov/reports/violence/070412MarketingViolentEChildren.pdf); FTC, *Undercover Shoppers Find It Increasingly Difficult for Children to Buy M-Rated Games* (May 8, 2008), available at [www.ftc.gov/opa/2008/05/secretshop.shtm](http://www.ftc.gov/opa/2008/05/secretshop.shtm).
3. See *Summary of Proceedings*, EMA Video Board of Directors Meeting, July 10, 2006. “By a unanimous vote, the Board directed staff to develop a model code for ratings education, enforcement, and advertising that could be applied consistently to motion picture videos and computer and video games by all EMA members,” available at [www.entertainmentmerchantsassociation.org](http://www.entertainmentmerchantsassociation.org) (last visited Oct. 17, 2006).
4. Blockbuster, Kmart, and Wal-Mart. A fourth retailer, Trans World, has a policy not to sell “mature” content movies to children, but this policy does not cover R-rated and unrated movies with previously rated versions.
5. Best Buy, Gamestop, Hollywood Entertainment, Kmart, Target, Toys “R” Us, Trans World Entertainment, and Wal-Mart.
6. ERC members include Best Buy, Blockbuster, Gamestop, Hollywood Entertainment, Sears HC, Target, Toys “R” Us, and Wal-Mart.
7. Letter from Patricia E. Vance, President, ESRB, to Keith Fentonmiller, Senior Attorney, Federal Trade Commission, at 11 (May 13, 2009) (on file with Commission staff).
8. Barnes & Noble, Best Buy, Borders, Kmart, Target, Trans World Entertainment, and Wal-Mart.
9. Second to None was the contractor for each of the mystery shops.
10. Each teenage shopper visited one retail location for one or more of the entertainment products. No shopper visited more than one location for each type of entertainment product.
11. Shoppers were instructed to purchase one of the following R-rated titles: *American Psycho*, *Aliens vs. Predator - Requiem*, *American Gangster*, *Dead Silence (2007)*, *Halloween (2007)*, *Hannibal Rising*, *Hitman*, *Pineapple Express*, *Saw III*, *Saw IV*, *Saw V*, *The Descent*, *The Hills Have Eyes 2*, *The Ruins*, *The Texas Chainsaw Massacre: The Beginning*, or *Tropic Thunder*. If none of these titles was available at the assigned location, the shopper attempted to purchase another R-rated movie.
12. Shoppers were instructed to purchase one of the following unrated titles: *Aliens vs. Predator - Requiem* (Unrated), *American Psycho* (Uncut Version), *American Gangster* (2-Disc Unrated Extended Version), *Dead Silence (2007)* (Unrated), *Hannibal Rising* (Unrated), *Halloween (2007)* (Unrated), *Hitman* (Unrated), *Pineapple Express* (Unrated), *Saw III* (Unrated), *Saw IV* (Unrated), *Saw V* (Unrated Director’s Cut or Unrated Collector’s Edition), *The Descent* (Unrated), *The Hills Have Eyes 2* (Unrated), *The Ruins* (Unrated), *The Texas Chainsaw Massacre: The Beginning* (Unrated), or *Tropic Thunder* (Unrated Director’s Cut). If none of these titles was available at the assigned location, the shopper attempted to purchase another unrated DVD version of an R-rated movie.
13. Shoppers were instructed to purchase the explicit-content version of any one of the following albums: Amy Winehouse, *Back to Black*, Fergie, *The Dutchess*, Jaheim, *The Makings of a Man*, Jay-Z, *American Gangster*, Kanye West, *Graduation*, Kid Rock, *Rock N Roll Jesus*, Lil Wayne, *Tha Carter III*, Linkin Park, *Minutes to Midnight*, Lupe Fiasco, *Lupe Fiasco’s The Cool*, Plies, *Definition of Real*, Rick Ross, *Trilla*, Slipknot, *All Hope Is Gone*, T.I., *Paper Trail*, The Game, *LAX*, or Young Jeezy, *The Recession*. If none of these titles was available at the assigned location, the shopper attempted to purchase another CD with a Parental Advisory Label.
14. Shoppers were instructed to purchase one of the following M-rated games for the Playstation 3, Xbox, or PC platform (not Nintendo DS or Sony PSP): *Army of Two*, *Assassin’s Creed*, *Brothers in Arms: Hell’s Highway*, *Call of Duty 4: Modern Warfare*, *Devil May Cry 4*, *Fallout 3*, *Far Cry 2*, *Grand Theft Auto IV*, *Halo 3*, *Haze*, *Left 4 Dead*, *Resistance 2*,

*Saints Row 2, Shin Megami Tensei: Persona 3, or Silent Hill: Homecoming.* If none of these titles was available at the assigned location, the shopper attempted to purchase another M-rated game.

15. If they were not able to make a purchase, the shoppers were to buy another item at the store or a ticket to another movie to get a receipt, except in cases where the shopper went to a movie theater showing only one R-rated movie.
16. Parents completed the questionnaire on the website after getting the information from the child (*e.g.*, whether the child was able to purchase the product).
17. For purposes of this Appendix, so-called “major” chains include only the very largest theater circuits and retailers in each industry. The “non-major” category includes independent stores as well as chains – including some large chains – that are not among the nation’s very largest sellers of that category of product.

# Appendix B: The Commission's Mall Intercept Survey on Disclosure of MPAA Rating Information on DVD Packaging

OMB Control No.: 3084-0149

## I. Overview of Methodology

### A. Objective

The study, conducted under contract with Synovate, compared the efficacy of current, back panel MPAA rating disclosures on DVD movie packaging with a revised disclosure where the MPAA rating symbol and rating reasons appear on the front panel of the DVD case and in larger font in a contrasting box with black border. The primary objective was to measure the impact of the more prominent disclosure on parents' notice and recall of the rating information. A secondary objective was to measure the impact on parents' use of the rating information in deciding whether to let their child watch the movie.

### B. Sampling Frame

The study used a mall-intercept design and was conducted in ten geographically diverse shopping malls. Mall locations were selected in each of the nine U.S. Census divisions. The malls selected were a mix of upscale and downscale establishments in urban, suburban, and rural locations. Respondents were intercepted and screened on the mall floor to ensure, among other things, that they were parents of at least one child age 7-16 and had purchased or rented a DVD for that child in the last year.

### C. Questionnaire Design

The questionnaires were designed by the Commission staff in consultation with Dr. Manoj Hastak, a consultant to the FTC, and Synovate. Four movies containing violent content were selected for the study – two rated PG-13, *Kite Runner* and *Jumper*, and two rated R, *Stop-Loss* and *Joy Ride*.<sup>1</sup> Parents in the group viewing the unaltered DVD packaging were shown a DVD case with the MPAA rating information as it actually appeared on the back cover. Parents in the group viewing the altered DVD packaging were shown the same DVD case, with identical cover art and graphics, with the exception that the rating information also appeared on the front panel, in a white box and larger size.<sup>2</sup>

To ensure that all aspects of the survey instruments and protocol were working as designed, pilot testing involved trained interviewers and the fully developed survey instruments programmed into the Computer Assisted Personal Interviewing (CAPI) system. The instruments were pilot tested with participants pre-recruited to a mall facility in the Washington, DC area. Minor modifications were made

1. These DVDs were selected for the study because they included violence as one of the rating reasons, did not include any violent cover images, and were not among the highest grossing films in the year they were released in the theater so that parents would be less likely to be familiar with the films.
2. The altered graphic of the rating information adhered to the MPAA format and design, but was enlarged to the approximate size of rating graphics used by the video game industry for front panel rating disclosures.

to the survey.

Copies of the final questionnaires appear in Section II of this Appendix. Copies of all unaltered and altered DVD covers appear in Section III of this Appendix.

#### **D. Data Collection**

After successfully qualifying for the survey, each respondent was asked to look at one of four DVD cases. Parents of children age 7-11 were shown either an altered or unaltered (current) version of the DVD packaging for one of the two PG-13-rated movies. Parents of children age 12-16 were shown either an altered or unaltered version of the DVD packaging for one of the two R rated movies. Respondents then returned the DVD and were asked if they had seen the movie before. If they had, they were shown the other movie with the same rating (PG-13 or R) and the same treatment (altered or unaltered). If respondents had not seen the movie, they were asked how familiar (on a scale of 1-4 where 1 is not at all familiar and 4 is very familiar) they were with the movie. Respondents who answered 1 or 2 proceeded to the main survey, while those who answered 3 or 4 were then shown the second DVD with the same rating and treatment. The two questions assessing familiarity were asked again for the second DVD. If a respondent had seen or was familiar with the second movie as well, the interview was then terminated. Interviews then continued with respondents who were not familiar with either the first DVD or the second DVD.

#### **E. Respondent Eligibility**

To be eligible to participate in the study, the following criteria had to be met::

- Parent of a child between the ages of 7 and 16;
- Rented or purchased a DVD for the child in the past year;
- Did not participate in any surveys at that mall in the past three months; and
- No one in the household may work for an advertising agency or a marketing or marketing research firm or department.

Potential respondents were screened in the mall for qualification. During the computer-assisted interview, when multiple qualified children were present in the household, one child was randomly selected (the child with the most recent birthday) and the interview focused on the behaviors related only to that one child.



## II. Survey Instruments Annotated With Results

### QA Respondent Gender

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
1 Male	52.1%	44.5%
2 Female	47.9%	55.5%

### QB Respondent Age

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
1 Under 30	12.7%	10.5%
2 30-39	40.4%	45.9%
3 40-49	33.3%	31.1%
4 50-59	13.6%	12.4%
5 60 and over	–	–

### QC how many children between the ages of 7 – 16 are currently living in your household?

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
1 One	66.2%	64.1%
2 Two	26.3%	25.8%
3 Three	5.6%	7.2%
4 Four	1.4%	1.9%
5 Five	0.5%	0.5%
6 Six	–	–
7 Seven	–	0.5%

### QD I'd like to get the age and gender of (**IF C = 1:** the child age 7 to 16 in your household / **IF C = 2 or more:** each child age 7 to 16 in your household).

#### Selected Child Gender

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
1 Male	52.1%	52.2%
2 Female	47.9%	47.8%

#### Selected Child Age

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
1 7 years old	19.7%	16.3%
2 8 years old	10.3%	12.0%

3 9 years old	8.0%	8.1%
4 10 years old	6.1%	9.1%
5 11 years old	7.5%	5.7%
6 12 years old	10.3%	12.0%
7 13 years old	7.5%	8.1%
8 14 years old	9.4%	5.3%
9 15 years old	6.6%	7.2%
10 16 years old	14.6%	16.3%

We asked if you have rented or bought a DVD for your children age 7 to 16 in the past year, and you answered “Yes” – is this correct?

Yes – **CONTINUE**

No – **CONFIRM AND TERMINATE**

**THE COMPUTER PROGRAM WILL NOW RANDOMLY SELECT THE ELIGIBLE CHILD / ONE OF THE ELIGIBLE CHILDREN AND ASSIGN THE RESPONDENT TO ONE OF THE QUOTA CELLS.**

**PROG: MARKER 1: AGE OF SELECTED CHILD**

**PROG: MARKER 2: GENDER OF SELECTED CHILD**

**PROG: CAPTURE THE QUOTA CELL/MOVIE/TREATMENT RESPONDENT IS ASSIGNED TO – MARKER 3: QUOTA CELL ASSIGNED**

**PROGRAMMER: MARKER 3 AND 4 KEY**

**1 – The Kite Runner / Unaltered**

**5 – Stop-Loss / Unaltered**

**2 – The Kite Runner / ALTERED**

**6 – Stop-Loss / ALTERED**

**3 – Jumper / Unaltered**

**7 – Joy Ride / Unaltered**

**4 – Jumper / ALTERED**

**8 – Joy Ride / ALTERED**

F. The questions today are going to be about your **(POP-IN AGE)** year old **(POP-IN: BOY/ GIRL)**. So that I can indicate when I’m talking about this child, could you give me **(POP-IN BASED ON GENDER OF SELECTED CHILD: his/her)** first name or initials?

**ENTER NAME/INITIALS \_\_\_\_\_**

**PROG: DISPLAY INSTRUCTION TO INTERVIEWER TO SELECT THIS CASE NUMBER AND BRING IT BACK TO THE COMPUTER.**

**“Interviewer, please get the DVD from the envelope labeled (POP-IN) IF MARKER 3 = 1, POP-IN “1A”**

**IF MARKER 3 = 2, POP-IN "1B"**  
**IF MARKER 3 = 3, POP-IN "2A"**  
**IF MARKER 3 = 4, POP-IN "2B"**  
**IF MARKER 3 = 5, POP-IN "3A"**  
**IF MARKER 3 = 6, POP-IN "3B"**  
**IF MARKER 3 = 7, POP-IN "4A"**  
**IF MARKER 3 = 8, POP-IN "4B"**

**G. INTERVIEWER: ENTER THE NUMBER FROM THE SPINE OF THE DVD CASE.**

ENTER NUMBER \_\_\_\_\_ (RANGE 1A to 4B)

**IF NUMBER ENTERED DOES NOT MATCH QUOTA CELL/MARKER ASSIGNMENT,  
HAVE INTERVIEWER RETURN AND RE-SELECT CASE, RE-ENTER NUMBER  
FROM THE SPINE OF THE DVD CASE.**

**PROG: KEY TO QUOTA CELL / QG ENTRY:**

**Marker 3      Valid Interviewer Entry**

1	1A (IF MARKER 3 = 1, THE ONLY VALID ENTRY IN QG IS 1A)
2	1B (IF MARKER 3 = 2, THE ONLY VALID ENTRY IN QG IS 1B)
3	2A (IF MARKER 3 = 3, THE ONLY VALID ENTRY IN QG IS 2A)
4	2B (IF MARKER 3 = 4, THE ONLY VALID ENTRY IN QG IS 2B)
5	3A (IF MARKER 3 = 5, THE ONLY VALID ENTRY IN QG IS 3A)
6	3B (IF MARKER 3 = 6, THE ONLY VALID ENTRY IN QG IS 3B)
7	4A (IF MARKER 3 = 7, THE ONLY VALID ENTRY IN QG IS 4A)
8	4B (IF MARKER 3 = 8, THE ONLY VALID ENTRY IN QG IS 4B)

Here is a movie on DVD. Imagine that your child (POP-IN NAME FROM QF.) is interested in watching this movie. Please examine the DVD case and let me know when you have finished. Please take as much time as you need to review the case.

