

TESTIMONY



Testimony of Douglas Lowenstein
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Before the
Senate Committee on Governmental Affairs
Regarding Entertainment Rating Systems
July 25, 2001

Good morning, and thank you for inviting me to testify today on entertainment rating systems. I am testifying today on behalf of the Interactive Digital Software Association 1 the trade body representing U.S. video and computer game software companies. Our members publish games for use in the home. In 2000, the industry generated \$6 billion in retail software sales, and analysts forecast that this will double or nearly triple in the next three to five years.

We wholeheartedly agree that the issue of media ratings is an important one for America's parents. We're very proud of the fact that Chairman Lieberman and others have called the video game rating system operated by the Entertainment Software Rating Board (ESRB) the best entertainment rating system in the country. We are committed to providing America's parents with the tools they need to make informed decisions on the games they permit their children to play, and the Chairman well knows the numerous voluntary steps we've taken as an industry to raise awareness of the rating system and calibrate it so it meets the needs of all consumers, including parents.

You have asked us to address the issue of the reliability and accuracy of the current video game rating system, as well as whether replacing the current entertainment rating regimes with a uniform content rating system is desirable. Let me address each of these questions. But before doing so, I want to make some broader points about our industry and our customers.

Majority of Game Players are Adults, not Kids

First, the myth that video games are played predominantly by teenage boys is wrong.

In fact, the primary audience for video games is NOT adolescent boys. According to research by Peter Hart last year, 145 million Americans – 60 percent of the population -- say they play computer and video games, and their average age is 28 years old; 61 percent of all game players are over 18, 35% are over 35 years old, and 13% are over 50; 43% of those who play computer and video games are women.

70% Of Games Appropriate for Everyone; only 9% Are Rated Mature

Second, let me dispel the myth that most video games are rated Mature and have significant levels of violence. Again, this is inaccurate. With the demographics of the industry changing rapidly, so too has the type and mix of products published by game companies. Contrary to popular perceptions, most games do not contain significant levels of violence. In fact, the video game rating system the industry voluntarily set up six years ago, and which has been widely praised (the FTC called it "the most comprehensive" of any of the systems it studied), has rated nearly 8,500 titles of which only 9% carry a Mature rating indicating significant violent content. Seventy percent are rated for Everyone over six. In 2000, only 117 out of over 1,600 titles released were Mature games, and these represented just 9% of total sales.

Not only are most games appropriate for everyone, but also most of the best sellers are not violent. For example, in the last six months, the top selling games have been the Sims, Pokemon, Roller Coaster Tycoon, and racing and sports games. In 2000, only two of the top selling PC and video games year were rated M, and 16 were rated Everyone. So far through June 2001, only two of the top selling computer and video games are rated mature, compared to twelve that are rated "E" and six that are rated "T".

What all this reflects is the fact that video games are now mass market entertainment and the range and diversity of products has widened, resulting in a substantial market for casual games like puzzle, board, and card games, and hunting and fishing titles, in addition to staples like racing, football, and action games.

In short, this industry has seen its sales double since 1995 and the bulk of that growth has been fueled by consumers over the

age of 18 and by games whose content has broad appeal.

Parents and Adults, Not Kids, Actually Purchase At Least Eight Out Of Ten Games

One last critical point of context: unlike other entertainment products, most newly released video games cost anywhere from \$40-60. Thus, it's not surprising then, when you add this to the fact that a majority of consumers are adults that IDSA research finds that nine out of every ten video games are actually purchased by someone over 18. Furthermore, 83% of the kids who do buy games say they have the permission of their parents to do so. Similarly, in a survey completed by Peter Hart last Fall, 83% of parents said they "try to watch or play at least once every game that their child plays to determine whether it is appropriate."

Notably, the FTC's own survey confirms these findings. "It is clear that most parents are able to play a watchd og role when they choose to do so...According to parents' responses, [83%] are involved in the actual purchase transaction; 38% report that they usually purchase or rent the games, and another 45% of parents do so together with the child."

So any discussion of how our industry markets its products must bear in mind the fact that a majority of those who buy and use our products are adults, not kids, so parents are still almost certainly going to be involved in the actual purchase. As the FTC said,

"This level of parental involvement, either at the point of selection or purchase, means that most parents have the opportunity to review rating information or to check the product packaging to determine whether they approve of the game's content."

