

Appendix E

ENTERTAINMENT INDUSTRY INFORMATION REQUESTS

To prepare this Report, the Commission obtained information from 61 members of the motion picture, music recording, and electronic game industries. After receiving the required clearance from the Office of Management and Budget under the Paperwork Reduction Act,¹ the Commission first solicited information from nine major motion picture studios, five major music recording companies, and eleven major publishers of computer and video games about these companies' use of their industries' rating or labeling systems and their marketing practices for rated or explicit-content labeled products. *See infra* Sample Letter A, at 3 (Sample Motion Picture Studio Letter); Sample Letter B, at 13 (Sample Recording Company Letter); Sample Letter C, at 24 (Sample Electronic Game Company Letter). The companies almost uniformly certified that the information they produced in response to these requests was complete. The Commission also obtained information from other entertainment industry members, such as eight major theater chains and 14 major retailers of movies, music, and games. *See* Sample Letter D, at 34 (Sample Theater Owner Letter) and Sample Letter E, at 41 (Sample Retailer Letter).

In total, the Commission received information from the following companies:

(1) *Movie Studios and Theaters:*

American Multi-Cinema, Inc.; Carmike Cinemas, Inc.; Cinemark USA, Inc.; GC Companies, Inc.; Loews Cineplex Entertainment Corp.; Metro-Goldwyn-Mayer Studios, Inc.; National Amusements, Inc.; Paramount Pictures; Sony Pictures Entertainment; Regal Cinemas; Time Warner Entertainment Company, L.P., (including its independently managed divisions Warner Bros. and New Line Cinema); Twentieth Century Fox Film Corp.; United Artists Theatre Circuit, Inc.; Universal Studios, Inc.; and The Walt Disney Company (including its separately operated subsidiary Miramax Film Corp.).

(2) *Music Recording Companies:*

BMG Entertainment; EMI Recorded Music, North America; Sony Music Entertainment, Inc.; UMG Recordings, Inc.; and Warner Music Group, Inc.

¹ Under certain circumstances, the Paperwork Reduction Act requires public comment periods before an agency can collect information from the public. The Commission published Federal Register notices seeking public comment regarding this collection of information on August 25, 1999 (with a 60-day comment period) and on November 18, 2000 (with a 30-day comment period). *See* 64 Fed. Reg. 46,392 and 64 Fed. Reg. 63,045 (1999).

(3) *Electronic Games Designers and Producers:*

Acclaim Entertainment, Inc.; Activision, Inc.; Apogee Software, Ltd.; Capcom Entertainment, Inc.; Eidos Interactive, Inc.; Electronic Arts, Inc.; GT Interactive Software Corp. (now Infogrames, Inc.); Id Software, Inc.; Interplay Entertainment Corp.; Konami of America, Inc.; Midway Games, Inc.; Sega Companies (Sega of America, Inc., Sega Enterprises, Inc., & SegaSoft Networks, Inc.); and Sierra On-Line, Inc.

(4) *Retailers:*

Amazon.com, Inc.; Babbage's Etc.; Best Buy Co., Inc.; Blockbuster Video; CDNow, Inc.; Electronic Boutique Holdings Corp.; eToys, Inc.; Hollywood Entertainment Corp.; MTS, Inc. (Tower Records/Video/Books); Musicland Group, Inc.; Target Stores, Inc.; Toys "R" Us, Inc.; Trans World Entertainment Corp.; and Wal-Mart Stores, Inc.

(5) *Media Outlets:*

Black Entertainment Television, Inc.; Channel One Network; and MTV Networks.

In addition, FTC staff met and corresponded with: the Motion Picture Association of America; the National Association of Theatre Owners; the Recording Industry Association of America; the National Association of Recording Merchandisers; the Entertainment Software Rating Board; the Video Software Dealers Association; the Interactive Digital Software Association; the Internet Content Rating Association; the Software and Information Industry Association; the Interactive Entertainment Merchants Association; and the American Amusement Machine Association.