**(GIVE DVD CASE TO RESPONDENT. WHEN RESPONDENT INDICATES THEY ARE  
DONE, TAKE BACK CASE AND REMOVE FROM VIEW.)**

H1. Have you seen this movie?

Yes (SHOW OTHER MOVIE OF THE SAME RATING AND TREATMENT CONDITION  
AND GO TO QI)

No (CONTINUE WITH H2)

**(IF QH1 IS "YES," DISPLAY RE-ASSIGNED QUOTA CELL AND TITLE OF DVD.  
INSTRUCT INTERVIEWER TO SELECT THIS CASE NUMBER AND BRING IT BACK TO  
THE COMPUTER.)**

H2. Using a scale from 1 to 4, with 1 being "Not at all familiar" and 4 being "Very familiar," how familiar would you say are you with this movie? Would you say...

1 - Not at all familiar (**GO TO Q1**)

2 (**GO TO Q1**)

3 (**SHOW OTHER MOVIE OF THE SAME RATING AND TREATMENT CONDITION AND GO TO Q1**)

4 - Very familiar (**SHOW OTHER MOVIE OF THE SAME RATING AND TREATMENT CONDITION AND GO TO Q1**)

(IF QH2 IS "3" OR "4 - VERY FAMILIAR" DISPLAY RE-ASSIGNED QUOTA CELL AND TITLE OF DVD. INSTRUCT INTERVIEWER TO SELECT THIS CASE NUMBER AND BRING IT BACK TO THE COMPUTER.)

**PROG: DISPLAY INSTRUCTION TO INTERVIEWER TO SELECT THIS CASE NUMBER AND BRING IT BACK TO THE COMPUTER.**

"Interviewer, please get the DVD from the envelope labeled (POP-IN)

IF MARKER 3 = 1 AND QH1 = YES OR QH2 = 3 OR 4, POP-IN "2A"

IF MARKER 3 = 2 AND QH1 = YES OR QH2 = 3 OR 4, POP-IN "2B"

IF MARKER 3 = 3 AND QH1 = YES OR QH2 = 3 OR 4, POP-IN "1A"

IF MARKER 3 = 4 AND QH1 = YES OR QH2 = 3 OR 4, POP-IN "1B"

IF MARKER 3 = 5 AND QH1 = YES OR QH2 = 3 OR 4, POP-IN "4A"

IF MARKER 3 = 6 AND QH1 = YES OR QH2 = 3 OR 4, POP-IN "4B"

IF MARKER 3 = 7 AND QH1 = YES OR QH2 = 3 OR 4, POP-IN "3A"

IF MARKER 3 = 8 AND QH1 = YES OR QH2 = 3 OR 4, POP-IN "3B"

**PROG - MARKER 4: RE-ASSIGNED QUOTA CELL**

**PROGRAMMER: ALTERNATE VERSION TO SHOW IN QUESTIONS I/J:**

**IF MOVIE #1 – The Kite Runner / Unaltered was shown in QH1/QH2, and the respondent had seen the movie or entered 3 or 4 to indicate familiarity with it, show Jumper/ Unaltered (MOVIE #3) in QI/J**

**IF MOVIE #2 – The Kite Runner / ALTERED was shown in QH1/QH2, and the respondent had seen the movie or entered 3 or 4 to indicate familiarity with it, show Jumper/ ALTERED (MOVIE #4) in QI/J**

**IF MOVIE #3 – Jumper / Unaltered was shown in QH1/QH2, and the respondent had seen the movie or entered 3 or 4 to indicate familiarity with it, show The Kite Runner / Unaltered (MOVIE #1) in QI/J**

**IF MOVIE #4 – Jumper / ALTERED was shown in QH1/QH2, and the respondent had seen the movie or entered 3 or 4 to indicate familiarity with it, show The Kite Runner / ALTERED (MOVIE #2) in QI/J**

**IF MOVIE #5 – Stop-Loss / Unaltered was shown in QH1/QH2, and the respondent had seen the movie or entered 3 or 4 to indicate familiarity with it, show Joy Ride/Unaltered (MOVIE #7) in QI/J**

**IF MOVIE #6 – Stop-Loss / ALTERED was shown in QH1/QH2, and the respondent had seen the movie or entered 3 or 4 to indicate familiarity with it, show Joy Ride/ALTERED (MOVIE #8) in QI/J**

**IF MOVIE #7 – Joy Ride / Unaltered was shown in QH1/QH2, and the respondent had seen the movie or entered 3 or 4 to indicate familiarity with it, show Stop-Loss/Unaltered (MOVIE #5) in QI/J**

**IF MOVIE #8 – Joy Ride / ALTERED was shown in QH1/QH2, and the respondent had seen the movie or entered 3 or 4 to indicate familiarity with it, show Stop-Loss / ALTERED (MOVIE #6) in QI/J**

**I. INTERVIEWER: ENTER THE NUMBER FROM THE SPINE OF THE DVD CASE.**

ENTER NUMBER \_\_\_\_\_

**IF NUMBER ENTERED DOES NOT MATCH QUOTA CELL ASSIGNMENT, HAVE INTERVIEWER RETURN AND RE-SELECT CASE, RE-ENTER NUMBER FROM THE SPINE OF THE DVD CASE.**

**PROG: KEY TO QUOTA CELL / QI ENTRY:**

**Marker 4 Valid Interviewer Entry**

- |          |   |
|----------|---|
| <b>1</b> | <b>1A (IF MARKER 3 = 1, THE ONLY VALID ENTRY IN QI IS 1A)</b> |
| <b>2</b> | <b>1B (IF MARKER 3 = 2, THE ONLY VALID ENTRY IN QI IS 1B)</b> |
| <b>3</b> | <b>2A (IF MARKER 3 = 3, THE ONLY VALID ENTRY IN QI IS 2A)</b> |
| <b>4</b> | <b>2B (IF MARKER 3 = 4, THE ONLY VALID ENTRY IN QI IS 2B)</b> |
| <b>5</b> | <b>3A (IF MARKER 3 = 5, THE ONLY VALID ENTRY IN QI IS 3A)</b> |
| <b>6</b> | <b>3B (IF MARKER 3 = 6, THE ONLY VALID ENTRY IN QI IS 3B)</b> |
| <b>7</b> | <b>4A (IF MARKER 3 = 7, THE ONLY VALID ENTRY IN QI IS 4A)</b> |
| <b>8</b> | <b>4B (IF MARKER 3 = 8, THE ONLY VALID ENTRY IN QI IS 4B)</b> |

**PROG: CAPTURE THE QUOTA CELL/MOVIE/TREATMENT RESPONDENT IS REASSIGNED TO.**

Again, please imagine that (POP-IN NAME FROM QF) is interested in watching this movie. Please examine the DVD case and let me know when you have finished. Please take as much time as you need to review the case.

**GIVE DVD CASE TO RESPONDENT. WHEN RESPONDENT INDICATES THEY ARE DONE, TAKE BACK CASE AND REMOVE FROM VIEW.**

J1. Have you seen this movie?

Yes **(THANK AND TERMINATE)**

No **(CONTINUE WITH J2)**

**(IF QJ1 IS “YES,” THANK AND TERMINATE THE INTERVIEW)**

J2. Using a scale from 1 to 4, with 1 being “Not at all familiar” and 4 being “Very familiar,” how familiar would you say are you with this movie? Would you say...

1 - Not at all familiar **(GO TO Q1)**

2 **(GO TO Q1)**

3 **(THANK AND TERMINATE THE INTERVIEW)**

4 - Very familiar **(THANK AND TERMINATE THE INTERVIEW)**

**(IF QJ2 IS “3” OR “4 - VERY FAMILIAR” THANK AND TERMINATE THE INTERVIEW.)**

1. How likely or unlikely would you be to let **(POP-IN CHILD’S NAME/INITIALS FROM QF)** watch this movie? Would you say: **(READ LIST. ENTER ONE ANSWER)**

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
1 Very likely	25.8%	28.7%
2 Somewhat likely	39.9%	29.7%
3 Somewhat unlikely, or	11.3%	13.4%
4 Very unlikely	22.1%	26.3%
9 <b>(DO NOT READ) DON’T KNOW/ NOT SURE</b>	0.9%	1.9%

2. What is the main reason you say that you would be **(POP-IN RESPONSE FROM Q1)** to let **(POP-IN CHILD’S NAME/INITIALS FROM QF)** watch this movie?

3. What other reasons, if any, make you **(POP-IN RESPONSE FROM Q1)** to let **(POP-IN CHILD’S NAME/INITIALS FROM QF)** watch this movie?

4. What did you look at on the DVD case that you just examined?



4a. Did you look at anything else? (**PROBE UNTIL UNPRODUCTIVE**)

5. I have a few questions about the DVD case I just handed you. These questions may or may not cover what you've already mentioned...First, did or didn't the DVD case display the rating of the movie?

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
1 YES, IT DID ( <b>CONTINUE</b> )	63.4%	81.3%
2 NO, IT DID NOT ( <b>SKIP TO Q11</b> )	21.6%	8.6%
9 DON'T KNOW/ NOT SURE ( <b>SKIP TO Q11</b> )	15.0%	10%

6. What was the rating of the movie?  
(**DO NOT READ RESPONSES. RECORD ONE RESPONSE**)

PG-13 rated movie

	<u>Unaltered</u>	<u>Altered</u>
Base=	110	107
1 G	4.5%	-
2 PG	0.9%	1.9%
3 PG13	53.6%	72.9%
4 R	-	0.9%
5 NC17	-	-
6 OTHER _____	-	-
9 DON'T KNOW/ NOT SURE	1.8%	-
DID NOT SEE RATING	39.1%	24.3%

R rated movie

	<u>Unaltered</u>	<u>Altered</u>
Base=	103	102
1 G	-	-
2 PG	1.9%	2.0%
3 PG13	2.9%	-
4 R	56.3%	82.4%
5 NC17	-	1.0%
6 OTHER _____	1.0	-
9 DON'T KNOW/ NOT SURE	3.9%	2.0%
DID NOT SEE RATING	34.0%	12.7%

7. In your opinion, how easy or difficult was it to find the movie rating on the DVD case you just reviewed? Would you say that it was:

**(READ LIST. ENTER ONE ANSWER)**

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
1 Very easy,	32.9%	69.4%
2 Somewhat easy,	15.5%	6.7%
3 Neither easy nor difficult,	4.2%	3.3%
4 Somewhat difficult, or	8.0%	1.0%
5 Very difficult to find the rating?	2.8%	0.5%
9 <b>(DO NOT READ) DON'T KNOW OR NOT SURE</b>	–	1.0%
DID NOT SEE RATING	36.6%	18.7%

8. Where did you see the rating? Did you see it...**(READ AND RANDOMIZE ITEMS A – C. CAPTURE A YES/NO/DK RESPONSE FOR EACH ITEM)**

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
A On the front of the case		
Yes	4.2%	59.8%
No	54.9%	16.7%
Don't know	4.2%	4.8%
Did not see rating	36.6%	18.7%
B On the back of the case		
Yes	59.2%	41.6%
No	3.3%	31.6%
Don't know	0.9%	8.1%
Did not see rating	36.6%	18.7%
C On the spine of the case		
Yes	1.9%	2.9%
No	54.5%	63.2%
Don't know	7.0%	15.3%
Did not see rating	36.6%	18.7%

9. Did or didn't the movie rating displayed on the DVD case include any reasons to explain the rating?

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
1 YES, IT DID <b>(CONTINUE)</b>	29.1%	47.4%
2 NO, IT DID NOT <b>(SKIP TO Q11)</b>	12.7%	13.4%
9 DON'T KNOW/ NOT SURE <b>(SKIP TO Q11)</b>	21.6%	20.6%
Did not see the rating	36.6%	18.7%

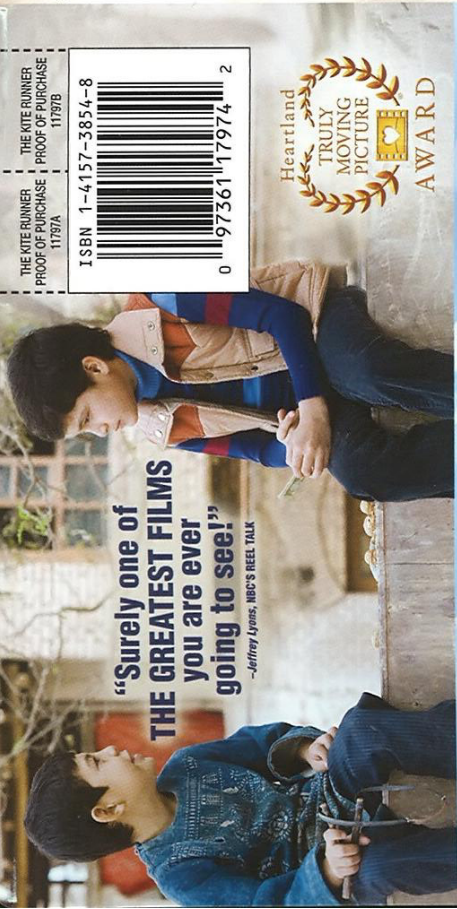
10. What reasons did the movie rating include to explain the rating of the movie? **(PROBE: Did the movie rating include any other reasons to explain the rating?)**

11. What was the highest level of education you attained?

	<u>Unaltered</u>	<u>Altered</u>
Base=	213	209
1 Some High School	2.3%	5.7%
2 High School Graduate	25.4%	29.7%
3 Associates Degree / Trade School	5.6%	8.6%
4 Some College	31.5%	29.7%
5 College Graduate	28.6%	24.4%
6 Post Graduate	6.6%	1.9%
7 Refused	—	—

### III. DVD Covers (See Following Pages)





**"Surely one of THE GREATEST FILMS you are ever going to see!"**  
*—Jeffrey Lyons, NBC's REEL TALK*

THE KITE RUNNER  
 PROOF OF PURCHASE  
 11797A

THE KITE RUNNER  
 PROOF OF PURCHASE  
 11797B

ISBN 1-4157-3854-8

0 973661 17974 2



**SPECIAL FEATURES**

- ◆ Commentary with Marc Forster, Khaled Hosseini and David Benioff
- ◆ Words from The Kite Runner ◆ Images from The Kite Runner
- ◆ Theatrical Trailer

Special Features Not Rated

The best-selling novel is now one of the most acclaimed movies of the year. As young boys, Amir and Hassan were inseparable friends, until one fateful act tore them apart. Years later, Amir will embark on a dangerous quest to right the wrongs of the past – and redeem himself in ways he never expected – by displaying the ultimate in courage and devotion to his friend. Directed by Marc Forster (*Finding Neverland*, *Monster's Ball*), **"The Kite Runner"** allows us to believe that there may be justice in the world.® (Richard Corliss, *TIME*).