Put another way: if a child has a game that's not appropriate for him or her, chances are that Mom or Dad is the one who bought it.

This does not mean our industry does not have an obligation to market products responsibly and to label them accurately. But it does mean that parents are the first, last, and best line of defense against products that are not appropriate for their

children.

Accuracy of Ratings

The catalyst for concern about the accuracy of the Entertainment Software Rating System (ESRB) is research released in the June issue of *Pediatrics* magazine and conducted by the National Institute for Media and Families (NIMF), an avowed critic of entertainment industry rating systems. The article makes sweeping claims characterizing "overall" research as suggesting that there is a "poor correspondence" between industry ratings and content, making the ESRB ratings "not valid." Bluntly, the article vastly overstates the results of the research, and does not support the broader claim questioning the validity of industry ratings. Indeed, articles of this sort, based on research of this kind, are a disservice to those who seek an informed debate on the merits of this important issue.

With respect to the NIMF research, the article itself acknowledges that the sample used "is not random and may be biased." Really, that about says it all. Even the authors themselves aren't prepared to defend the research as reliable. Indeed, they are quite correct to urge caution when interpreting the data. The sample size of 55 is extremely small and is drawn from a single city. I know of no serious researcher who would argue that the results could be nationally projected. Ask your own pollsters whether they would ever give you advice based on a sample size of 55 people drawn from a single few blocks of your state?

Moreover, the sample is extremely biased by the fact that nearly two-thirds of the participants were child development professionals or people who worked professionally with children. Again, this is not even remotely representative of the population at large, and certainly not of the parent population nationally.

The ESRB Rating System

In contrast, we believe the ratings assigned by the independent raters of the Entertainment Software Rating Board (ESRB) accurately reflect the content of the games produced by this industry. The ESRB raters are drawn from a demographically diverse cadre of individuals, a fact that alone makes their findings more valid and credible than those generated by the

NIMF "raters." I understand that a parent will testify today that she strongly disagrees with the rating of a particular video game. I respect her views and opinion. But I do not concede that her opinion is more valid than that of the demographically diverse panel of raters used by the ESRB, or that it invalidates extensive consumer research conducted by ESRB to test the accuracy of its ratings.

The ESRB research was conducted by the nationally respected research firm Peter Hart and Associates in a far more scientific manner than that of the NIMF. The research involved mall-intercept interviews with 410 adults nationwide, including 246 parents who were shown videotapes of game clips and asked to rate them based on the ESRB standards. The survey found that "in 84% of all instances, games are rated equal to or less strictly than the official ESRB rating." Hart found that the ESRB is "twice as likely to be more conservative than the public" in rating decisions. With respect to the content descriptors that accompany the age ratings, the survey found "participants are generally in agreement with the ESRB on violence descriptors, and in instances in which there is disagreement, they are usually less strict than the ratings board." In short, the ESRB ratings are reliable and effective.

Inevitably, some parents, including the witness this panel has heard from, will have different views of the accuracy of the rating of some games. We found that in ESRB's research. But let's look beyond the rhetoric and examine what NIMF actually found: the study reported that fewer than one out of five raters – just one out of five -- disagreed with the Teen rating assigned by the ESRB. That's hardly surprising. The fact that 18% of the NIMF raters disagree with the rest of the sample does not necessarily reflect a flaw in any of the rating systems; rather, it reflects the broad diversity of opinion that exists in a free society where individual parents have different views about what is acceptable and appropriate for millions of children. Indeed, it would be far more surprising if there was universal agreement.

As the Committee may know, NIMF has its own rating system. But I am confident that I could conduct a survey and find at least one out of five persons disagreeing with its conclusions as to how to rate video games, films, TV programs, and other content. However, I would not sit here and tell you that I have found the Achilles heel of the NIMF. All I will have done is

shown that people disagree when it comes to their reactions to the same piece of entertainment.

NIMF's proposal to create a "big brother" committee of super raters will create no greater likelihood that parents will agree with the ratings than any industry system because it ultimately will remain a subjective process. The only difference is that the biases of the "super raters" will be substituted for the views of a demographically diverse cross section of Americans. But that does not mean a more accurate result.