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection

[Sample A - Motion Picture Studio Letter]

[Company or counsel name and address]

Re: Study of the Marketing of Violent Entertainment to Children
Matter No. P994511

Dear **[company official or counsel]**:

As you are aware, the Federal Trade Commission is conducting a study of the marketing practices of the motion picture, music recording, and video and personal computer game industries. The purpose of this inquiry is to determine, among other things, how entertainment materials determined by industry to warrant a parental advisory or to be inappropriate for certain age groups because of their violent content are being marketed, and specifically whether they are being marketed to children. This inquiry is undertaken pursuant to the provisions of Section 6 of the FTC Act, 15 U.S.C. § 46. To prepare its report, the Commission is examining (1) the voluntary rating or labeling systems used by members of each industry, and (2) the practices of industry members in marketing such violent materials.

We appreciate the cooperation and willingness to provide materials needed for this study that you have expressed. Attached is the Commission's request for information from **[company name]**. We have set two response dates by which to provide the requested information. We ask that you provide the material responsive to the first group of requests by February 2, 2000. These requests seek information about the company and information about the marketing of specific motion pictures that have been rated by the Classification and Rating Administration as R or PG-13 due to their violent content. We request production of material responsive to the remaining requests by February 23. These requests seek additional information on specific motion pictures as well as more general information concerning company advertising and marketing policies.

Any materials that you submit that constitute trade secrets or privileged or confidential commercial or financial information within the meaning of Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. § 46(f), are subject to that provision's constraints on public disclosure. In addition, documents submitted in response to this request that are marked as confidential will not be disclosed without first giving you ten days' notice of the Commission's intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act, 15 U.S.C. §§ 46(f)

and 57b-2, and the applicable Commission Rules.

In addition to the material requested, we would be happy to consider any other additional information you believe we should include in our review. Please note that, although an effort has been made to be as comprehensive as possible, the attached requests are not to be construed as all-inclusive. To complete our report we may request additional documents or information.

Thank you again for your cooperation. If you have any questions about the request or would like to discuss the matter, please feel free to call me at 202-326-####.

Very truly yours,

[Counsel for the FTC]

[Sample Motion Picture Studio Information Requests]

REQUEST FOR INFORMATION

Instructions for Preparing Responses

1. Each request below seeks information or documents within the possession, custody, or control of **[company name]**, as well as any other person (including, without limitation, attorneys, agents, accountants, advertising agencies and advisors) acting or purporting to act on **[company name]**'s behalf. "Document(s)" means the original (or, in lieu thereof, any exact copy), and all non-identical copies (whether different from originals by reason of notations made on such copies or otherwise) of all written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, including, but not limited to, letters, contracts, correspondence, complaints, focus group reports, advertising material, and computer printouts. It also includes electronic mail.
2. "You," "your company" means **[company name]**, all parents, subsidiaries and affiliates, as well as any d/b/a that **[company name]** uses to market or distribute motion pictures.
3. "And" as well as "or" shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of the particular request all documents that otherwise might be construed to be outside its scope. "Any" and "all" mean each and every.
4. If, for any request, there are documents that would be responsive to this request, but were destroyed, mislaid, or transferred, describe the circumstances and date on which they were destroyed, mislaid, or transferred.
5. Each document not subject to a claim of privilege shall be submitted in its entirety even if only a portion of that document relates to the request. This means that the document shall not be edited, cut or expunged and shall include all appendices, tables or other attachments.
6. If any requested document or statement is the subject of a claim of privilege or is otherwise withheld, the claim must be asserted or the reason for withholding stated no later than the date set for production of the information for each document withheld. A claim of privilege shall include:
 - a. the type, title, specific subject matter and date of the document;
 - b. the requests to which the document is responsive;
 - c. the objection to production and the reasons for the objection; and
 - d. the names, addresses and positions of each author and recipient of the document.

