

***Testimony before
the Senate Judiciary Committee
FTC Report on Marketing Violence to Children
Senator Sam Brownback
September 20, 2000***

Mr. Chairman, I want to thank you for holding this hearing, and giving a public airing to a most important public issue. When I introduced legislation last year, along with several of my colleagues here today, to authorize this FTC report, I did so because the anecdotal evidence was overwhelming that violent, adult-rated entertainment was being marketed to children. It's been said that much of modern research is the corroboration of the obvious by obscure methods. This study does corroborate what many of us have long suspected – and it does so unambiguously and conclusively. It shows, as FTC Chairman Robert Pitofsky noted, that the marketing is “pervasive and aggressive.” It shows that Hollywood is making a killing off of marketing violence to kids.

The problem is not one industry, but can be found in virtually every form of entertainment: movies, music, and video and PC games. Together, they take up the majority of a child's leisure hours. And the messages kids get, and images they see, often glamorize brutality, and trivialize cruelty.

Take, for example, popular music. The FTC report found that *100 percent* ! of the stickered albums they surveyed were target-marketed to kids. This is both troubling and fairly predictable: troubling in that hyper-violent, misogynistic, and racist lyrics are target-marketed to young kids – mostly young boys – whose characters, attitudes, assumptions, and values are still being formed, and vulnerable to being warped. And predictable in that there are few fans of such music that are over 20.

Movies are equally blatant in their marketing to kids, and appalling in their content. Movies have great power – because stories have great power. When that power is used responsibly, it can edify, uplift, and inspire. But all too often, that power is used to exploit. I've

seen some movies that are basically two-hour long commercials for the misuse of guns.

The movie industry has had the gall to target-market teen slasher movies to child audiences -- indeed, the report notes that some movie-makers used kids as young as ten in focus groups for R-rated movies. They then claim that parents bear total responsibility, even as they deliberately do an end-run around parents, and make it harder for them to make decisions. Of course parents bear primary responsibility in policing what their children watch -- but that doesn't mean that entertainment companies bear no responsibility at all. Moreover, entertainment companies cannot simultaneously claim that it is a parent's duty to make informed choices, and then make it as difficult as possible for them to do so.

Or take video games. When kids play violent video games, they do not merely witness slaughter, they engage in virtual murder. Indeed, the point of what are called "first person shooter" games -- that is, virtually all M-rated games -- is to kill as many characters as possible. The higher the body count, the higher your score.

Common sense should tell us that positively reinforcing sadistic behavior, as these games do, cannot be good for our children. We cannot expect that the hours spent in school will mold and instruct a child's mind but that hours spent immersed in violent entertainment will not. We cannot hope that children who are entertained by violence will love peace.

This is not only common sense, but a public health consensus. In late July, I convened a public health summit on entertainment violence. At the summit, we released a joint statement signed by the most prominent and prestigious members of the public health community -- including the American Medical Association, the American Academy of Pediatrics, the American Psychological Association, the Academy of Family Physicians, the American Psychiatric Association, and the Academy of Child and Adolescent Psychiatrists. This statement concluded:

"Well over 1000 studies... point overwhelmingly to a **causal** connection between media violence and aggressive behavior in some children. The conclusion of the public health

community, based on over thirty years of research, is that viewing entertainment violence can lead to increases in aggressive attitudes, values and behaviors, particularly in children.”

There is no longer a question as to whether exposing children to violent entertainment is a public health risk. It is -- just as surely as tobacco or alcohol. The question is: what are we going to do about it? What does it take for the entertainment industry, and its licensees and retailers, to stop exposing children to poison? And why do we see so little concern, and so much defiance, from an industry deliberately harming kids to make a buck? What can be done to encourage them to clean up their act – without resorting to any measure that restricts free expression?

The first step we need to take is to ensure that these industries can enter into a code of conduct. Consumers and parents need to know what their standards are – how high they aim, or how low they will go. I’ve introduced legislation, S. 2127, that would provide a very limited anti-trust exemption that would **enable** (not require) companies to do just that.

This is an important step, and one we can take immediately. There is widespread support for such a code of conduct; indeed, the provisions of S. 2127 were passed as an amendment to the Juvenile Justice bill by a vote of 98-0. And the President’s Advisory Commission on Public Interest Obligations unanimously called for a re-adoption of the code of conduct.

Paving the way for the entertainment industry to adopt a code of conduct is a good idea, but it is not a new one. I have modeled my legislation after the old National Association of Broadcaster’s Code of Conduct, which was in effect for three decades, until the early 1980s, when questions were raised about whether it violated anti-trust rules. The Children’s Protection Act would provide a limited anti-trust exemption to enable companies to either revive the old NAB code, or to formulate and implement a code of their own.

There are several reasons why we need a code of conduct, and should provide a limited anti-trust exemption to make such codes possible:

- First, given the enormous power that entertainment companies wield, and their insistence

that parents and consumers bear responsibility for their choices, it is only right that parents and consumers should know what their standards are. S. 2127 will encourage – without requiring – entertainment companies to define their standards – what they will and will not do, what scenes they will or will not show, and how low they will go. The public has a right to know. And entertainment companies have a responsibility to tell them.

- Second, providing an anti-trust exemption to enable a code of conduct will not only help inform parents and consumers, but by doing so, it will hold the entertainment industry accountable. Parents will have a written code by which to judge movies, music, TV and video games, and be empowered to demand that companies live up to their professed standards.
- Third, enacting a limited-trust exemption will enable far more broad-reaching voluntary agreements than are now possible. Although the video game industry has a code of conduct, for which I commend them, the FTC report concludes that it is not well-known, certainly not well-followed, and definitely not enforced. Enacting an anti-trust exemption takes away any reason for industries to avoid enacting codes of conduct that include the cooperation of retailers, and promoters, as well as producers, and to enforce them.
- Last, enabling a code of conduct acknowledges the very simple reality that the entertainment industry wields great power, and therefore bears some corporate responsibility for the products they produce, promote, and peddle.

There are other steps we should consider -- including many of the recommendations made by Chairman Pitofsky and the FTC in their report -- but a rush to legislation is not one. Hollow threats may score political points, but won't do much good. Frankly, imposing six-month deadlines on an industry one is actively fleecing for money is unlikely to bring about lasting reform. We need to encourage responsibility and self-regulation. We need a greater corporate regard for the moral, physical and emotional health and well-being of children.

Ultimately, what we need is what Edmund Burke called “obedience to the unenforceable.” Whatever we do in the Senate, there will be ways for this multi-billion dollar industry, with all of its brigades of lobbyists and lawyers, to find a loophole. We do need to take steps to encourage greater self-regulation and self-restraint on the part of the entertainment industry. But we need to change minds even more than laws.

Appealing to conscience and reason, finding ways to better inform and empower parents, and enabling long-standing and hard-hitting public pressure for greater corporate responsibility is difficult work – it takes time, effort, and offers little short-term political rewards. But it is the best way to keep children protected, parents empowered, and speech free.