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**BEFORE THE
SUBCOMMITTEE ON TELECOMMUNICATIONS AND INTERNET
HOUSE COMMITTEE ON ENERGY AND COMMERCE**

“Images Kids See on the Screen”

**Friday June 22, 2007
10:00 a.m.**

Good morning. Chairman Markey, Ranking Member Upton, Members of the Subcommittee, on behalf of the Motion Picture Association of America (MPAA)¹ and its six member companies, I thank you for the opportunity to address this important set of topics relating to media and children.

As a parent and grandparent, I fully appreciate that the prevalence of media and the rapid development of the technology that delivers it are a challenge to parents. We must work together to ensure that parents have the tools they need to make sound, informed decisions on behalf of their children because in the end, it is parents – not industry, not interest groups, and not the government – that should make those decisions.

Technology and the availability of media are not bad things. In fact they are two of our country’s great equalizers and reflect the bedrock freedoms and opportunities for advancement upon which the country was founded. Technology enables a child in rural

¹ The Motion Picture Association of America is the voice and advocate of the American motion picture, home video, and television industries. Its members include: Buena Vista Pictures Distribution; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Twentieth Century Fox Film Corporation; Universal City Studios LLLP and Warner Bros. Entertainment, Inc.

Kentucky to access online the same research as a child in the wealthiest suburbs of Los Angeles or New York or Washington.

For example Mr. Chairman, you are acutely aware of the complexities and challenges of global warming, and you would probably agree that nothing has done more to raise awareness to that complex issue than the documentary film, “An Inconvenient Truth.”

This is just one example of how media, and movies in particular, can educate and elevate socially important issues.

Our industry has provided tremendous leadership over the last few decades to make sure movies are being viewed by appropriate audiences by providing information to parents, through the establishment of the movie ratings system. This system is the gold standard of parental informational tools, and parents consistently report that it is useful.

As the market and consumer expectations are constantly evolving, our rating system is constantly being reevaluated to make sure that it is keeping pace with that transformation.

In recent years we have introduced several refinements, adding more detailed ratings descriptions, expanding ratings factors, improving advertising and marketing regulations and establishing new delivery systems for ratings information.

We all share the goal of shielding children from inappropriate images. We must face this problem keeping in mind that in our country, motion pictures and television programs are forms of expression protected by the First Amendment, and that any governmental effort

to regulate that speech must comport with our proud Constitutional history. Efforts to regulate speech that violate that basic principle, no matter how well intentioned, do not protect a single child.

Rather than throwing up our collective hands and feeling overwhelmed, we must continue working aggressively and creatively to empower parents so they can take advantage of what's good, and set limits for what they do not want their children to be exposed.

My industry has been a leader in providing parents with the resources they need to make the right choices for their families. I would like to highlight just a few of our efforts for you here today.

For nearly 40 years, MPAA has led the way with a workable voluntary ratings system that has stood the test of time and continues to have widespread support among American parents.

Established in 1968, the Classification and Ratings Administration (CARA) is the gold standard of parental informational tools by which all others are measured. Using the now familiar and easy-to-understand G, PG, PG-13, R and NC-17 motion picture ratings, the ratings system provides parents with guidance about a movie's content so that they can determine what motion pictures are suitable for their children. Parents make the decision, the ratings system provides them with tools to do so.

According to annual outside surveys, parents have consistently found it extremely useful in helping them make the right decisions about their children's moviegoing. Last year's survey, released on the 38th anniversary of the establishment of CARA, showed that 80 percent of parents found the rating system to be fairly to very useful in helping them make decisions about what movies their children see.

The success of the ratings system lies in its straightforward simplicity. It provides an overall familiar framework while still allowing for adjustments as circumstances warrant. We have worked extremely hard to make sure that in addition to being easy to understand and use, the ratings are accessible to parents in an increasingly busy and complicated world.

Our ratings website www.filmratings.com is highly trafficked by parents who visit it to look up the rating of a motion picture and its rating reason. They can also access the various descriptions of the ratings and see a list of the most frequently asked questions about ratings.