DREAMWORKS PICTURES, SONY PICTURES ENTERTAINMENT, AND PARTICIPANT PRODUCTIONS PRESENT  
 A SONY PICTURES ENTERTAINMENT AND PARKES/MACDONALD PRODUCTION "THE KITE RUNNER" KHALED ABUALLA  
 HOUMAYOUN ERSHADI SHAHN TUBB AYESHA LEON SAID TASHIRHADI MUSIC BY ALBERTO IGLESIAS COSTUME DESIGNER BRUCE TULL EXECUTIVE PRODUCERS FRANK FLEMING AND MATT CHESTNUT  
 PRODUCED BY CARLOS CORTI DIRECTED BY MARC FORSTER EXECUTIVE PRODUCERS SONY PICTURES KIMMEL LAURE MACDONALD SAM MENDES JEFF SKOLL  
 WRITTEN BY WILLIAM HURDWOOD WALTER PARKES REBECCA YELDMAN EDITOR BENNETT WALSH EXECUTIVE PRODUCERS DAVID BENIOFF PRODUCED BY MARC FORSTER  
 Soundtrack Album on EDGE  
 www.kiterunnermovie.com

**WIDESCREEN VERSION ENHANCED FOR 16:9 TVs • DOLBY DIGITAL: ENGLISH 5.1 SURROUND / FRENCH 5.1 SURROUND / SPANISH 5.1 SURROUND • SUBTITLES: ENGLISH / FRENCH / SPANISH**

**THIS FILM IS PRESENTED IN "WIDESCREEN" FORMAT. THE BLACK BARS ON THE TOP AND BOTTOM OF THE SCREEN ARE NORMAL.**

**PG-13**  
 PARENTS STRONGLY CAUTIONED  
 SOME MATERIAL MAY BE INAPPROPRIATE FOR CHILDREN UNDER 13  
 For more information on film ratings, go to www.filmratings.com

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**DVD VIDEO**  
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**NO DVD VIDEO**  
 This DVD is not compatible with DVD players

2007/COLOR/127 MIN / PG-13 / WIDESCREEN / CC  
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**DREAMWORKS PICTURES**  
 HOME ENTERTAINMENT



FROM THE DIRECTOR OF FINDING NEVERLAND

The **KITE RUNNER**

CC 11797 DVD VIDEO

**"This is a MAGNIFICENT film!"**  
 —Roger Ebert, CHICAGO SUN-TIMES





**"Surely one of  
THE GREATEST FILMS  
you are ever  
going to see!"**  
—Jeffrey Lyons, NBC'S REEL TALK

THE KITE RUNNER  
PROOF OF PURCHASE  
11797B



**SPECIAL FEATURES**

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  - ◆ Words from The Kite Runner ◆ Images from The Kite Runner
  - ◆ Theatrical Trailer
- Special Features Not Rated

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ORION PICTURES PRESENTS A SONY PICTURES CLASSICS PRODUCTION A MARC FORSTER FILM "THE KITE RUNNER" KHALID ABU ALA  
 HONOLULU ERSADU SHANU TOU ROSAL LEON SAID TAGHMAOUH BY ALBERTO CLEGGIOS OF THE FUTURE FULL FROM FRANK FLEMING BY MATT CROSBY  
 PRODUCED BY CARLOS COATTI DIRECTED BY MARC FORSTER CASTING BY SUEY KIMMEL LAURENCE MACDONALD SHANNAN LEE JEFF SMOUL  
 WRITTEN BY WILLIAM HOGBERG BASED UPON THE NOVEL BY KHALID ABU ALA  
 EXECUTIVE PRODUCERS WILLIAM HOGBERG REBECCA YELDMAN E. BENNETT WALSH PRODUCED BY MARC FORSTER  
 SOUNDTRACK ALBUM ON EDGE  
 www.kiterunnermovie.com  
 DREAMWORKS PICTURES

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FRENCH 5.1 SURROUND / SPANISH 5.1 SURROUND • SUBTITLES: ENGLISH/FRENCH/SPANISH**

**PG-13**  
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 FOR MORE INFORMATION GO TO WWW.FILMAPP.COM

**PG-13**  
 FOR STRONG THEMATIC MATERIAL INCLUDING  
 THE SEXUAL ASSAULT OF A CHILD, VIOLENCE  
 AND BRIEF STRONG LANGUAGE.

**"This is a MAGNIFICENT film!"**  
 —Roger Ebert, CHICAGO SUN-TIMES



FROM THE DIRECTOR OF FINDING NEVERLAND

The **KITE**  
**RUNNER**  
A MARC FORSTER FILM

"There is a way to be good again."

**PG-13**

FOR STRONG THEMATIC MATERIAL INCLUDING  
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**The KITE RUNNER** 11797 DVD VIDEO











**"A Defining  
Movie About A  
New Generation  
of Heroes"**  
—Pat Collins, *WV09-TV*

**R**yan Phillippe leads an all-star cast in *Stop-Loss*, the inspirational film about family, friends, loyalty and camaraderie. After completing his tour of duty, Brandon King (Phillippe) faces an unexpected new challenge that will put him at odds with former soldiers and test the bonds with old friends.

Featuring rising stars **Channing Tatum**, **Abbie Cornish** and **Joseph Gordon-Levitt**, *Stop-Loss* is the must-own DVD that critics are hailing as "a generation-defining film." (Carmie Rieckey, *Philadelphia Inquirer*)

STOP-LOSS  
PROOF OF PURCHASE / PROOF OF PURCHASE  
34765A 34765B

ISBN-1-1157-4109-3



0 97363 47654 2



WIDESCREEN

RYAN PHILLIPPE  
ABBIE CORNISH  
CHANNING TATUM  
JOSEPH GORDON-LEVITT

# STOP-LOSS

FROM THE DIRECTOR OF "BOYS DON'T CRY"



**"The first major movie of the new year that touches greatness."**  
—Peter Travers, *ROLLING STONE*

# STOP-LOSS



34765



## Special Features

- 11 Deleted Scenes (With Optional Commentary)
- The Making of *STOP-LOSS*

- Commentary by Director **Kimberly Peirce** and Co-Writer **Mark Richard**
- Featurette: A Day In Boot Camp

Special Features Not Rated



PARAMOUNT PICTURES AND MTV FILMS PRESENT A SCOTT RUDIN PRODUCTION A KIMBERLY PERCE FILM "STOP-LOSS"  
 RYAN PHILLIPPE ABBIE CORNISH CHANNING TATUM JOSEPH GORDON-LEVITT TIMOTHY OLYPHANT  
 VICTOR RASUK ROB BROWN AND JOHN POWELL MUSIC BY RANDALL POSTER JIM DUNBAR COSTUME DESIGNER MARLENE STEWART  
 EDITED BY CLARE SIMPSON PRODUCTION DESIGNER DAVID VASCO DIRECTOR OF PHOTOGRAPHY CHRIS MENIGES WRITTEN BY MARK RICHARD & KIMBERLY PERCE  
 PRODUCED BY KIMBERLY PERCE MARK ROYBAL SCOTT RUDIN GREGORY GOODMAN DIRECTED BY KIMBERLY PERCE

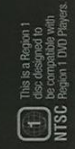
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FOR GRAPHIC VIOLENCE AND PERNICIOUS LANGUAGE  
 For more information on film ratings, go to [www.filmratings.com](http://www.filmratings.com)



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**"A Defining  
Movie About A  
New Generation  
Of Heroes"**  
—Pat Collins, *WVPR-TV*

**R**yan Phillippe leads an all-star cast in *Stop-Loss*, the inspirational film about family, friends, loyalty and camaraderie. After completing his tour of duty, Brandon King (Phillippe) faces an unexpected new challenge that will put him at odds with former soldiers and test the bonds with old friends. Featuring rising stars **Channing Tatum**, **Abbie Cornish** and **Joseph Gordon-Levitt**, *Stop-Loss* is the must-own DVD that critics are hailing as "a generation-defining film." (Carrie Rickey, *Philadelphia Inquirer*)

**Special Features**

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- The Making of *STOP-LOSS*

- Commentary by Director **Kimberly Peirce** and Co-Writer **Mark Richard**
- Featurette: A Day in Boot Camp

Special Features Not Rated

STOP-LOSS  
PROOF OF PURCHASE / PROOF OF PURCHASE  
34765A 34765B

ISBN 1-4157-4109-3

0 197363 47654 2



WIDESCREEN

**STOP-LOSS**



34765



JOSEPH GORDON-LEVITT  
CHANNING TATUM  
ABBIE CORNISH  
RYAN PHILLIPPE  
**STOP-LOSS**

FROM THE DIRECTOR OF "BOYS DON'T CRY"



FOR GRAPHIC VIOLENCE  
AND PERSASIVE LANGUAGE

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RYAN PHILLIPPE ABBIE CORNISH CHANNING TATUM JOSEPH GORDON-LEVITT CARAM HINDS TIMOTHY OLYPHANT  
VICTOR PASIK ROBB BROWN MISS JOHNN POWELL MISS RANDALL POSTER JIM DUNBAR COSTUME DESIGNER MARLENE STEWART  
EDITED BY CLARE SIMPSON PRODUCED BY DAVID WASSCO DIRECTOR OF PHOTOGRAPHY MARK RICHARD & KIMBERLY PEIRCE  
PRODUCED BY KIMBERLY PEIRCE MARK ROYBAL SCOTT RUDIN GREGORY GOODMAN DIRECTED BY KIMBERLY PEIRCE

Be Part of the Front Line Dialogue: [www.StopLossMovie.com/SoundOff](http://www.StopLossMovie.com/SoundOff)

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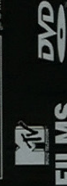
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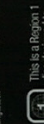
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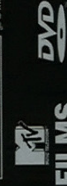
FOR GRAPHIC VIOLENCE  
AND PERSASIVE LANGUAGE



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This is a Region 1  
DVD. It is not  
compatible with  
NTSC Region 1 DVD Players.





"A First-Rate Pure THRILLER!"

-Roger Ebert, Chicago Sun-Times

"Paul Walker takes a WILDER RIDE here than he did in 'THE FAST AND THE FURIOUS.'"

-Joe Leydon, San Francisco Examiner

Stalked by a vengeful trucker, three friends race for their lives - it's a thrilling nail-biter with 4 mind-blowing alternate endings!



29-MINUTE ALTERNATE ENDING!

Not Just A New Ending, But A Whole New Movie!

4 Shocking New Endings In All!  
Plus A Truckload Of Chilling Extras!

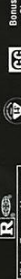


Anamorphic Widescreen (Aspect Ratio 2.35:1)  
Audio: English, 5.1 Dolby Surround, English Dolby Surround, French Dolby Surround  
Subtitles: English, Spanish



REGISTRY ENTERPRISES PRESENTS A NEW REGISTRY / PLANET PRODUCTIONS STEVE ZAHN / PAUL WALKER / LEELEE SOBIESKI "JOY RIDE"  
WITH HARBO DETRAMI "THE FURIOUS" BEANSON, GLEN SCANTLEBURY "ROCKY" BOB PEARSON "THE ROAD" JEFFREY LUBY "LONE STAR MOTEL VACANCY" PATRICK WARREN BRIDGET JOHNSON  
FRANCO "T.J. ABRAMS AND CHRIS ANDRUE" WITH CLAY TAYLOR & J.J. ABRAMS "THE JOHN DAIL" 2001, Color, Approx. 96 Minutes

Soundtrack Available on



WIDESCREEN VERSION: Presented in a letterbox widescreen format preserving the aspect ratio of its original theatrical exhibition.

Cat. No. 2003627



SPECIAL EDITION

STEVE ZAHN PAUL WALKER LEELEE SOBIESKI

JOY RIDE

JOY RIDE



DVD VIDEO

REGISTRY

"A Hot-Wired, White-Knuckle Thriller."

-San Francisco Examiner

DVD VIDEO



**"A First-Rate Pure THRILLER!"**

-Roger Ebert, Chicago Sun-Times

**"Paul Walker takes a WILDER RIDE here than he did in 'THE FAST AND THE FURIOUS.'"**

-Joe Leydon, San Francisco Examiner

Stalked by a vengeful trucker, three friends race for their lives - it's a thrilling nail-biter with 4 mind-blowing alternate endings!