7. Please identify each request for which the document is responsive. Documents that may be responsive to more than one request need not be submitted more than once.
8. Please stamp each page of each responsive document submitted with a “Bates” number, provide an index to the documents, and provide two sets of such materials.
9. Several terms are defined in the individual requests. Please use those definitions for responding to all of the requests.
10. Your submission must be dated and signed by an officer authorized to do so on the company’s behalf, certifying that, to the best of the signer’s knowledge, information, and belief, formed after a reasonable inquiry, the submission is complete and correct as of the time it is made. Under 18 U.S.C. § 1001, anyone who knowingly and willfully makes false statements or representations to a United States government agency is subject to fines and/or imprisonment.

Responses to Requests 1-6 should be provided no later than February 2, 2000.

COMPANY INFORMATION

Please provide:

1. The full name and address of your company and of any parent, subsidiary or affiliated companies.
2. A current organizational chart identifying the various departments and organizations within [**company name**] and a detailed description of the various responsibilities of each department or organization involved in advertising, marketing or distributing motion pictures for either theatrical release or home video.
3. The web addresses for all sites operated, authorized, registered, owned or sanctioned by [**company name**] to promote, make available for viewing or sell one or more of its motion pictures, or to market products based on its motion pictures.

FILM SPECIFIC INFORMATION: MARKETING PLANS

Please provide:

4. All marketing plans¹ for the following motion pictures:

[list of motion pictures]

FILM SPECIFIC INFORMATION: OTHER MARKETING MATERIALS

To the extent they are not included in the information provided in response to the previous Request, provide the following material regarding the above listed motion pictures:

5. All materials, including but not limited to, trailers, pressbooks, radio and tv ads, submitted to the Motion Picture Association of America's ("MPAA") Advertising Administration for approval.

¹ "Marketing plan" includes advertising and marketing objectives and strategies, themes, or concepts, as well as media recommendations, media plans, marketing reports, business studies, creative strategies or briefs, and any other documents that set out, describe, or discuss the planned or actual approaches for marketing, advertising, or promoting motion pictures, whether created by the company or by its agents, including but not limited to ad agencies, media buyers, or advertising consultants.

6. Each different advertisement,² and a detailed description of each promotion,³ used by **[company name]** for the above listed motion pictures and a dissemination schedule for each different newspaper, periodical, Internet, radio and television advertisement.

Responses to the remaining Requests should be provided no later than February 23, 2000.

7. All demographic data on the viewing or listening audiences for each different advertisement or promotion provided in response to Request No. 6 above.
8. All correspondence⁴ between **[company name]** and the MPAA's Advertising Administration regarding the approval of any advertising for the above listed motion pictures and any other documents referring or relating to that correspondence.
9. All documents referring or relating to results or information (including demographic information) gathered by pre-tests, sneak previews, or exit polls, including all questions asked and results.
10. All documents (including documents of **[company name]**, its advertising agencies, media buyers, marketing consultants, licensors or licensees) referring or relating to the age or ages of the target and actual audience(s) for the above listed motion pictures, both for theatrical release and home video.
11. All studies, surveys, focus group reports, copy tests or other research referring or relating to any of the motion pictures listed above, or to a proposed, planned or actual advertisement or promotion for those films.

² "Advertisement" or "advertising" shall mean any written or verbal statement, illustration or depiction, or other material that is designed, directly or indirectly, to create interest in, promote, or affect the sale of goods or services, appearing in any medium, including but not limited to brochures, newspapers, magazines, pamphlets, leaflets, circulars, mailers, book inserts, mousepads, free standing inserts, letters, catalogues, recording singles, music videos, demos, album cover art provided to retailers or other recording industry members, posters, stickers, tattoos, festival handouts, charts, billboards, public transit cards, point of purchase displays, package inserts, package labels, films, slides, radio, television, or cable television, on-line, electronic, or Internet messages or images, audio programs transmitted over a telephone system, or program-length commercials ("infomercial"). It also includes co-op advertising and any other advertising or promotion done with any third party.