All official movie sites must link directly to the film ratings site and to www.parentalguide.org, a comprehensive central site which provides parents with information about CARA and each of the other ratings systems other industries have developed. If a film has not yet been rated, the television and online advertising for that film must note that, and reference the ratings web site for up-to-date information.

To provide this information in the most convenient way, MPAA last year launched a free email alert service called Red Carpet Ratings which automatically sends parents ratings and ratings reasons for the most recently released movies. Parents can sign up for the service at the MPAA website at www.mpa.org or on the film rating website.

Aside from parents looking up the ratings of a film on one of these websites or obtaining the ratings information by other means, the most basic way we can provide that ratings information as guidance is ensuring that the ratings information and descriptors are provided in all of the advertising and marketing material for a rated movie, no matter in what medium, and that the movies are marketed to age appropriate audiences.

Movie advertising, whether in print, on television, or online is required to include rating information and descriptors highlighting the reasons – such as violence – that caused the film to receive its rating.

The FTC recognized the importance of these steps in its recent report on marketing to children, noting that the industry has made steady progress in disclosing ratings and rating reasons clearly and prominently in advertising since 2000. Specifically, we have now included ratings reasons for all films in newspaper ads, websites, and posters.

As part of the requirements to receive a film rating, all advertising and publicity, including internet sites, must be submitted to the Advertising Administration for review

and approval prior to being released to the public. The Advertising Administration reviews over 50,000 pieces of advertising a year. Its comprehensive rules were just updated last year to ensure the guidelines are keeping pace with new developments in content distribution, and we plan to continue to update them as needed.

Movie advertising shown on network and cable television can only be placed during programming of compatible content and at appropriate hours. In reviewing a television spot for approval, the Advertising Administration will take into consideration appropriate placement and audience demographics.

Similarly, movie trailers shown in theaters must be compatible with the feature so that inappropriate content is not advertised to younger viewers. For example, PG-rated features must not be preceded by trailers advertising R- rated films.

Online advertising, including internet sites, banner ads and video clips, must also be reviewed and approved. Distribution of movies and movie advertising on the Internet pose a whole host of new challenges as well as opportunities. MPAA and its member companies continue to explore and implement technological solutions to help block inappropriate movie advertising from being accessed by younger Internet users and MPAA staff continually review sites for inappropriate content.

Failure to comply with any of the advertising guidelines can result in significant penalties for distributors. This includes the revocation or suspension of their movie's rating.

Non-MPAA member companies are not bound to have their films rated, however once they submit their film for a rating, they are bound by our rules requiring review and approval of their materials.

The ratings system is constantly evolving to meet the changing needs of parents. Recently we have taken several steps to make the system more user friendly and transparent for families. First, we have made improvements to ensure parents are informed about “depictions of violence” in our motion pictures and marketing materials. The “depictions of violence” category is one that can trigger a stricter rating. To help parents better understand the severity of violence, over time we have added additional descriptors to better describe the type of violent content contained in a movie.

Second, we added an additional warning to parents that R-rated movies are not appropriate for young children. Earlier this year, responding to concerns from people who frequented R rated movies to which parents were taking their children, MPAA decided to add an additional warning to the definition of R-rated movies: “Generally, it is not appropriate for parents to bring their young children with them to R-rated motion pictures.”

Third, we are constantly looking at potential new factors to determine what additional information the ratings system may need to include. It was through this process that we recently made the decision to add “depictions of smoking” as a ratings factor.

Last month, MPAA announced that depictions of smoking will be considered as a ratings factor. Depictions that glamorize smoking or that feature pervasive smoking outside of an historic or other mitigating context may receive a higher rating or the inclusion of smoking may be included in the rating descriptors for the movie such as “glamorized smoking” or “pervasive smoking.”

In the past, illegal teen smoking had been considered as a factor in the rating of films. We have now extended that ratings factor to encompass adult depictions of smoking.

Smoking is a unique public health concern that we believe, when depicted in a motion picture, warrants giving parents additional information. Our change will do just that.