**DETOUR**

**29-MINUTE ALTERNATE ENDING!**

**Not Just A New Ending, But A Whole New Movie!**

**4 Shocking New Endings In All!  
Plus A Truckload Of Chilling Extras!**

Anamorphic Widescreen (Aspect Ratio 2.35:1)  
Audio: English 5.1 Dolby Surround, English Dolby Surround, French, Dolby Surround  
Subtitles: English, Spanish



WIDESCREEN VERSION: Presented in a letterbox widescreen format preserving the aspect ratio of its original theatrical exhibition.

REGISTRY ENTERPRISES PRESENTS A NEW VAGANCY / PLANET PRODUCTIONS STEVE ZAHN / LIVE PLANET PRODUCTIONS STEVE ZAHN / PAUL WALKER, LEELEE SOBIESKI "JOY RIDE"  
WITH HAROLD BELTRAMI "THE SHOW", DEBRA SWAN, CHERYL SULLIVAN, JEFFREY JURY, ANDREW ARNOLD, MICHAEL WILSON, PATRICK MARNEY, BUDDETT JOHNSON  
MUSIC BY TULLY ABRAHAM AND CHRIS ANDRE "THE CLAY TANKER", TULLY ABRAHAM "THE JOURNAL" 2001, Color. Approx. 96 Minutes

Soundtrack Available on



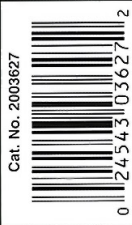
Beats Features Not Found on Standard Editions



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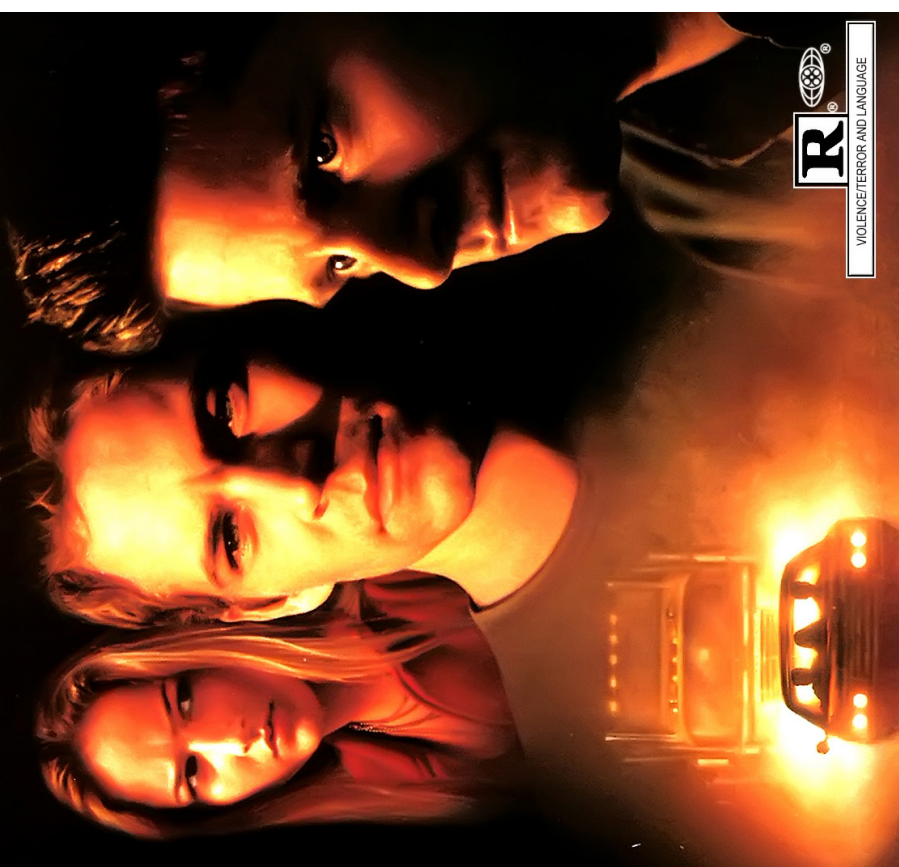
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**SPECIAL EDITION**

STEVE ZAHN PAUL WALKER LEELEE SOBIESKI

**JOY RIDE**



RESTRICTED  
VIOLENCE/TERROR AND LANGUAGE

**"A Hot-Wired, White-Knuckle Thriller."**

-San Francisco Examiner







# Appendix C: FTC Telephone Survey on Parental Awareness of and Attitudes About Unrated DVDs

OMB Control No.: 3084-0149

## I. Overview of Methodology

### A. Sampling Frame

The FTC contracted with Synovate for the survey. The sampling frame consisted of all blocks of telephone numbers with at least one listed residential telephone number. Telephone numbers were randomly selected within strata constructed such that the resulting sample would provide a nationally representative statistical sample of U.S. households in the 50 states and the District of Columbia. Post-stratification weighting was conducted after the survey fielding period.

### B. Questionnaire Design

The questionnaires were designed by the Commission staff in consultation with Dr. Manoj Hastak, a consultant to the FTC, and Synovate. To ensure that all aspects of the survey instruments and protocol were working as designed, pilot testing was conducted, involving trained interviewers and the fully developed survey instrument programmed into the Computer Assisted Telephone Interviewing (CATI) system. The instruments were piloted before the field period with a limited number of interviewers dialing households. Some minor changes were made to the instrument before fieldwork began. Copies of the final questionnaires appear in Section II of this Appendix.

### C. Telephone Data Collection

Interviewing began on March 5, 2009. The survey was included within seven waves of the Ipsos U.S. Express Telephone Omnibus survey. The last wave was completed May 4, 2009. Interviews were conducted in both English and Spanish. Interviewing in each wave was conducted over a five-day field period and the results of each wave were weighted to U.S. Census data.

### D. Respondent Eligibility

To be eligible to participate in the study, the following criteria had to be met:

- Parent of a child between the ages of 7 and 16;
- Rented or purchased a DVD for their child in the last 12 months; and
- Aware of the MPAA rating system.

## II. Survey Instruments Annotated With Results

1. This next series of questions is for a federal agency. A federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control number for the following series of questions is 3084-0149. Are there any children currently living in your household between the ages of 7 and 16?  
(n=7012)
- |                                   |     |
|-----------------------------------|-----|
| 1 Yes ( <b>CONTINUE WITH Q2</b> ) | 24% |
| 2 No ( <b>TERMINATE</b> )         | 73% |
| 9 Refused ( <b>TERMINATE</b> )    | 3%  |
2. Have you rented or bought a DVD movie for any of these children age 7 to 16 in the past year?  
(n=1429)
- |                                   |     |
|-----------------------------------|-----|
| 1 Yes ( <b>CONTINUE WITH Q3</b> ) | 71% |
| 2 No ( <b>TERMINATE</b> )         | 28% |
| 8 Don't know ( <b>TERMINATE</b> ) | 0%  |
| 9 Refused ( <b>TERMINATE</b> )    | —   |
3. Are you aware there is a rating system to help parents decide what movies they do and do not want their children to watch in theaters or on DVD?  
(n=1055)
- |   |     |
|---|-----|
| 1 YES   | 94% |
| 2 NO ( <b>THANK AND TERMINATE</b> )                     | 6%  |
| 8 DON'T KNOW OR NOT SURE ( <b>THANK AND TERMINATE</b> ) | 0%  |
| 9 REFUSED ( <b>THANK AND TERMINATE</b> )                | —   |
4. Now I'm going to read you three of the movie system ratings. After I read them, please tell me which one of the three is most restrictive – meaning the rating that makes it most difficult for a child to see the movie in theaters. The ratings are (**RANDOMIZE**: PG-13, R, and NC-17). Which ONE of these ratings is most restrictive? (**RECORD ONE RESPONSE**)  
(n=1000)
- |  |     |
|--|-----|
| 1 PG-13  | 7%  |
| 2 R  | 56% |
| 3 NC-17  | 33% |
| 8 DON'T KNOW OR NOT SURE ( <b>SKIP TO Q6</b> ) | 3%  |
| 9 REFUSED ( <b>SKIP TO Q6</b> )                | —   |

5. And of the remaining two ratings (**RANDOMIZE REMAINING RATINGS:** PG-13, R, and NC-17), which ONE of these ratings is more restrictive? (**IF NECESSARY:** by restrictive, I mean the rating that makes it more difficult for a child to see the movie in theaters.)

(n=1000)

1 PG-13	6%
2 R	35%
3 NC-17	50%
8 DON'T KNOW OR NOT SURE	8%
9 REFUSED	—

6. How often, if ever, do you use the movie's rating when your child wants to buy, rent, or watch a movie for the first time? (**READ LIST; RANDOMIZE TOP TO BOTTOM, BOTTOM TO TOP**)

(n=1000)

1 All or nearly all the time,	59%
2 Most of the time,	17%
3 Some of the time,	14%
4 Rarely,	5%
5 Never	4%
8 DON'T KNOW OR NOT SURE	1%
9 REFUSED	—

7. To the best of your knowledge, can a movie that was rated for theaters be released as an unrated version on DVD?

(n=1000)

1 YES ( <b>CONTINUE WITH Q8</b> )	66%
2 NO ( <b>SKIP TO Q10 INTRO 10.1</b> )	24%
8 DON'T KNOW OR NOT SURE ( <b>SKIP TO Q10 INTRO 10.1</b> )	11%
9 REFUSED ( <b>SKIP TO Q10 INTRO 10.1</b> )	—

8. To the best of your knowledge, how might an unrated DVD version differ from the version rated for theaters? If you don't know, please say so. (**PROBE:** Are there any other differences between an unrated DVD and the rated version?)

(n=669)

More scenes/the movie is uncut	21%
Sexual content	11%
Language/inappropriate language	10%
Violence	9%
Other	9%
Graphic/explicit	8%

It's worse	5%
Content is inappropriate (for children)	2%
Content (unspecified)	1%
Nothing	0%
Don't now/Not sure	45%

9. To the best of your knowledge, can an unrated DVD sometimes contain violence or other adult content that was not in the version rated for theaters?  
(n=669)

1 YES (CONTINUE WITH Q10)	90%
2 NO (SKIP TO Q10 INTRO 10.1)	5%
8 DON'T KNOW/NOT SURE (SKIP TO Q10 INTRO 10.1)	4%
9 REFUSED (SKIP TO Q10 INTO 10.1)	–

10. [IF Q9=1, SKIP INTRO. IF Q9=2, 8, OR 9, OR IF Q7=2, 8, OR 9, READ INTRO 10.1: Actually, unrated DVDs may sometimes contain violence or other adult content that was not in the version rated for theaters.]  
[ASK ALL]

What is your opinion about the practice of releasing DVDs with unrated violence or other adult content that was not in the version rated for theaters?" Would you say that you:  
(READ LIST, ROTATE 1 – 2; ITEM 3 ALWAYS LAST)

(n=1000)

1 have no concerns about this practice, (SKIP TO Q12)	20%
2 have some concerns about this practice, (CONTINUE WITH Q11)	58%
3 or have no opinion one way or the other? (SKIP TO Q12) (ALWAYS LAST)	22%
8 DON'T KNOW OR NOT SURE (SKIP TO Q12)	0%
9 REFUSED (SKIP TO Q12)	–

11. What concerns do you have about this practice?  
(n=583)

The content is not appropriate for children	41%
Content is unclear	18%
Other	16%
Violence	15%
It should be rated	10%
Sexual content	8%

Language/inappropriate language	3%
It should not be allowed	3%
Do not approve/I dislike it	3%
Anyone can rent/buy the movie	3%
Nothing	1%
Don't know	7%

**[IN CROSSTABULATIONS, DISPLAY RESULTS TO Q11 ONCE FOR RESPONDENTS ANSWERING Q9=1, ONCE FOR ALL OTHER RESPONDENTS]**

**[ASK ALL]**

12. To the best of your knowledge, within the last 12 months, has your child watched, on DVD, an unrated version of a movie that was rated for theaters?  
(n=1000)

1 YES	16%
2 NO	81%
8 DON'T KNOW OR NOT SURE	3%
9 REFUSED	—





## Appendix D: Internet Surveys

This Appendix sets forth, for the motion picture, music recording, and electronic game industries, the results of the website surveys conducted by the Commission during the Spring of 2009.

### I. MOTION PICTURES

#### A. Motion Picture Websites

The Commission examined websites advertising the following 20 motion pictures in February 2009: *Australia*, *Blindness*, *Body of Lies*, *Gran Torino*, *Max Payne*, *Pride and Glory*, *Punisher: War Zone*, *Quantum of Solace*, *Quarantine*, *Saw V*, *The Changeling*, *The Day the Earth Stood Still*, *The Haunting of Molly Hartley*, *The Secret Life of Bees*, *The World Unseen*, *The Wrestler*, *Transporter 3*, *Twilight*, *What Just Happened*, and *Valkyrie*. The movies were selected based on the following criteria: they had a release date between October 1 and December 31, 2008;<sup>1</sup> were rated R or PG-13; had at least one of the rating reasons involve violence; and had an active website/web page promoting the movie. The studios that released these films included MPAA members as well as non-MPAA members.