³ "Promotion" shall mean any activity or event that is designed, directly or indirectly, to create interest in, or affect the sale of, goods or services, including but not limited to celebrity appearances, endorsements, and/or performances.

⁴ "Correspondence" includes all mail sent or received by you, regardless of whether that mail received a response. It also includes all electronic mail.

12. Any business study or other report generated prior to or during production regarding market potential as well as all documents discussing those studies or reports.
13. All agreements by which **[company name]** has licensed the name, images or characters for any of the above listed motion pictures for other uses, such as toys, action figures, video games, television shows, or soundtracks. Please also provide all documents regarding **[company name]**'s involvement in, approval of, or clearance of any advertising or promotional efforts by licensees marketing those products.
14. A list of each product placement (an appearance or mention of the trademark, product name or product) of the above listed motion pictures in any radio or television program or any video game.
15. The name and address of each advertising agency, media buyer or consultant, however denominated, used by **[company name]** in the planning, preparation or dissemination of its advertising or promotion.
16. The date of home video release (if applicable) and gross sales data, in terms of both dollars and actual copies sold.

FILM SPECIFIC INFORMATION: TRAILERS

Provide the following material regarding trailers for the above listed motion pictures:

17. All correspondence with or reports from the MPAA's Advertising Administration regarding trailers for the above films, whether those trailers were ultimately used or not, and any documents referring or relating to those reports or correspondence.
18. All documents referring or relating to contacts with exhibitors about trailers for the above films.
19. Any contract or addendum to a contract with an exhibitor referring or relating to a trailer for any of the above films.
20. All results or information gathered by pre-tests or pre-screenings for any trailers for the above films, whether those trailers were ultimately used or not.
21. The name and address of each company used in creating, tracking or distributing a trailer. Please also provide any instructions given by **[company name]** to any of the companies identified in this request.
22. A list of all films for which the trailer for any of the above films were "attached."
23. All documents referring or relating to results of any trailer tracking or checking service commissioned by **[company name]**.

24. A list of all films for which **[company name]** requested an exhibitor to play a trailer for any of the above films and any documents referring or relating to those attempts.
25. A list of all home videos for which **[company name]** attached trailers for the above films. Please also provide gross sales and rental data for those home videos.
26. For any of the above films released on home video, a schedule of all trailers attached to that home video.

FILM SPECIFIC INFORMATION: SELF-REGULATORY SYSTEM

Please provide the following material regarding the operation of the industry self-regulatory system and the above listed motion pictures:

27. All correspondence between **[company name]** and the Classification and Rating Administration (“CARA”) regarding the above listed motion pictures and all internal documents referring or relating to those contacts with CARA.
28. All documents referring or relating to any contract provision requiring any of the above listed motion pictures to receive a particular rating or a rating no more restrictive than R or PG-13.

INFORMATION RELATED TO MARKETING AND RATING OF MOTION PICTURES IN GENERAL

Please provide the following information. The time period for these requests is from January 1, 1997 to the present.

29. A detailed description of **[company name]**’s policies, procedures or guidelines for advertising or promoting a motion picture for theatrical release. Describe any differences that may exist in that process when the company advertises films rated PG versus PG-13. Describe also any differences in that process when the company advertises films rated R versus PG-13. Include copies of any written standards, guidelines or policies of the company on how it advertises or promotes films to the public, including any training materials for personnel that refer or relate to those policies.
30. A detailed description of **[company name]**’s policies, procedures or guidelines for marketing a motion picture for home video release. Include in that statement a description of any distinctions between marketing for home video versus marketing for theatrical release.
31. All documents referring or relating to the policies or practices of any television station, radio station, publication, or Internet medium, for accepting advertisements for motion

pictures rated PG-13 or R.