Three questions will have particular weight for our rating board when considering smoking in a film and its affect on the rating: One, is the smoking pervasive; Two, does the film glamorize smoking; and three, is there an historic or other mitigating context for the smoking?

Beyond enhancing our ratings to account for smoking, we have also joined with the Entertainment Industry Foundation and the Alliance of Motion Picture and Television Producers to work on a project called Hollywood Unfiltered. This entertainment industry-led initiative is dedicated to educate and raise awareness within the industry of the public health consequences of depicting smoking in movies and television.

Hollywood Unfiltered is a voluntary effort aimed at educating members of the entertainment industry about how on-screen smoking impacts young people, while encouraging the industry to take action to reduce the glamorization of smoking in their creative work.

Fortunately, the trend seems to be moving in the right direction. Statistics show that there is a declining prevalence of smoking in the movies in general. From July 2004 to July 2006, the percentage of films that included even a fleeting glimpse of smoking dropped from 60 percent to 52 percent. Of those films 75 percent received an R rating for other factors. In other words, three out of every four films that contained any smoking at all over the past few years are already rated R.

Finally, let me address the issue of childhood obesity and food marketing, an issue with which I'm very familiar and about which I care deeply about from my work in the House and as Secretary of Agriculture under President Clinton.

During my tenure at the U.S. Department of Agriculture, we revised and modernized the dietary nutrition guidelines and the familiar food pyramid. This was no small feat. For the very first time, the guidelines emphasized the importance of exercise—and suggested that people moderate the amount of sugar, fat, salt, alcohol and cholesterol they eat. And we made significant progress with improvements in teen nutrition as well.

As part of that initiative, we undertook a comprehensive program to educate children about nutrition and healthful eating habits. Through our Team Nutrition program, we reached into elementary schools all across the country with educational materials and instruction in clear, easy to understand, and kid-friendly terms.

Also, I shepherded the organic food program into existence. It had languished in the bureaucracy for years, and I undertook to make it a reality and today, for adults as well as children, the program provides healthy alternative food choices.

Given my background with these issues, I was heartened to find that much progress has been made in this area in the media industry.

MPAA member companies take their responsibility in the marketing of their entertainment seriously and have engaged in several recent efforts in the area of food marketing and children.

At the end of last year, The Walt Disney Company introduced new food guidelines aimed at giving parents and children healthier eating options. The guidelines for licensed foods and promotions aimed at children – which are based on The Dietary Guidelines for Americans and developed in cooperation with two top child health and wellness experts - will govern Disney's business partnerships and activities in the U.S. on a going-forward basis and will be adapted for international use over the next several years.

Under the new policy, Disney will use its name and characters only on kid-focused products that meet specific guidelines, including limits on calories, fat, saturated fat and sugar. In addition, Disney announced nutritionally-beneficial changes in the meals served to children at all Disney-operated restaurants in its Parks and Resorts and unveiled a company-wide plan to eliminate *trans* fats from food served at its Parks by the end of 2007 and from its licensed and promotional products by the end of 2008.

Similarly, at the end of last year, Universal Studios theme parks also cut trans fats from use in the foods at its parks and now offers healthier menus.

There have been great strides in children's programming also. For instance, this year marks the fifth year of Nickelodeon's award-winning, *Let's Just Play Go Healthy Challenge* program, a multi-media campaign to which Nickelodeon has committed more than \$30 million and 10 percent of its airtime. The campaign empowers kids to recapture the spirit and benefits of active play. More than 70 PSAs on health and wellness have aired featuring prominent figures such as former President Bill Clinton, Gov. Mike Huckabee and Tiki Barber.

Throughout the summer, Nickelodeon will air the *Let's Just Play Go Healthy Challenge* half hour television series that follows four children as they take the healthy challenge to eat better and exercise. In 2006, six million viewers tuned in to follow the Challenge and since the launch of the *Let's Just Play Go Healthy Challenge* in 2006, 221,000 kids have registered at Nick.com to make healthy choices.

