

TESTIMONY



**STATEMENT OF HILARY ROSEN
PRESIDENT AND CEO
RECORDING INDUSTRY
ASSOCIATION OF AMERICA
BEFORE THE
COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
"Rating Entertainment Ratings"
JULY 25, 2001**

Mr. Chairman and members of the Committee, I appreciate the opportunity to appear before you today. My name is Hilary Rosen. I am president and CEO of the Recording Industry Association of America, which represents more than 600 record companies.

I am here to discuss the recording industry's Parental Advisory Program. I am here also as a parent, a citizen and a member of the music community who has listened to the blame game on this subject for fifteen years. But my history does not extend back as far as the criticisms of music and popular culture do. That has been a subject of public opinion and government scrutiny for over 70 years when Duke Ellington's song "The Mooche" was subject to protest because of fears it would inspire rape. It won't end with today's hearing. And perhaps that is as it should be. For music is so often identified with youth rebellion and generational misunderstandings that simply the dialogue about this subject has the potential to build bridges. If that is the goal.

Too often the goal, however, is to cast blame or intimidate the creative community. While I could discuss this more philosophical issue with the Committee all day, as a responsible industry representative, I want to first make sure that you know about the important initiatives the recording industry is currently undertaking to give parents and consumers the information they need to make choices for their music buying family.

As you know, the recording industry's Parental Advisory Labels have appeared on our products for more than 15 years, ever since we reached agreement with the Parents Music Resource Center and the National Parent Teacher Association. The premise of this system is to balance an artist's right of self-expression with parents' and consumers' legitimate need for information to make decisions based on their own values.

By the measure that matters most -- what parents say -- the program is a success. According to the FTC report, 77 percent of parents are aware of the Parental Advisory program, and 75 percent of them approve of it. A new Kaiser Family Foundation study released yesterday said 90% of those who used it found it useful.

As this hearing proceeds, it will be helpful to keep the issue of explicit lyrics in the broader perspective of all music. Themes and language in music reflect virtually every part of society. As a result, despite the emphasis at these hearings on recordings with explicit content, they comprise a relatively small portion of our industry's output. In an average retail store, only 500 of 110,000 titles -- less than one-half of one percent -- carry the Parental Advisory Label.

Over time, the Parental Advisory program has evolved as retailers' and parents' needs -- as well as technology -- have changed.

We have consistently surveyed the public to find out what consumers need. In 1990, after some parents complained that they couldn't spot the advisory easily, we established a uniform, universally recognizable Parental Advisory logo. It is one inch by one half-inch on cassettes and CD jewel boxes. Our guidelines require that it be placed on the front of the permanent packaging or be made a part of the artwork.

Most recently, last October we amended our guidelines in three specific areas:

A Uniform Standard of Application: We provided record companies with uniform standards to guide a label and artist in deciding whether to apply the Parental Advisory logo. We also clarified that the logo should be released to single-track recordings as well as full albums.

Advertising: We established a policy to include the Parental Advisory label in consumer print advertisements for recordings with explicit content in addition to the product packaging itself.

Internet: Finally, we established uniform guidelines to urge all of our online retail partners to prominently display the Parental Advisory logo for all labeled products, from catalogue pages all the way through to the shopping basket.

In February of this year, the FTC issued a report on the industry's implementation of these guidelines. They gave us a failing grade. We deserved it, and I said so publicly.

We've spent the last several months working hard to do better. We established an Implementation Task Force in cooperation with the National Association of Recording Merchandisers (NARM) and our member record companies. I have met personally with the top executives of every major record company to review the implementation of the program, and I have begun meeting with our retail partners as well.

We are working to implement recommendations formulated by that task force as well as by an impressive coalition of hip-hop artists and music executives who met last month in New York and who, incidentally tried to appear today but were not given the opportunity to testify. Those recommendations include:

Expanding our advertising requirement to television and radio ads

Prominently displaying the Parental Advisory label on street marketing posters and music sampler giveaways held in conjunction with a labeled release

Where they are available, encouraging posting of lyrics on an artist's website or some central on-line location.

Last week we announced a broad-based campaign our industry is launching to improve awareness of the Parental Advisory Label among educational leaders in a position to carry the message to students and parents.

We are mass-mailing a brochure on the Parental Advisory Label to parents, caregivers and other consumers. This mailing will be targeted at those in a unique position to inform parents and influence children -- including parent-teacher organizations, school principals, coaches, music teachers,

school guidance counselors, school psychologists and elected officials nationwide.