32. A detailed description of any steps taken by **[company name]** to identify the ages of the persons visiting web sites identified in response to Request No. 3 above.
33. All documents referring or relating to the ages of persons accessing the above web sites and web pages or the appeal of those web sites and web pages to children under 17.
34. A detailed statement describing **[company name]**'s participation on the "Advertising/Publicity Committee" with other members of the MPAA. In that description, please state the primary purpose of the Advertising/Publicity Committee and identify your personnel on the Committee. Please include the minutes of all Committee meetings and any documents referring or relating to issues discussed or to be discussed at Committee meetings.
35. A detailed description of the steps taken by **[company name]** to encourage retailers to consider the rating of a motion picture in its decisions of whether to stock, display, advertise, promote, make available for in-store (or on-line) viewing, or sell home videos.

COMPLAINT AND INQUIRIES

Please provide the following information. The time period for these requests is from January 1, 1997 to the present.

36. All documents, including but not limited to, correspondence between **[company name]** and any exhibitor, referring or relating to the compatibility of any trailer with a particular motion picture.
37. All complaints or inquiries and any responses thereto that relate to the rating, advertising, or marketing of PG-13 or R rated films (if rated as such due to violent content), and any other documents referring or relating to such complaints.
38. A detailed description of the procedures **[company name]** uses when it receives a complaint on the issues described in the preceding request.

RESEARCH AND ANALYSIS REGARDING FILM PREFERENCES

Please provide the following information. The time period for these requests is from January 1, 1997 to the present.

39. All studies, surveys, data, focus group reports, copy tests, or other research referring or related to:
 - a) the film preferences of children under 17; and
 - b) the marketing or advertising of R rated films to persons under 17 or PG-13 rated films to persons under 13.

40. All studies, surveys, data, focus group reports, copy tests, or other research referring or related to the demographics of film patrons, including, but not limited to, information concerning the percentage of film patrons that children under 17 comprise.



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection

[Sample B - Recording Company Letter]

[Company or counsel name and address]

Re: Study of the Marketing of Violent Entertainment to Children
Matter No. P994511

Dear **[company official or counsel]**:

As you are aware, the Federal Trade Commission is conducting a study of the marketing practices of the motion picture, music recording, and video and personal computer game industries. The purpose of this inquiry is to determine, among other things, how entertainment materials determined by industry to warrant a parental advisory or to be inappropriate for certain age groups because of their violent content are being marketed, and specifically whether they are being marketed to children. This inquiry is undertaken pursuant to the provisions of Section 6 of the FTC Act, 15 U.S.C. § 46. To prepare its report, the Commission is examining (1) the voluntary rating or labeling systems used by members of each industry, and (2) the practices of industry members in marketing such violent materials.

We appreciate the cooperation and willingness to provide materials needed for this study that **[company name]** has expressed. Attached is the Commission's request for information from **[company name]**. We have set two response dates by which to provide the requested information. We ask that you provide the material responsive to the first group of requests by February 2, 2000. These requests seek information about the company and particular recordings and the advertisements, dissemination schedules, marketing materials, and sales data for those particular recordings. We request production of material responsive to the remaining requests by February 23. These requests seek additional information concerning the company's labeling, advertising, and marketing policies.

Any materials that you submit that constitute trade secrets or privileged or confidential commercial or financial information within the meaning of Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. § 46(f), are subject to that provision's constraints on public disclosure. In addition, documents submitted in response to this request that are marked as confidential will not be disclosed without first giving you ten days' notice of the Commission's intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act, 15 U.S.C. §§ 46(f) and 57b-2, and the applicable Commission Rules.

In addition to the material requested, we would be happy to consider any other additional information you believe we should include in our review. Please note that, although an effort has been made to be as comprehensive as possible, the attached requests are not to be construed as all-inclusive. To complete our report we may request additional documents or information.

Thank you again for your cooperation. If you have any questions about the request or would like to discuss the matter, please feel free to call me at 202-326-####.