In addition to programming, Nickelodeon has adopted an approach to licensing characters to help encourage healthier diets and lifestyle choices for children. SpongeBob, Dora the Explorer and other popular characters are now licensed on a wide variety of healthy food from broccoli, green beans, and spinach to cherries, apples, pears, and grapes.

At the end of the day, the focus of our collective efforts should be solely on the question of have we provided parents with the information they need – whether that is the nutrition and diet information of a product so that parents can decide what their kids should eat or information about a movie’s content so that they can decide what their kids can watch. Government should not and indeed cannot make those choices. Only parents can.

In the recent FCC report on television violence that the full Committee requested three years ago, Commissioner Adelstein stated “that parents are the first, last and best line of defense against all forms of objectionable content” before highlighting the extent to which DVDs, digital video recorders and online offerings give parents more control than ever.

As I am sure you will hear from Adam shortly, parents have more technological tools at their disposal than ever before to help filter what their children see and hear. The V-Chip is already built into television sets to allow programming blocking. Additional parental controls are often just one click away on remote controls as every digital set top box includes parental screening tools with password options. These parental controls are far

less restrictive methods of protecting children from inappropriate content than government imposed content controls.

Unfortunately, the FCC Report's findings both glossed over the entertainment industry's recent efforts with respect to parental controls and virtually ignored the serious constitutional implications of government attempts to regulate violent content on television.

That is why, after noting that "the Report does not even discuss the full menu of parental assistance tools that are available to millions of families" thereby resulting in incomplete analysis and resulting in a skewed set of recommendations to help parents, Commissioner Adelstein admonished his colleagues for such dismissive treatment of the fundamental constitutional issues involved. The depiction of violence in entertainment "is a protected constitutional right under the First Amendment that we are recommending Congress to curtail without any thoughtful legal analysis."

The First Amendment is clear. Government cannot regulate speech without first finding a compelling government interest and then narrowly tailoring a solution that furthers that interest and is the least restrictive alternative. The attempted government regulation of "depictions of violence" suggested by the FCC in its report fails to meet that constitutional threshold. As you know, the FCC did not even attempt to define "inappropriate violence" as it was asked to do given the challenge of such a definition. I submit that such a definition cannot be crafted in this context to meet constitutional

muster and similar government mandated content restrictions would certainly result in the same unconstitutionality.

Instead of pursuing a government solution, Commissioner Adelstein recommended that there be a close look at the significant industry efforts on ratings awareness and parental controls. We agree.

MPAA has already been actively working with groups like Pause Parent Play and others to provide parents with the information they need to make those decisions, and with the parental controls to then help them limit their children's access to only what they have deemed appropriate.

In 2006, we partnered with the fellow entertainment industry groups and the Consumer Electronics Association in establishing TheTvBoss.org multi-million dollar ad campaign which was created by media companies in partnership with the Ad Council to raise awareness of V-chip technology which allows parents to control television programming.

We have also worked closely with a number of private entities like Pause Parent Play to streamline the provision of ratings information and get it into the hands of parents. For instance, with Pause Parent Play, the MPAA and its member companies partnered with entities such as the YMCA, Girl Scouts of America and Wal-Mart, among others, to sponsor a one-stop web site www.PauseParentPlay.org for ratings information about all forms of media – movies, music, television and video games. The aim of the site is to

compile tools and information so parents can make more informed choices about their kids' entertainment.

Indeed, the key to all of the issues before this Committee today is how to best empower parents to make the decisions as to what their kids see. Only they can best judge what is and what is not appropriate for their own children. And that is what we hear time and time again from parents.

Parents are very clear with us in indicating that they—not the industry and certainly not the government—should determine what is appropriate for viewing by their kids. What they want is information that is accurate and timely.

The movie ratings system is an evolving system and we are constantly evaluating what additional information should be provided to make it even more useful. That is why we took the steps we did with respect to smoking and that is why we will continue to look at potential additional improvements.

Chairman Markey, Ranking Member Upton, members of the Subcommittee, I appreciate the chance to discuss these issues of importance to our industry and I look forward to answering any questions you may have regarding what I have just discussed. Thank you.