**Table 1: Motion Picture Website Surf Results**

	Summaries by Sites		% Yes
	Yes	No	
<b>Is the movie’s rating displayed on the home page or teaser page?</b>	20	0	100%
Is the rating the correct MPAA rating—i.e., rated “R”?	20	0	100%
Is the word “Restricted” in the rating readable?	20	0	100%
Is the rating visible on the screen without scrolling?	3	17	15%
<b>Is a rating reason(s) displayed with the rating on the home page or teaser page?</b>	20	0	100%
Is it the official MPAA rating reason(s)?	16	4	80%
Is the rating reason(s) displayed readable?	14 of 16	2 of 16	88%
Is the rating reason(s) visible on the screen without scrolling?	2 of 16	14 of 16	13%
<b>Does the site at any point (including by clicking on the rating banner) link to:</b>			
mpaa.org?	14	6	70%
filmratings.com?	15	5	75%
parentalguide.org?	15	5	75%
<b>At this site, can you view a trailer for the movie?</b>	20	0	100%
Are you able to view the trailer successfully?	19	1	95%
If Yes, is there a red tag <sup>2</sup> trailer available to all viewers?	0 of 19	19 of 19	0%
<b>Does the site at any point ask the visitor to disclose his/her age?</b>	1	19	5%
<b>Does the site ask the visitor to disclose his/her age before: [?]</b>			
entering the site?	1 of 1	0 of 1	100%
viewing or downloading a trailer?	0 of 1	1 of 1	0%
purchasing tickets for the movie?	0 of 1	1 of 1	0%

## B. Motion Picture Theater Chain Websites

The Commission examined the practices of twelve motion picture theater chain websites – AMC Entertainment Inc., Carmike Cinemas, Inc., Cinemark USA, Inc., Consolidated Theatres, Dickinson Theaters, Harkins Theatres, Hollywood Theatres, Kerasotes Theatres, Marcus Theatres Corp., National Amusements, Inc., Rave Motion Pictures, and Regal Entertainment Group – regarding five R-rated movies: *Gran Torino*, *The Wrestler*, *Defiance*, *My Bloody Valentine 3-D*, and *Underworld: Rise of the Lycans*.<sup>3</sup> The theaters were selected because they comprise at least 1% of the market based on number of screens, according to data from the National Association of Theater Owners (“NATO”). With the exception of Hollywood Theaters and Rave Motion Pictures, these theater chains are all members of NATO.

**Table 2: Theater Website Review Results**

	Combined Results		%
	Yes	No	Yes
<b>At each website, is there any information about the movies?</b>	49 of 60	11 <sup>4</sup> of 60	82%
<b>Are the movies' rating displayed on any page containing information about the movie?</b>	49 of 49	0 of 49	100%
Are the ratings the correct MPAA ratings – i.e., rated “R”?	49 of 49	0 of 49	100%
Is the word “Restricted” in the ratings readable?	9 of 49	40 of 49	18%
Are the ratings visible on the screen without scrolling?	34 of 49	15 of 49	69%
<b>Are the rating reason(s) displayed on any page containing information about the movies?</b>	40 of 49	9 of 49	82%
If not, do the sites link to the rating reason(s)?	0 of 9	9 of 9	0%
Are they the official MPAA rating reason(s)?	40 of 40	0 of 40	100%
Are the rating reason(s) displayed readable?	40 of 40	0 of 40	100%
Are the rating reason(s) visible on the screen without scrolling?	40 of 40	40 of 40	100%
<b>Do the sites contain any other warning or cautionary statement(s) relating to the content of the movies?</b>	0 of 49	49 of 49	0%
<b>At these sites, are there trailers for the movies?</b>	40 of 49	9 of 49	82%
Are you able to view the trailers successfully?	40 of 40	0 of 40	100%
If Yes, is there any indication the trailers have been reviewed by the MPAA?	40 of 40	0 of 40	100%
If Yes, are there red tag trailers available to all viewers?	0 of 40	40 of 40	0%
<b>Do the sites at any point ask the visitor to disclose his/her age?</b>	8 of 49	41 of 49	16%
Do the sites ask the visitor to disclose his/her age before:			
viewing or downloading trailers?	0 of 8	8 of 8	0%
purchasing tickets to the movie?	8 of 8	0 of 8	100%
If the visitor enters an age under 17, is the visitor prevented from:			
viewing or downloading a trailer?	0 of 8	8 of 8	0%
purchasing tickets to the movie?	0 of 8	8 of 8	0%
<b>Can you currently purchase tickets to the movie from this site?</b>	49 of 49	0 of 49	100%
Is the transaction at this site ( <i>i.e.</i> , at the same URL), a theater chain's site, and/or a third-party vendor's site?			
this site	4 of 49	5 of 49	8%
a theater chain's site	0 of 49	49 of 49	0%
a third-party vendor's site	47 of 49	2 of 49	96%
<b>Does the site at any point (including by clicking on the rating banner) link to:</b>			
mpaa.org?	8 of 49	41 of 49	16%
filmratings.com?	13 of 49	36 of 49	27%
parentalguide.org?	8 of 49	41 of 49	16%
<b>Does the site provide any detailed information about the MPAA ratings?</b>	13 of 49	36 of 49	27%

## C. Online Movie Ticket Websites

The Commission examined the practices of two online movie ticket sellers in February 2009 – Fandango.com and Movietickets.com – with the same criteria used for the motion picture theater chain websites.

**Table 3: Movie Ticket Website Review Results**

	Fandango	Movietickets
<b>Can you currently purchase tickets to the movie from this site?</b>	5 of 5	5 of 5
<b>Is the movie’s rating displayed on any page containing information about the movie?</b>	5 of 5	5 of 5
Is the rating the correct MPAA rating?	5 of 5	5 of 5
Is the word “Restricted” in the rating readable?	0 of 5	0 of 5
Is the rating visible on the screen without scrolling?	5 of 5	5 of 5
<b>Is the rating reason(s) displayed on any page containing information about the movie?</b>	5 of 5	5 of 5
Is it the official MPAA rating reason?	5 of 5	5 of 5
Is the rating reason(s) displayed readable?	5 of 5	5 of 5
Is the rating reason(s) visible on the screen without scrolling?	5 of 5	5 of 5
<b>At this site, is there a trailer for the movie?</b>	5 of 5	5 of 5
Are you able to view the trailer successfully?	5 of 5	5 of 5
If Yes, is there any indication the trailer has been reviewed by the MPAA?	4 of 5	5 of 5
If Yes, is there a red tag trailer available to all viewers?	0 of 5	0 of 5
<b>Does the site at any point ask the visitor to disclose his/her age?</b>	0 of 5	5 of 5
<b>Does the site ask the visitor to disclose his/her age before:</b>		
viewing or downloading a trailer?	n/a	0 of 5
purchasing tickets to the movie?	n/a	5 of 5
If the visitor enters an age under 17, is the visitor prevented from:		
viewing or downloading a trailer?	n/a	0 of 5
purchasing tickets to the movie?	n/a	5 of 5
If the visitor hits the “back” key on the browser and then enters age 19, is the visitor allowed to purchase tickets to the movie?	n/a	n/a <sup>5</sup>
<b>Does the site at any point (including by clicking on the rating banner) link to:</b>	0 of 5	0 of 5
mpaa.org?	0 of 5	0 of 5
filmratings.com?	0 of 5	0 of 5
parentalguide.org?	0 of 5	0 of 5
<b>Does the site provide any detailed information about the MPAA ratings?</b>	0 of 5	0 of 5

## D. Retailer Websites – Motion Picture DVDs

The Commission examined the practices of five online retailers in February 2009 – Amazon.com, BestBuy.com, eBay.com, fye.com, and Walmart.com<sup>6</sup> – with respect to five violent unrated movies that also have an MPAA R-rated version: *My Best Friend's Girl*, *Pineapple Express*, *Postal*, *Saw V*, and *Tropic Thunder*.

**Table 4: Motion Picture DVD Retailer Review Results for Unrated Movies**

	Amazon	Best Buy	eBay	f.y.e.	Wal-Mart
<b>Is the assigned unrated movie for sale on the site?</b>	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5
<b>Is there any indication that this movie also comes in version that is rated?</b>	0 of 5	5 of 5	3 of 5	5 of 5	4 of 5
Does the site indicate what the rating is for the rated version of the movie?	n/a	5 of 5	3 of 3	5 of 5	4 of 4
Does the site indicate what the rating reasons are for the rated version of the movie?	n/a	5 of 5	0 of 3	5 of 5	0 of 4
<b>Does the site use any particular language or nomenclature to indicate that the movie is unrated?</b>	5 of 5	4 of 5	5 of 5	5 of 5	5 of 5
<b>Does the site contain any other warning or cautionary statement(s) relating to the content of the movie, including something equivalent to rating reasons?</b>	0 of 5	4 of 5	0 of 5	5 of 5	5 of 5
<b>Does the site at any point ask the visitor to disclose his/her age?</b>	0 of 5	0 of 5	0 of 5	0 of 5	0 of 5

## E. Rental Websites – Motion Picture DVDs

The Commission surveyed Blockbuster.com, DVDAvenue.com, and Netflix.com<sup>7</sup> regarding five movie rentals that were rated R with at least one rating reason for violence – *Appaloosa*, *Bangkok Dangerous*, *Mirrors*, *Pineapple Express*, and *Righteous Kill* – in February 2009.

**Table 5: DVD Rental Website Review Results**

	Netflix	Blockbuster	DVD Avenue
<b>Is the assigned movie for rent on the site?</b>	5 of 5	5 of 5	5 of 5
<b>Is the movie’s rating displayed anywhere on the site?</b>	5 of 5	5 of 5	5 of 5
Is the rating the correct MPAA rating?	5 of 5	4 of 4 <sup>8</sup>	4 of 4 <sup>9</sup>
Is the word “Restricted” in the rating readable?	0 of 5	0 of 4	0 of 4
Is the rating visible on the screen without scrolling?	5 of 5	4 of 4	0 of 4
<b>Is the rating reason(s) displayed on any page containing information about the movie?</b>	5 of 5	4 of 4	0 of 5
Does the site link to the rating reason(s)?	n/a	0 of 4	0 of 5
Is it the official MPAA rating reason?	5 of 5	0 of 4	n/a
Is the rating reason(s) displayed readable?	5 of 5	4 of 4	n/a
Is the rating reason(s) visible on the screen without scrolling?	5 of 5	0 of 4	n/a
<b>At this site, is there a trailer for the movie?</b>	0 of 5	5 of 5	0 of 5
Are you able to view the trailer successfully?	n/a	5 of 5	n/a
If Yes, is there any indication the trailer has been reviewed by the MPAA?	n/a	5 of 5	n/a
If Yes, is there a red tag trailer available to all viewers?	n/a	0 of 5	n/a
<b>Does the site at any point ask the visitor to disclose his/her age?</b>	0 of 5	0 of 5	0 of 5
<b>Does the site at any point link to:</b>			
mpaa.org?	0 of 5	0 of 5	0 of 5
filmratings.com?	0 of 5	0 of 5	0 of 5
parentalguide.org?	0 of 5	0 of 5	0 of 5
<b>Does the site provide any detailed information about the MPAA ratings?</b>	0 of 5	0 of 5	0 of 5



## F. Red Tag Trailers

The Commission surveyed six video-hosting websites – CraveOnline, Hulu, IMDB, VideoAOL, Yahoo (Video Search), and YouTube – with respect to five red tag trailers for the following R-rated movies: *Adventureland*, *Bruno*, *Crank 2*, and *Observe & Report*.

**Table 6: Results from Motion Picture “Red Tag” Trailer Surf**

	Crave Online	Hulu	IMDB	Video. AOL	Yahoo (Video Search)	YouTube
<b>Is a red tag trailer for any of the four movies available for viewing on the website?</b>	1 of 4	2 of 4	2 of 4	0 of 4	2 of 4	4 of 4
<b>Do the search results indicate that a red tag trailer for any of the four movies is available for viewing on a different website and link directly to the trailer on the other site?</b>	0 of 4	0 of 4	0 of 4	2 of 4	4 of 4	n/a
<b>Does the website ask the visitor to disclose his/her age before viewing the red tag trailer?</b>	1 of 1	2 of 2	2 of 2	n/a	0 of 2	0 of 4
If the visitor enters an age or birth date indicating he/she is under age 17, is the visitor prevented from viewing the red tag trailer?	1 of 1	2 of 2	2 of 2	n/a	n/a	n/a
If the visitor hits the “back” key on the browser and then enters age indicating he/she is age 19, can he/she view the red tag trailer?	1 of 1	2 of 2	2 of 2	n/a	n/a	n/a

## II. MUSIC RECORDINGS

### A. Artist and Recording Company Websites

The Commission reviewed official artist and recording company websites for 20 different explicit-content labeled recordings. The recordings were selected based on their release date and by their appearance in *Billboard's* list of 200 top-selling music recordings.<sup>10</sup>

**Table 7: Artist and Recording Company Website Results**

	Yes		No	
	#	% Yes	#	% No
<b>Is the album's Parental Advisory Label (PAL) displayed on the home page or teaser page?</b>	7	35%	13	65%
<b>Is the album's PAL displayed anywhere else on the site, including on the album's cover art?</b>	10	50%	10	50%
Are the words in the PAL readable?	4 of 10	40%	6 of 10	60%
Is the PAL visible on the screen without scrolling?	5 of 10	50%	5 of 10	50%
<b>Does the site provide any description of why the album received the PAL (e.g., for violent lyrics or strong language)?</b>	0	0%	20	100%
<b>Does the site indicate that an "edited" or "clean" version of the album is available?</b>	3	15%	17	85%
<b>Does the site at any point (including through clicking on the label) provide a link to:</b>				
the RIAA website, <a href="http://riaa.org">riaa.org</a> ?	0	0%	20	100%
<a href="http://parentalguide.org">parentalguide.org</a> ?	0	0%	20	100%
<b>Does the site provide any detailed information about the PAL system?</b>	0	0%	20	100%
<b>Are the lyrics to the album available at the site?</b>	2	10%	18	90%
<b>At this site or any third-party site to which this site links, can you purchase the album?</b>	18	90%	2	10%
Is the transaction at this site ( <i>i.e.</i> , at the same URL)?	3 of 18	17%	15 of 18	83%
At a third-party vendor's site?	17 of 18	94%	1 of 18	6%
<b>Is the PAL displayed on the page(s) where you purchase the album, or on any page that you must visit in the course of the purchase process?</b>	14 of 18	78%	4 of 18	22%
<b>Does the site contain any other warning or cautionary statement(s) relating to the content of the site?</b>	3	15%	17	85%
<b>Does the site at any point ask the visitor to disclose his/her age?</b>	1	5%	19	95%
<b>Does the site ask the visitor to disclose his/her age before:</b>				
entering the site?	1 of 1	100%	0 of 1	0%
viewing, playing or downloading a music video, album or song?	1 of 1	100%	0 of 1	0%
purchasing the album?	0 of 1	0%	1 of 1	100%

	Yes		No	
	#	% Yes	#	% No
If the visitor enters an age under 17, is the visitor prevented from:				
entering the site?	0 of 1	0%	1 of 1	100%
viewing, playing or downloading a music video, album or song?	0 of 1	0%	1 of 1	100%
purchasing the album?	0 of 1	0%	1 of 1	100%
Other ?	1	100%	0	0%
<b>Does the artist have a page on MySpace.com?</b>	20	100%	0	0%
<b>Does the artist's MySpace page promote the album?</b>	20	100%	0	0%
<b>Is the album's PAL displayed anywhere on the page, including on the album's cover art?</b>	15	75%	5	25%
Are the words in the PAL readable?	5 of 15	33%	10 of 15	67%
Does the page provide any description of why the album received the PAL (e.g., for violent lyrics or strong language)?	0	0%	20	100%
<b>Does the site indicate that an "edited" or "clean" version of the album is available?</b>	14	70%	6	30%
<b>At this page or any third-party site to which this page links, can you purchase the album?</b>	19	95%	1	5%
Is the transaction at myspace.com?	0 of 19	0%	19 of 19	100%
Is the transaction at a third-party vendor's site?	19 of 19	100%	0 of 19	0%

## B. Retailer Websites – Music Recordings

The Commission reviewed four music retailer sites: Amazon.com, BarnesandNoble.com, BestBuy.com, and eBay.com<sup>11</sup> regarding the following recordings: *Intuition* by Jamie Foxx, *Tha Carter III* by Lil’ Wayne, *Theater of the Mind* by Ludacris, *Funhouse* by Pink, and *Paper Trail* by T.I.