We are partnering with the National Association of Recording Merchandisers to make sure parents can learn more about the Parental Advisory Label at the places where most music purchases are made: retail stores. We will update all Parental Advisory Label countertop displays and store posters with the web address for parentalguide.org. This site is a one-stop resource for parents to learn about our program as well as ratings systems for television, motion pictures and video games.

Finally, we've produced a PSA featuring Quincy Jones, a legend in our industry, and we'll distribute that to TV and radio stations around the country. He communicates with simple eloquence the idea behind the Parental Advisory Label: It's there to provide information. The rest is up to us -- as parents.

Now, we look forward to incorporating this program into the next generation of music sales and marketing: the online world. In the coming months, the major record labels -- in partnership with technology companies -- will launch several subscription services to expand the ways consumers learn about and purchase music online.

In addition to providing a new opportunity to connect with music lovers, we view these services as a new forum for expanding the tools available to parents. Each of these services is exploring how to clearly label explicit content. Some will feature filters that will enable parents to block music identified by the Parental Advisory Label if they choose to do so.

This new opportunity will build on the commitment we already have in place: to give people the information they need to make decisions based on their own values.

We're going to work hard to make sure our industry lives up to all these commitments. And I hope the FTC and others will recognize that progress over the long term.

However, Mr. Chairman, I must take exception to the FTC's other and most persistent criticism: the erroneous claim that the recording industry markets to children products it has already

decided are inappropriate for them.

By the definition of our program, that charge is untrue. The Parental Advisory Label system provides parents with information. We do not attempt to dictate to parents whether that information makes a product appropriate or inappropriate for any one age group.

The reason, Mr. Chairman, cuts to the heart of why attempts to legislate in this area are both Constitutionally and practically doomed.

It is impossible to dictate -- or, as some characterize it "encourage" -- ratings without making judgments about content. The propriety -- even the nature -- of any creative expression is ultimately in the eye of the beholder. Indeed, the purpose of creative expression itself is to stimulate interpretation and imagination.

That is precisely why no one would propose to label books. But that is the inescapable conclusion of the chain of logic set in motion by imposing government judgments on the content of other forms of creative work.

You cannot go after sexual or violent content without ensnaring Toni Morrison's *Beloved* or Alice Walker's *The Color Purple* -- both of which depict rape -- in the same web as today's musical acts.

Indeed, you cannot distinguish even between what many members of this Committee would probably call "acceptable" and "unacceptable" violence within music itself.

Pick your recording. Surely *Mack the Knife*, which depicts mutilation, would be caught in any trap being set for violent lyrics. *Me and a Gun*, a song in which Tori Amos movingly recounts being raped at gunpoint, could not withstand any filter for sexual or violent content. Neither could Linda Ronstadt's "Tumbling Dice," a song about rape written by Mick Jagger and Keith Richards. And on and on.

Nor, Mr. Chairman, is it possible to lump all forms of expression together under the same rubric. Ratings must reflect the nature of the medium being rated.

Informational Rating Systems Should Reflect the Nature of

Their Respective Industries

Our labeling system is often compared to the ratings systems in place for the television, motion picture and videogame industries. While our industries work together to bring information about our systems to parents through the

www.parentalguide.org

website, our systems are very different. And for good reason. Each system is designed and has evolved to reflect the media to which it applies.

Books have no label or rating, even those that contain explicit content and are marketed to children. Why? Because words are particularly subject to interpretation and imagination, and most feel that labeling books is a bad idea.

Lyrics likewise are susceptible to varying interpretations. Words can have different meanings depending on who is hearing them. Also, words cannot be viewed in isolation from the music that accompanies them. Lyrics, when accompanied by loud and raucous music, can be perceived differently than the same lyrics when accompanied by soft and soothing music.

Music consists of lyrics and composition, and we as an industry do label recordings that contain "explicit content". As our guidelines suggest, context is obviously important: some words, phrases, sounds, or descriptions might be offensive to parents if spotlighted or emphasized, but might not offend if merely part of the background or not a meaningful part of the lyrics. The context of the artist performing the material, as well as the expectations of the artist's audience, is also important.

Music is much closer to books than it is to movies or video games in nature. We label when explicit content is contained in a sound recording. We provide a well-known and commercially accepted logo to identify recordings that contain explicit material so that parents have a "heads-up" in making purchasing decisions. We feel it is appropriate to warn parents that there may be objectionable material in a CD or song but leave it to them to decide, based on their own values, what's appropriate for their children.