However, ESRB does value expert input. In fact, seven years ago, before NIMF came on the scene, the ESRB itself created an advisory board made up of some of the most distinguished names in child development and child advocacy to advise it on how the rating system is serving the needs of parents. This advisory panel includes such persons as Dr. Jeffrey Cole, Director, Center for Communication Policy, UCLA, Karen Jaffe, Executive Director, Kidsnet, Dr. Lewis Lipsitt, Founding Director, Child Study Center, Brown University, Dr. Parker Page, President, Children's Television Resource and Education Center, Mary Ellen Fise, Consumer Federation of America, and Dr. Rosemarie Truglio, Director of Research, Children's Television Workshop. ESRB has made several changes in its ratings over the years as a result of input from the academic advisory panel, and as a result of research it periodically conducts.

NIMF has also said that "most parents still do not understand" the ESRB ratings. I think that reflects a rather dim view of the intelligence of American parents. There is nothing especially complex about the ratings – the age categories are self-explanatory and the content descriptors direct and clear. Moreover, most video game packaging clearly describes the contents, both through screen shots and marketing text. It's rarely a mystery.

IDSAs do agree that parental awareness of the ratings is not as high yet as we would like. And we've been working hard to change that. We have launched a multi-faceted public education campaign to increase public awareness and usage of the system, including PSA's with Tiger Woods and Derek Jeter, point of sale educational partnerships with retailers, and

outreach to medical groups and organizations like NIMF. Candidly, we've been quite disappointed at the reluctance of those who profess to support parent education to actually step out of the critics' peanut gallery and join the effort to raise use of the ESRB ratings. In any event, we will continue to search for ways to bring our rating system to the widest audience of parents. We believe this is by far the best way to help parents make the right decisions for their children.

Beyond these steps, we've actively encouraged retailers to stop selling Mature rated games to persons under 17 even though the Mature rating itself does not say that a title is not appropriate for a person under 17; rather, the rating says that the content "may not be suitable" for a person under 17, and notwithstanding the fact that enforcement often means that video games are treated more harshly at retail than other entertainment offerings.

Universal Ratings

Let me close by addressing the issue of a universal ratings system. I believe such a system is unworkable and undesirable.

First, the content and nature of diverse entertainment is far too different to lump them together under a universal rating. Motion pictures and television programs are usually a passive experience involving visual depictions of real actors in real situations; video games, by contrast, are interactive experiences that typically depict animated characters in fantasy environments; recordings are not visual at all. The difficulties in adopting a one-size-fits-all ratings system for such diverse media are enormous and likely to produce precisely the kind of parental confusion sponsors are hoping to avoid.

Moreover, there is not a shred of evidence that consumers are confused by these existing ratings; indeed, what is confusing about a "PG-13" rating for a motion picture or a "Mature for Violence" rating for a video game? A mandated universal ratings system will put the government squarely into the business of regulating content by allowing it to develop ratings standards. In addition, it means the Executive Branch or Congress could change content standards on a periodic basis to react to whatever political position is in vogue. This is a deeply unsettling prospect.

Further, it is unconstitutional, based on U.S. Supreme Court

precedent, for the government to impose fines and/or prison terms on retailers or producers who fail to adhere to a system for rating violent content, as this bill would require.

The breadth of the First Amendment in this regard is essential to protect pivotal constitutional tenets. Ask yourself, do we really want the Federal Government to set content standards for its citizens? What will prevent Congress from passing "rating standards" for other form of expression such as art, photography, books or the Internet? Once we start down this slippery slope of government imposed content standards, the line of constitutionally protected freedoms gets blurred.

The fact is that consumers understand movie ratings, which have been in effect for 30 years. Their awareness and understanding of the seven year-old video, PC, and Internet game rating system is building, and they are just getting used to the new TV ratings. The universal ratings legislation would essentially undo years of hard work at building consumer knowledge and cause consumer confusion for years to come.

Mr. Chairman, our industry has demonstrated an exceptional sensitivity to the concerns you and others have expressed about violent video games. We continue to listen to legitimate concerns and, where appropriate, take action. ESRB will continue to regularly evaluate its rating system. We think our overall self-regulatory program is getting the job done, and we're proud of it. Thank you.

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