**Table 8: Music Retailer Website Review**

	Amazon	Best Buy	Barnes & Noble	eBay
<b>Is the assigned album for sale on the site?</b>	5 of 5	5 of 5	4 of 5	5 of 5
<b>Is the album’s Parental Advisory Label (PAL) displayed anywhere on the site, including on the album’s cover art?</b>	5 of 5	5 of 5	4 of 4	5 of 5
Are the words in the PAL readable?	5 of 5	5 of 5	4 of 4	0 of 5
Is the PAL visible on the screen without scrolling?	5 of 5	5 of 5	4 of 4	5 of 5
<b>Does the site provide any description of why the album received the PAL (e.g., for violent lyrics or strong language)?<sup>12</sup></b>	0 of 5	0 of 5	0 of 4	0 of 5
<b>Does the site contain any other warning or cautionary statement(s) relating to the explicit content of the album?</b>	5 of 5	5 of 5	4 of 4	5 of 5
<b>Does the site indicate that an “edited” or “clean” version of the album is available?</b>	5 of 5	5 of 5	4 of 4	5 of 5
<b>Are the lyrics to the album available at the site?</b>	0 of 5	0 of 5	0 of 4	0 of 5
<b>At the site, can you play all or part of a music video?</b>	0 of 5	0 of 5	0 of 4	0 of 5
<b>At this site, can you play (in audio format) any part of the album, such as a song or part of a song?</b>	5 of 5	0 of 5	4 of 4	0 of 5
<b>Does the site at any point ask the visitor to disclose his/her age?</b>	0 of 5	0 of 5	0 of 4	0 of 5
<b>Does the site at any point link to any websites that provide additional information on the PAL?</b>				
riaa.org?	0 of 5	0 of 5	0 of 4	0 of 5
parentalguide.org?	0 of 5	0 of 5	0 of 4	0 of 5
<b>Does the site provide any detailed information about the PAL system?</b>	0 of 5	0 of 5	0 of 4	0 of 5

### C. Online Music Download Websites

The Commission reviewed three online music download websites: iTunes, Napster, and RealNetworks’ RealOne Rhapsody.<sup>13</sup> These sites were surveyed regarding the top-5 downloaded explicit-content tracks listed on Billboard.com’s Hot 100 chart dated January 23, 2009. The music tracks were *Live Your Life* by T.I., *Whatever You Like* by T.I., *Dead And Gone* by T.I., *So What* by Pink, and *Sober* by Pink.

**Table 9: Online Music Download Website Review**

	iTunes	Napster	RealOne Rhapsody
<b>Is the assigned track for sale on the site?</b>	5 of 5	5 of 5	5 of 5
<b>Is the track’s Parental Advisory Label (PAL) displayed anywhere on the site, including next to the name of the track?</b>	5 of 5	5 of 5	5 of 5
Are the words in the PAL readable?	3 of 5	0 of 5	5 of 5
Is the PAL visible on the screen without scrolling?	5 of 5	5 of 5	5 of 5
<b>Does the site provide any description of why the track received the PAL (e.g., for violent lyrics or strong language)?</b>	0 of 5	0 of 5	0 of 5
<b>Does the site contain any other warning or cautionary statement(s) relating to the explicit content of the track – e.g., the words “Explicit Content” and/or “Parental Advisory”?</b>	3 of 5	3 of 5	3 of 5
<b>Does the site indicate that an “edited” or “clean” version of the track is available?</b>	3 of 5	3 of 5	5 of 5
<b>Are the lyrics to the track available at the site?</b>	0 of 5	0 of 5	2 of 5
<b>Does the site at any point ask the visitor to disclose his/her age?</b>	0 of 5	0 of 5	0 of 5
<b>Does the site offer any kind of parental controls to limit children’s access to explicit content?</b>	5 of 5	5 of 5	5 of 5
<b>Does the site at any point ask the visitor to disclose his/her age?</b>	0 of 5	0 of 5	0 of 5
<b>Does the site at any point link to any websites that provide additional information on the PAL:</b>			
riaa.org?	0 of 5	0 of 5	0 of 5
parentalguide.org?	0 of 5	0 of 5	0 of 5
<b>Does the site provide any detailed information about the PAL?</b>	0 of 5	0 of 5	0 of 5

### III. ELECTRONIC GAMES

#### A. Game Publisher Websites

The Commission examined the following 20 electronic game websites in February 2009: *Bioshock* (M), *Call of Duty: World at War* (M), *Call of Duty 4: Modern Warfare* (M), *Fable II* (M), *Fallout 3* (M), *Gears of War 2* (M), *Halo 3* (M), *Killzone 2* (M), *Left 4 Dead* (M), *Lord of the Rings: Conquest* (T), *Mass Effect* (M), *Metal Gear Solid 4: Guns of the Patriots* (M), *Resident Evil 5* (M), *Resistance 2* (M), *Skate 2* (T), *Street Fighter IV* (T), *Super Smash Bros. Brawl* (T), *The Legend of Zelda: Twilight Princess* (T), *Uncharted: Drake's Fortune* (T), and *Warhammer 40,000: Dawn of War 2* (M).<sup>14</sup>

**Table 10: Electronic Game Websites**

	Combined Results		% Yes
	Yes	No	
<b>Is the game's rating displayed on the home page or teaser page?</b>	20	0	100%
Is the game's rating displayed anywhere else on the site, including on the game's cover art?	18	2	90%
Is the rating the correct ESRB rating?	20	0	100%
Is the word "Mature" or "Teen" in the rating readable?	20	0	100%
Is the rating visible on the screen without scrolling?	12	8	60%
<b>Is the game's content descriptor(s) displayed anywhere on the site?</b>	20	0	100%
Is the content descriptor(s) readable?	20	0	100%
Is the content descriptor(s) visible on the screen without scrolling?	12	8	60%
Are you required to hold your cursor over the rating icon in order to view the content descriptors?	0	20	0%
<b>Does the site contain any other warning or cautionary statement(s) relating to the content of the game?</b>	1	19	5%
<b>Does the site at any point (including through a rating icon) provide a link to:</b>			
esrb.org?	16	4	80%
parentalguide.org?	0	20	0%
<b>Does the site provide any detailed information about the ESRB ratings?</b>	1	19	5%
<b>At this site, can you play or view a demo for the game?</b>	19	1	95%
Is the rating icon and content descriptor – or a textual version of the rating information – displayed when playing the demo?			
both the icon and descriptor?	16 of 19	3 of 19	84%
neither the icon nor the descriptor?	3 of 19	16 of 19	16%
<b>Can you currently purchase the game at this site?</b>	13	7	65%
for sale at this site (i.e., at the same URL)	1 of 13	12 of 13	8%
for sale at a third-party vendor's site	12 of 13	1 of 13	92%



	Combined Results		% Yes
	Yes	No	
Is the game's rating displayed on the page(s) where you can purchase the game, or on any page that you must visit in the course of the purchase process?	13 of 13	0 of 13	100%
Is the game's content descriptor(s) displayed on the page(s) where you can purchase the game, or on any page that you must visit in the course of the purchase process?	13 of 13	0 of 13	100%
<b>Does the site at any point ask the visitor to disclose his/her age?</b>	13	7	65%
<b>Does the site ask the visitor to disclose his/her age before:</b>			
entering the site?	12 of 13	1 of 13	92%
viewing or downloading a demo?	3 of 13	10 of 13	23%
purchasing the game?	0 of 13	13 of 13	0%
<b>If the visitor enters an age under 17, is the visitor prevented from:</b>			
entering the site?	12 of 12	0 of 12	100%
viewing or downloading a demo?	3 of 3	0 of 3	100%
purchasing the game?	n/a	n/a	
If the visitor enters an age or birth date indicating he/she is under age 17, is the visitor prevented from entering the site or viewing the demo?	13 of 13	0 of 13	100%
If the visitor hits the "back" key on the browser and then enters age indicating he/she is age 19, can he/she enter the site or view the demo?	0 of 13	13 of 13	0%

## B. Retailer Websites – Electronic Games

The Commission reviewed five retailer websites: Amazon.com, BestBuy.com, CircuitCity.com, eBay.com, GameStop.com, Toysrus.com, and Walmart.com.<sup>15</sup> The M-rated games surveyed at these sites included *Call of Duty: World at War*, *Fable II*, *Gears of War 2*, *Halo 3*, and *Killzone 2*.

**Table 11: Electronic Game Retailers’ Websites Results**

	Amazon	Best Buy	eBay	Game Stop	Toys ‘R’ Us	Wal-Mart
<b>Is the assigned game for sale on the site?</b>	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5
<b>Is the game’s rating displaying anywhere on the site, including on the game’s cover art?</b>	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5
Is it the correct ESRB rating?	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5
Is the word “Mature” in the rating readable?	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5
Is the rating visible on the screen without scrolling?	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5	5 of 5
<b>Is the game’s content descriptor(s) displayed anywhere on the site?</b>	5 of 5	5 of 5	5 of 5	5 of 5	0 of 5	0 of 5
Is the game’s content descriptor(s) readable?	5 of 5	5 of 5	5 of 5	5 of 5	n/a	n/a
Is the game’s content descriptor(s) visible on the screen without scrolling?	5 of 5	5 of 5	0 of 5	5 of 5	n/a	n/a
Are you required to hold your cursor over the rating icon in order to view the content descriptor(s)?	5 of 5	0 of 5	0 of 5	0 of 5	n/a	n/a
<b>Does the site contain any other warning or cautionary statement(s) relating to the content of the game?</b>	0 of 5	0 of 5	0 of 5	0 of 5	5 of 5	5 of 5
<b>At this site, can you play or view a demo for the game?</b>	5 of 5	3 of 5	0 of 5	0 of 5	5 of 5	0 of 5
<b>Is the rating icon and content descriptor – or a textual version of the rating information – displayed adjacent to the name of the game?</b>	3 of 5	2 of 3	n/a	n/a	3 of 5	n/a
<b>Is the game’s rating displayed on the page(s) where you can purchase the game, or on any page that you must visit in the course of the purchase process?</b>	5 of 5	5 of 5	5 of 5	0 of 5	5 of 5	5 of 5
<b>Is the game’s content descriptor(s) displayed on the page(s) where you can purchase the game, or on any page that you must visit in the course of the purchase process?</b>	0 of 5	5 of 5	0 of 5	0 of 5	0 of 5	0 of 5
<b>Does the site at any point ask the visitor to disclose his/her age?</b>	5 of 5	3 of 5	0 of 5	5 of 5	5 of 5	5 of 5
Does the site ask the visitor to disclose his/her age before:						
viewing or downloading a demo?	5 of 5	3 of 5	n/a	0 of 5	5 of 5	0 of 5
purchasing the game?	0 of 5	0 of 5	n/a	5 of 5	5 of 5	5 of 5

	Amazon	Best Buy	eBay	Game Stop	Toys 'R' Us	Wal-Mart
If the visitor enters an age under 17, is the visitor prevented from:						
playing or downloading a demo?	5 of 5	3 of 5	n/a	0 of 5	5 of 5	0 of 5
purchasing the game?	0 of 5	0 of 5	n/a	5 of 5	5 of 5	5 of 5
If the visitor hits the "back" key on the browser and then enters age indicating he/she is age 19, can he/she view the site or demo or purchase the game?	n/a	n/a	n/a	5 of 5	5 of 5	5 of 5
<b>Does the site at any point provide a link to:</b>						
esrb.org?	5 of 5	5 of 5	0 of 5	0 of 5	0 of 5	0 of 5
parentalguide.org?	0 of 5	0 of 5	0 of 5	0 of 5	0 of 5	0 of 5
<b>Does the site provide any detailed information on the ESRB rating system?</b>	5 of 5	5 of 5	0 of 5	5 of 5	0 of 5	5 of 5