Books consist of words; they are not rated because they are subject completely to imagination and interpretation. In recordings, the impact of words cannot be assessed separately from the music to which they are set. In movies or TV, the addition of images must be reflected. And so, in video games, must interactivity.

All these differences -- and the profoundly different effects they have on the consumer -- make uniform ratings impossible. To be sure, that does not mean different entertainment industries cannot work together to inform parents. We can, and, through "parentalguide.org", we do.

For all these reasons, Mr. Chairman, legislation in this area would also be impractical and unconstitutional.

We are Governed by the Principle

Today's hearing is nominally about ratings. Some will continue to insist that marketing practices and self-regulated rating systems, not the First Amendment, is our topic today.

Respectfully, Mr. Chairman, I disagree. This hearing is very much about the First Amendment. If it is about government oversight of our rating of entertainment products -- and the potential for legislation in that area -- then it is about government judgments about the content of creative expression. And that means we are here to talk about the First Amendment, plain and simple.

Let me be clear: I am proud to discuss in any forum the recording industry's commitment to helping America's parents make informed decisions about their children's entertainment. And I have told this Committee a lot about what the industry is doing today.

But this is more than a public meeting convened to discuss an issue of public importance. It is a hearing of a standing committee of the United States Senate. As such, it carries the imprimatur of government power -- and the hint of government direction and governmental pressure.

And under our Constitution, creative expression -- no matter how provocative, or offensive it may seem to one person's eyes or ears -- is not subject to official review, whether that review is

exercised outright or through the back door of implicit threats.

Some say their concern about youth violence trumps protection for what they regard as offensive expression.

The most sincere motives are behind that concern, but the facts are not. Scientists who have studied the matter thoroughly have found no conclusive link between children's entertainment choices and behavior.

Here is how one expert panel characterized the state of science on the issue: "There does appear to be general agreement among researchers that whatever the impact of media violence, it likely explains a relatively small amount of the total variation in youthful violent behavior."

That panel, Mr. Chairman, was the Federal Trade Commission. The report dealt with the marketing of entertainment products to children.

That conclusion did not appear in many of the news stories on a report that was otherwise widely trumpeted. It did not appear in the executive summary, or even in the body of the report itself. It was buried in the appendix. But it is absolutely central to this Committee's consideration of exhortations for restrictions on creative expression based on the belief that it is inherently bad or contributes to violent behavior.

Not long after the FTC report was completed, another study of the studies by the Surgeon General of the United States was urged by the Senate and requested by the President appeared. It found that "it was extremely difficult to distinguish between the relatively small long-term effects of exposure to media violence and those of other influences."

And while the jury may still be out on the research, the verdict of experience is very decidedly in. Youth violence in America has decreased over the last five years. It fell throughout the 1990s, while concern about explicit lyrics seemed to be rising. It would be as erroneous to give explicit lyrics credit for that decline, as it is to blame them for a supposed surge in youth violence that simply did not occur. Teen pregnancy is down. Virtually every statistic about the state of young people today is more positive than it was ten years ago. Yes, there are many problems in society but the consistent blame that the music community takes for horrors that occur is simply outrageous.

Yes, some of today's music is coarse and rude. But once again, to deny that coarseness and rudeness exists in society today or that it would end if the music were cut off is to suggest magic powers unimaginable to me as a mortal.

Other critics, Mr. Chairman, say their concern is limited to what they call the explicit extremes rather than what is, to them, the mainstream of creative expression. To them I respond first that expression is by definition subjective -- that what sounds foreign to them speaks compellingly to the experience of another.

Unfortunately, the most offensive expression, however one defines it, is exactly the point. Because it is exactly that expression that the First Amendment was written to protect.

But that does not mean we do not take our own duties seriously. Indeed, the freedom I am here to defend also confers a responsibility. We are doing everything we can to market our products in the right way, to the right people. We recognize our track record is far from perfect -- and we're working very hard to correct our mistakes.

But this is our responsibility, Mr. Chairman. We choose to act on it. We choose to do so fully, enthusiastically and in the sincere hope that members of the Committee will reach the same conclusion as America's parents: The Parental Advisory Label system works.

But most important, Mr. Chairman, we choose to speak -- and artists choose to express themselves -- separate from government approval, classification or permission. We hope this Committee will honor that freedom as deeply as we respect the sincerity of its concerns.

Thank you.

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