## Endnotes

1. According to [www.the-numbers.com/movies/index2008.php](http://www.the-numbers.com/movies/index2008.php).
2. Mature Audience trailers (for films expected to be rated R- or NC-17) and Restricted Audience trailers (for films rated R- or NC-17) are preceded by a red tag stating that the preview has been approved for “restricted audiences only” and indicating the movie’s rating and rating reasons.
3. For the 2009 survey, Consolidated Theatres, Dickinson Theaters, Harkins Theatres, and Rave Motion Pictures replaced Century Theatres (which is now part of Cinemark), Clearview Cinemas, Goodrich Quality Theaters, and Landmark Theatres.
4. *My Bloody Valentine* was not showing at Cinemark, Consolidated Theatres, Dickinson Theaters, National Amusements, Rave Motion Pictures, or Regal Cinemas. *Defiance* was not showing at Carmike Cinemas, Consolidated Theatres, or Rave Motion Pictures. *Underworld: Rise of the Lycans* was not playing at Consolidated Theatres or National Amusements.
5. The user was required to create an account and enter his or her credit card information in order to purchase tickets to a movie, regardless of the age entered on the account.
6. For the 2009 survey, eBay, f.y.e., and Wal-Mart replaced Circuit City, Sam Goody, and Tower Records.
7. For the 2009 survey, the DVD rental websites GameZnFlix, Movielink, and Qwikfliks were removed, and DVD Avenue was added. GameZnFlix’s website was taken down in November 2008. Movielink was acquired by Blockbuster in 2007. Qwikfliks does not appear to be in business.
8. Blockbuster.com offered only the unrated version of Pineapple Express.
9. DVD Avenue.com offered only the unrated version of Pineapple Express.
10. The Commission reviewed the following websites: 3oh3music.com, common-music.com, disturbed1.com, suburbannoizerecords.com, hindermusic.com, site.hollywoodundead.com, jamiefoxx.com, lilwayne-online.com, linkinpark.com, defjam.com/site/artist\_home.php?artist\_id=308, mudvayne.com/swf/mudvayne\_intro.html, pinkspage.com/us/home, pliesworld.com, slipknot1.com, staind.com, community.trapmuzik.com, t-pain.net, comptongame.com, theoryofadeadman.com, and defjam.com/site/artist\_home.php?artist\_id=567.
11. For the 2009 survey, Barnes & Nobles and eBay replaced Circuit City, Sam Goody, and Tower Records.
12. Amazon, Barnes & Noble, and many entries on eBay allowed the user to enlarge the album cover art. As a result, it was possible to view PAL reasons for Pink’s album *Funhouse*, which was published by a Sony label.
13. For the 2009 survey, MusicMatch and AOL Music were excluded from the online music download surf.
14. Each game was selected based on the following criteria: M- or T-rated; at least one content descriptor for violence; a best seller on Amazon as of January 23, 2009; and with an active website/web page dedicated to the T- or M-rated version of the game.
15. For the 2009 survey, eBay, Toys ‘R’ Us, and Wal-Mart replaced Circuit City and EBGames. EBGames is now operated by GameStop.

## **Appendix E: Data Collection Methodology and Television, Print, and Internet Demographics**

In this Report, the Commission examined whether violent R- and PG-13-rated films, explicit-content labeled music, and M- and T-rated video games continue to be marketed to children under the age designated in the rating (or, in the case of labeled music, to children under 17), and also whether rating information is included in advertisements for these products. The Commission examined numerous media sources, including media popular with teens in terms of total teen audience or percentage of viewers under 18. This Appendix describes these sources and the media monitoring the Commission undertook to gather data for this Report, and sets forth demographic data for the audiences for the television programs, websites, and publications discussed in the Report.

### **I. POPULAR TELEVISION SHOWS AMONG CHILDREN AND TEENAGERS**

The Commission examined advertising that aired during the 2008-09 television season (September through May) on network and cable television, including programs in syndication, principally using information from Nielsen Media Research. The Commission contracted with Nielsen to obtain lists of the most popular television shows among children 12-17 during the 2008-09 television season. The Commission also requested separate viewing data broken out for shows popular with children under 12 and for shows popular with teens 12-17. A show was considered popular with children under 12 if the audience share for that age group was at least 30%, and popular with teens 12-17 if the audience share for that age group was at least 20%. These shares were chosen because they represent approximately double the proportion the age groups represent in the general U.S. population.<sup>1</sup> Given that R-rated movies and M-rated video games are restricted only for children under 17, data for audiences under age 17 would be most relevant; however, the age breakdowns set forth in the tables are the standard categories used for television audience measurement.



**Table 1: Select Television Programs Popular with Children and Teens**

Program	Network	Avg. # of 2-11 Viewers (000)	Avg. # of 12-17 Viewers (000)	Total Viewers (000)	Avg. % of 2-11 Viewers	Avg. % of 12-17 Viewers	Avg. % of 2-17 Viewers	TV Rating
106 & Park	BET	86	158	647	13.29%	24.42%	37.71%	TV-PG
2009 MTV Movie Awards	MTV	71	218	947	7.50%	23.02%	30.52%	TV-14
American Dad	ADSM	285	311	1390	20.50%	22.37%	42.88%	TV-14
Aqua Teen Hungerforce	ADSM	170	212	974	17.45%	21.77%	39.22%	TV-14
Bully Beatdown	MTV	27	110	475	5.68%	23.16%	28.84%	TV-14
Collegehumor Show	MTV	n/a	115	412	n/a	27.91%	27.91%	TV-14
Double Shot At Love	MTV	57	187	718	7.94%	26.04%	33.98%	TV-14
From G To Gents: Aftershow	MTV	52	221	886	5.87%	24.94%	30.81%	TV-14
Kids Choice Awards	NAN	1743	862	3743	46.57%	23.03%	69.60%	TV-Y
Made	MTV	32	110	417	7.67%	26.38%	34.05%	TV-PG
Nitro Circus	MTV	25	110	463	5.40%	23.76%	29.16%	TV-PG
Oblongs, The	ADSM	172	190	852	20.19%	22.30%	42.49%	TV-14
Parental Control	MTV	44	116	447	9.84%	25.95%	35.79%	TV-PG
Pjs, The	ADSM	228	217	958	23.80%	22.65%	46.45%	TV-PG
R Dyrdeks Fantasy Factory	MTV	27	130	477	5.66%	27.25%	32.91%	TV-PG
Real World XXI	MTV	28	105	520	5.38%	20.19%	25.58%	TV-PG
Real World XXII	MTV	32	130	569	5.62%	22.85%	28.47%	TV-PG
Room Raiders	MTV	35	119	385	9.09%	30.91%	40.00%	TV-PG
Teen Cribs	MTV	34	113	402	8.46%	28.11%	36.57%	TV-PG
TI: Road To Redemption	MTV	32	104	457	7.00%	22.76%	29.76%	TV-14
Tim & Eric Awesome Show	ADSM	134	163	742	18.06%	21.97%	40.03%	TV-14
Viva La Bam	MTV	21	113	371	5.66%	30.46%	36.12%	TV-PG

Source: The Nielsen Company. Data for the 2008-09 television season. ADSM is the abbreviation for the Adult Swim Network, and NAN for Nick at Nite.

In March 2008, the Children’s Advertising Review Unit (“CARU”) of the Council of Better Business Bureaus announced a new joint self-regulatory initiative with the MPAA governing the placement of advertising for films rated PG-13 in or adjacent to programming primarily directed to children under 12 years of age. Under this initiative, if CARU finds that the studio intentionally placed the ad, it refers the matter to the MPAA’s Advertising Administration to determine whether the film is appropriate to be advertised to children. Table 2A below sets forth the 15 referrals that CARU has made to the MPAA for PG-13 theatrical and DVD releases that were intentionally advertised on children’s television. Table 2A below shows the studio’s response, if any, MPAA’s determination, and the TV rating and age demographics for each show in question.

**Table 2A: PG-13 Ad Placements on Cable Television Referred to MPAA by CARU**

Movie	Network/ Program	Time Aired	TV Rating	Avg. # of 2-11 Viewers	Avg. % of 2-11 Viewers
<b>Drillbit Taylor</b> Paramount (3/28/08) • MPAA: appropriately placed (5/20/08)	Nickelodeon/ <i>Zoey 101</i>	7:30pm	TV-Y7	1,224,000	56%
<b>Iron Man</b> Paramount (5/15/08) • MPAA: appropriately placed (5/30/08)	Nickelodeon/ <i>Drake &amp; Josh</i>	7:00pm	TV-Y7	1,415,000	58%
	Nickelodeon/ <i>Zoey 101</i>	7:30pm	TV-Y7	1,224,000	56%
<b>Get Smart</b> Warner Bros. (6/16/08) • MPAA: appropriately placed (7/25/08)	Cartoon Net./ <i>Scooby Doo</i>	6:30pm	TV-Y or G	376,000	49%
<b>Indiana Jones (Crystal Skull)</b> Paramount (6/16/08) • MPAA: appropriately placed	Nickelodeon/ <i>Fairly Odd Parents</i>	8:30am	TV-Y7	1,445,000	54%
	Nickelodeon/ <i>The Mighty B</i>	10:30am	TV-Y7 FV	1,727,000	58%
	Nickelodeon/ <i>Ned's Declassified</i>	6:00pm	TV-Y7	993,000	53%
	Nickelodeon/ <i>SpongeBob</i>	6:30pm	TV-Y	1,596,000	57%
	Cartoon Net./ <i>Courage the Cowardly Dog</i>	5:30pm	TV-Y7 FV	567,000	54%
	Cartoon Net./ <i>Scooby Doo</i>	6:00pm	TV-Y or G	376,000	49%
<b>Incredible Hulk</b> Universal (6/24/08) • MPAA: appropriately placed (7/25/08)	Nickelodeon/ <i>SpongeBob</i>	5:00pm	TV-Y	1,618,000	56%
<b>Mummy (Dragon Emperor)</b> Universal (7/28/08) • Universal reply: "unintentional/pulled ad/ only allowed after 5" • MPAA: appropriately placed (10/10/08)	Nick Toons/ <i>Avatar: Last Airbender</i>	5:00pm & 5:30pm	TV-Y7	133,000	46%
<b>The Rocker</b> 20 <sup>th</sup> Century Fox (7/28/08) • MPAA: appropriately placed (10/10/08)	Cartoon Net./ <i>Johnny Test</i>	5:00pm & 5:30pm	TV-Y7	761,000	62%
<b>Sisterhood of the Traveling Pants 2</b> Warner Bros (8/15/08) • MPAA: appropriately placed (10/10/08)	Nickelodeon/ <i>Back at the Barnyard</i>	6:00pm	TV-Y7	1,089,000	58%
<b>Incredible Hulk (DVD)</b> Universal (10/30/08 & 11/12/08) • MPAA: appropriately placed (1/27/09)	Cartoon Net./ <i>Pokemon: The First Movie</i>	4:00pm	G <sup>2</sup>	517,000	48%

Movie	Network/ Program	Time Aired	TV Rating	Avg. # of 2-11 Viewers	Avg. % of 2-11 Viewers
<b>Iron Man</b> (DVD) Paramount (10/30/08 & 12/12/08) • MPAA: placed in error outside advertising cycle (1/27/09)	Cartoon Net./ <i>Total Drama Island</i>	4:30pm	TV-PG	681,000	60%
<b>Indiana Jones</b> (DVD) Paramount (10/30/08 & 12/12/08) • MPAA: appropriately placed (1/27/09)	Nickelodeon/ <i>Drake &amp; Josh</i>	7:00pm	TV-Y7	1,505,000	57%
<b>Twilight</b> Summit Enter. (1/9/09) • MPAA: distributor did not place this ad, therefore no comment (3/24/09) • MPAA: appropriately placed (3/24/09)	Cartoon Net./ <i>6Teen</i>	4:30pm	TV- PG-D	722,000	57%
	Nickelodeon/ not specified	7:00pm	N/A	N/A	N/A
<b>The Day the Earth Stood Still</b> 20th Century Fox (1/9/09) • MPAA: appropriately placed (3/24/09)	Cartoon Net./ <i>6Teen</i>	7:00pm	TV- PG-D	662,000	57%
<b>Star Trek</b> Paramount (2/21/09) • MPAA: appropriately placed (8/25/09)	Nickelodeon/ <i>Sponge Bob</i>	8:00pm	TV-Y	1,478,000	55%
<b>17 Again</b> Offspring Enter. (4/13/09) • MPAA: appropriately placed (8/25/09)	Nickelodeon/ <i>Drake &amp; Josh</i>	6:00pm	TV-Y7	1,507,000	57%

Source: CARU; MPAA; The Nielsen Company. Data for the 2008-09 television season.

Table 2B below provides age demographic data for four television shows popular with children 2-11 that air both before and after 5:00 p.m. and on which ads for violent PG-13 movies have run.

**Table 2B: 2-11 Age Demographics of Select Cable Shows Airing at Different Times of Day**

Date	Day	Time	Channel	Program	% 2-11
May 20, 2009	Wednesday	4:30 pm	Toon	<i>Johnny Test</i>	67%
June 3, 2009	Wednesday	5:30 pm	Toon	<i>Johnny Test</i>	60%
April 10, 2009	Friday	6:30 pm	Toon	<i>Johnny Test</i>	63%
May 27, 2009	Wednesday	4:00 pm	Toon	<i>Batman: Brave and Bold</i>	55%
May 27, 2009	Wednesday	5:30 pm	Toon	<i>Batman: Brave and Bold</i>	52%
May 29, 2009	Friday	3:00 pm	Toon	<i>Chowder-Cable</i>	48%
June 2, 2009	Tuesday	7:00 pm	Toon	<i>Chowder-Cable</i>	57%
May 29, 2009	Friday	2:30 pm	Toon	<i>Ben 10</i>	42%
May 29, 2009	Friday	5:00 pm	Toon	<i>Ben 10</i>	53%

Source: The Nielsen Company. Data for the 2008-09 television year.

## II. PRINT MEDIA

### A. Magazines Reviewed to Assess Ad Placement

For various months between August 2008 and May 2009, the Commission reviewed magazines with substantial youth audiences, including game enthusiast magazines, skateboarding magazines, music publications, wrestling magazines, and general interest teen magazines. Many of these magazines had been previously identified in the marketing plans reviewed for the 2000 Report as magazines used when the industries' target audience included children under 17. Table 2 provides the names of the publications, the particular issues reviewed, and the demographics of readers.

**Table 3: Youth-Oriented Print Publications Reviewed for Ad Placements**

Magazine	Issues Reviewed	Age Demographics
Cosmo Girl	08/08, 09/08, 12/08-01/09	Target Audience: Ages 12-34 Median Age: 15.1
J-14	08/08, 01/09, 02/09, 05/09-06/09	Target Audience: Ages 8-17 Median Age: 15.1
Nickelodeon	08/08, 10/08, 12/08-01/09, 03/09, 05/09, 06/09	Target Audience: Ages 6-14
Nintendo Power	09/08, 10/08, 01/09, 02/09, 03/09	Average Age: 19.3 Median Age: 16.7 Age Breakdown 6-11: 13.2% 12-14: 25.7% 15-17: 16.6% 18-24: 20.2% 25-29: 6.1% 30 plus: 18.2%
Seventeen	09/08, 10/08, 12/08-01/09, 2/09, 3/09, 4/09	Median Age: 16.2
Sports Illustrated for Kids	05/09, 06/09, 07/09	Target Audience: Ages 8-15 Median Age: 11.2
Thrasher	9/08, 10/08, 12/08, 1/09, 2/09, 4/09	Average Age: 15 Median Age: 19 Age Breakdown 10 & under: 2% 11-13: 25% 14-17: 50% 18-28: 21% Over 29: 2%

**Table 4: Magazines Reviewed for Rating Information**

Magazine	Issues Reviewed
Electronic Gaming Monthly <sup>3</sup>	08/08, 09/08, 10/08, 12/08, 01/09
Game Pro <sup>4</sup>	09/08, 10/08, 12/09, 04/09, 05/09
People	11/03/08, 12/08/08, 12/15/08, 12/22/08, 2/09/09, 2/16/09, 2/23/09, 3/02/09, 3/30/09, 4/13/09
Spin	9/08, 10/08, 12/08, 1/09, 2/09, 5/09
US Weekly	9/01/08, 9/09/08, 9/15/08, 9/29/08, 10/20/08, 11/10/08, 12/01/08, 12/08/08, 12/15/08, 1/26/09, 3/02/09, 3/23/09, 3/30/09
Vibe	9/08, 10/08, 12/08, 1/09, 3/09, 4/09

**Table 5: Newspapers Reviewed for Rating Information**

Newspapers	Issues Reviewed
New York Times	04/03/09, 04/10/09, 04/17/09, 04/24/09, 05/01/09, 05/08/09, 05/15/09, 05/22/09, 05/29/09
USA Today	03/06/09, 03/13/09, 03/20/09, 03/27/09, 04/03/09, 04/10/09, 04/17/09, 04/24/09, 05/01/09, 05/08/09, 05/15/09, 05/22/09, 05/29/09
Washington Post	11/21/08, 12/19/08, 01/09/09, 01/16/09, 01/23/09, 01/30/09, 02/13/09, 02/20/09, 02/27/09, 03/06/09, 03/13/09, 03/20/09, 03/27/09, 04/03/09, 04/10/09, 04/17/09, 04/24/09, 05/01/09, 05/08/09, 05/15/09, 05/22/09, 05/29/09

**Table 6: Circulars Reviewed for Rating Information**

Company	Issues Reviewed
Best Buy	09/07/08, 09/14/08, 09/21/08, 09/28/08, 10/26/08, 01/11/09, 02/08/09, 02/15/09, 02/22/09, 03/01/09, 03/08/09, 03/15/09, 03/22/09, 03/29/09, 04/05/09, 04/12/09
Target	09/07/08, 01/11/09, 01/18/09, 02/22/09, 03/08/09
Toys 'R' Us	08/31/08, 09/07/08, 10/26/08, 01/04/09, 02/08/09, 03/08/09, 05/03/09

### III. WEBSITE DEMOGRAPHICS

The Commission gathered Internet advertising data from two sources: Nielsen Online and comScore. Nielsen's AdRelevance service captures advertising activity across all major industries, channels, formats, and platforms on the Web and gathers a representative sample of a website's advertising activity. Nielsen's NetView service provides demographic information for websites visited by their panel members, who have special tracking software installed on their Internet-accessible computers.



comScore’s Ad Metrix service tracks where display advertising impressions are delivered across the Internet. It quantifies ads by publisher, including providing data on how many display ads were viewed and which demographics were reached, the average frequency of display ads, the average size of display ads viewed, and the trends of display advertising metrics over time. The service also quantifies ads by advertiser, providing data on how many display ads were viewed per site, which sites were chosen by the advertiser for any given month, how many people were exposed and at what frequency levels, and what the display ads looked like. comScore’s Media Metrix service provided the age demographic data for websites where display ads were published.

The Commission defined a website as highly popular with children<sup>5</sup> or teens,<sup>6</sup> where, for at least two months of 2008, the site had a composition index<sup>7</sup> of 200 or higher for the particular age group, meaning that the site attracted children or teens at a much higher rate than would have been predicted based on the total number of child or teen Internet users.<sup>8</sup> Because website traffic can fluctuate dramatically from month to month, the tables below indicate how many months during 2008<sup>9</sup> each site had a composition index of 200 or greater for children or teens, the range of monthly composition index numbers for children or teens, and the range of monthly percentages of each website’s audience that were children or teens.

**Table 7A: Nielsen Online Demographics for Select Websites Popular with Children 2-12 (Jan-Dec 2008)**

<b>Website</b>	<b>2-12 Audience % (range)</b>	<b>2-12 Composition Index (range)</b>	<b>Months of 2-12 Comp. Index ≥ 200</b>
Neopets	22.4 → 27.1	213 → 271	3
Runescape	14.1 → 25.8	137 → 229	6
WWE Superstars	10.4 → 24.6	112 → 218	2

*Source: Nielsen Online. Most recent site definitions from AdRelevance were used for the Audience calculations.*

**Table 7B: comScore Demographics for Select Websites  
Popular with Children 2-11  
(Jan-Dec 2008)**

<b>Website</b>	<b>2-11 Audience % (range)</b>	<b>2-11 Composition Index (range)</b>	<b>Months of 2-11 Comp. Index ≥ 200</b>
2DPLAY.COM	6.4 → 24.1	78 → 253	3
ALLMEGASTAR	4.4 → 47.5	45 → 488	2
CARTOONNETWORK	14 → 17.8	169 → 204	2
COLORINGBOOKFUN	2.1 → 24.3	25 → 283	3
GIRLSENSE	9.3 → 24.8	96 → 300	3
GWN.COM	0.4 → 22.4	5 → 236	2
MAXGAMES	9.9 → 25.8	104 → 271	2
NEOPETS	13.2 → 19.8	137 → 208	2
NICKJR	17.4 → 32.3	204 → 340	12
STARDOLL	13.7 → 21.5	141 → 251	5
STARWARS	3.2 → 24.5	33 → 253	2
STICKPAGE	7.5 → 29.9	91 → 309	3

Source: comScore

**Table 8A: Nielsen Online Demographics for Select Websites  
Popular with Teens 13-16  
(Jan-Dec 2008)**

<b>Website</b>	<b>13-16 Audience % (range)</b>	<b>13-16 Composition Index (range)</b>	<b>Months of 13-16 Comp. Index ≥ 200</b>
AOL AIM TODAY	10.6 → 16.3	196 → 263	11
BEBO	24 → 30.2	403 → 488	3
IMEEM	19.6 → 31.6	317 → 531	4
PHOTOBUCKET	15.1 → 21.2	275 → 332	12
RUNESCAPE	13.7 → 25.1	252 → 405	12
WWE SUPERSTARS	7.5 → 12.7	125 → 223	2
YOUTUBE	9.8 → 13.4	164 → 216	2

Source: Nielsen Online. Most recent site definitions from AdRelevance were used for the Audience calculations.

**Table 8B: comScore Demographics for Select Websites  
Popular with Teens 12-17  
(Jan-Dec 2008)**

<b>Website</b>	<b>12-17 Audience % (range)</b>	<b>12-17 Composition Index (range)</b>	<b>Months of 12-17 Comp. Index ≥ 200</b>
ALL4MYSPACE	11.5 → 21.3	120 → 208	2
ALLMEGASTAR	1.6 → 34.1	15 → 333	2
ANIMATIONARCADE	4.3 → 31.4	42 → 298	2
ANIMECUBED	9.7 → 45	92 → 434	5
ANIMELYRICS	16.2 → 41	154 → 412	10
ANIMENEWSNETWORK	10.1 → 31.5	106 → 303	5
AZLYRICS	14 → 22.7	147 → 221	2
CHEATCODES	14 → 21.9	146 → 211	3
COOLCHASER	13.2 → 21.4	137 → 207	2
COSMOGIRL	20.9 → 30.4	204 → 297	3
DEVIANTART	13 → 21	136 → 200	2
DOWN-SOUTH	6.3 → 22.9	60 → 224	2
E3	19.2 → 85.1	184 → 829	3
EXPN	2.5 → 25.9	23 → 247	2
FAMOUSVH1FRIENDS	3.3 → 24.5	34 → 236	2
FANFICTION	15.6 → 29.1	164 → 278	8
FLAVOROFLOVEWORLD	9.7 → 50.1	93 → 478	3
FREEWEBLAYOUTS	13.7 → 22.2	130 → 219	5
GAIAONLINE	20.7 → 33.3	217 → 321	12
GAMEWINNERS	10.7 → 22.3	112 → 215	3
GIRLSENSE	12 → 25.1	125 → 245	2
GURL	13.9 → 33.1	146 → 323	7
HOTFREELAYOUTS	18.3 → 24.8	174 → 239	8
IAMONMTV	8.5 → 24.6	82 → 237	3
LYRICSMANIA	15.3 → 24.3	161 → 234	4
LYRICSONDEMAND	10.1 → 22.5	106 → 216	3
MMORPG	10.5 → 26.6	106 → 257	2
MODTHESIMS2	11.8 → 25.5	122 → 249	3
MONSTROUS	9 → 39.7	90 → 391	7
MOVIEWALLPAPER	1.2 → 22.7	12 → 228	2
MYYEARBOOK	19 → 26.3	199 → 253	11
NEXTORNOT	15.4 → 43.8	153 → 427	7
ONEMANGA	20.8 → 33.9	199 → 324	4

<b>Website</b>	<b>12-17 Audience % (range)</b>	<b>12-17 Composition Index (range)</b>	<b>Months of 12-17 Comp. Index ≥ 200</b>
PLAYLIST	14.8 → 22.1	155 → 213	2
QUIZILLA	18.3 → 28.2	192 → 272	11
RAPBASEMENT	11.4 → 26	115 → 273	2
ROCKBANDSTORE	11.7 → 24.1	112 → 231	2
RUNEHQ	18 → 27.3	174 → 259	9
SAIYANISLAND	11 → 28.3	107 → 276	4
SATANSPACE	1.7 → 28.7	18 → 279	3
SEVENTEEN	19.2 → 25.3	182 → 247	2
STARDOLL	14.8 → 23.7	154 → 229	6
SUPERCHEATS	9.1 → 21.5	95 → 209	2
TEENSPOT	12 → 42.1	126 → 403	10
THE-N	20.4 → 33.9	200 → 326	12
XFIRE	19.2 → 26.3	183 → 256	7
ZWINKY	15.2 → 27.6	159 → 264	6

Source: comScore

## Endnotes

1. These were also the audience shares used by the Commission in its 2008 Food Marketing Study to define television shows targeted to children and teens. *See* Marketing Food to Children and Adolescents: A Review of Industry Expenditures, Activities, and Self-Regulation (July 2008), App. B at B-2 and B-27 (hereafter “2008 Food Marketing Report”), available at [www.ftc.gov/os/2008/07/P064504foodmkrtingreport.pdf](http://www.ftc.gov/os/2008/07/P064504foodmkrtingreport.pdf).
2. The MPAA rated this film.
3. In the past, EGM was a youth-oriented publication. The most current data, however, suggests that it no longer is. EGM targets ages 17 to 26, and only 14% of its readers are under age 18.
4. In the past, GamePro was a youth-oriented publication. The most current data, however, suggests that it no longer is. The median age of GamePro readers is 26, and only 17% of readers are under age 18.
5. For the comScore analysis, children were defined as persons ages 2-11, which is a standard age range. For Nielsen, children were defined as persons ages 2-12, which more precisely captures the age 13 threshold for PG-13 movies and T-rated games. This was the age range the Commission used for the 2007 Report. comScore does not permit customization of the age breaks.
6. For the comScore analysis, teens were defined as persons ages 12-17. For Nielsen, teens were defined as persons ages 13-16, which more precisely captures the age 17 threshold for R-rated movies and M-rated games.
7. The “composition index” is an index of the composition percentage for the selected target among visitors to a specific website compared to the composition percentage for the same target among total web surfers over that time period. A composition index above 100 indicates that a greater percentage of the target demographic (*e.g.*, children 2-11) visited a particular website compared to the percentage for the same demographic among total web surfers. For example, if a website’s composition index for 2- to 11-year-olds was 200 during May 2008, that means that 2- to 11-year-olds were 100% more likely to have visited that site than would have been predicted based on the percentage of age 2-11-year-old Internet users.
8. Prior Commission reports on the marketing of violent entertainment to children did not rely on composition index, nor did they distinguish between “children” and “teen” websites, instead examining the percentage of a site’s audience that was under age 17. Composition index is a more precise metric for determining which websites disproportionately attract children or teens. The FTC’s 2008 Food Marketing Report used the same approach to define websites popular with children and teens. *See* 2008 Food Marketing Report, *supra* note 1, App. D at D-2.
9. The Nielsen data report on display ads running between January and December 2008. comScore’s Ad Metrix service commenced in March 2008, so the comScore results are for the March-December 2008 time period.







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