Very truly yours,

[Counsel for the FTC]

[Sample Recording Company Information Requests]

REQUEST FOR INFORMATION

Instructions for Preparing Responses

1. Each request below seeks information or documents within the possession, custody, or control of **[company name]**, as well as any other person (including, without limitation, attorneys, agents, accountants, advertising agencies, and advisors) acting or purporting to act on **[company name]**'s behalf. "Document(s)" means the original (or, in lieu thereof, any exact copy) and all non-identical copies (whether different from originals by reason of notations made on such copies or otherwise) of all written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, including, but not limited to, letters, contracts, correspondence, complaints, focus group reports, advertising material, and computer printouts. It also includes electronic mail.
2. "[Company name]," "you," or "your company" as used throughout the requests includes **[company name]**, all subsidiaries and affiliates, as well as any of the labels that **[company name]** owns, partially owns, has control over, is affiliated with, or arranges distribution for, including but not limited to **[names of record labels]**.
3. "And" as well as "or" shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of the particular request all documents that otherwise might be construed to be outside its scope. "Any" and "all" mean each and every.
4. If, for any request, there are documents that would be responsive to this request, but which were destroyed, mislaid, or transferred, describe the circumstances and date on which they were destroyed, mislaid, or transferred.
5. Each document not subject to a claim of privilege shall be submitted in its entirety even if only a portion of that document relates to the request. This means that the document shall not be edited, cut, or expunged and shall include all appendices, tables, or other attachments.
6. If any requested document or statement is the subject of a claim of privilege or is otherwise withheld, the claim must be asserted or the reason for withholding stated no later than the date set for production of the information for each document withheld. A claim of privilege shall include:
 - a. the type, title, specific subject matter, and date of the document;
 - b. the requests to which the document is responsive;
 - c. the objection to production and the reasons for the objection; and

- d. the names, addresses, and positions of each author and recipient of the document.
- 7. Please identify each request to which a document is responsive. Documents that may be responsive to more than one request need not be submitted more than once.
- 8. Please stamp each page of each responsive document submitted with a “Bates” number, provide an index to the documents, and provide two sets of such materials.
- 9. Several terms are defined in the individual requests. Please use those definitions for responding to all of the requests.
- 10. Your submission must be dated and signed by an officer authorized to do so on your company’s behalf, certifying that, to the best of the signer’s knowledge, information, and belief, formed after a reasonable inquiry, the submission is complete and correct as of the time it is made. Under 1

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Responses to Requests 1-8 should be provided no later than February 2, 2000.

Please provide:

Company Information

1. The full name and address of your company and of any parent, subsidiary company, or affiliated company.
2. A current organizational chart for **[company name]** identifying the various departments and organizations within **[company name]**, and for each of the record labels that **[company name]** owns, partially owns, or controls, or for which **[company name]** has distributed recordings. Please also provide a detailed description of the responsibilities of each department or organization involved in the advertising, marketing, and stickering with the Explicit Content Parental Advisory Label (“PAL”) of **[company name]**’s recordings or music videos.
3. The web address for all sites operated, authorized, registered, owned, or sanctioned by **[company name]**, or any affiliated record labels or artist web sites, to promote, make available for play, download, or sell its recordings, demos for those recordings, music videos, and/or demos of the videos.

Information For Specific Recordings: Marketing Information

Please provide:

4. A list of the ten best selling albums (full-length CD’s) stickered¹ in whole or in part due to violent content in 1999. Please indicate if both an explicit and an edited version of the recording are available for purchase (together “Request No. 4 recordings”) and provide a copy of the recording and lyrics for each version.
5. If not provided in response to Request No. 4, indicate if each of the following recordings was stickered in whole or in part due to violent content:

[list of explicit-content labeled recordings]

If any of the above recordings was stickered in whole or in part due to violent content, indicate if both an explicit and an edited version of the recording is available for purchase (together “Request No. 5 recordings”) and provide a copy of the recording and lyrics for each version.

¹ “Stickered” recordings are all recordings that have been labeled with an Explicit Content Parental Advisory Label.

6. State all reason(s) why (language, sexual or violent content, or references to drug use) the explicit version of each Request No. 4 recording and each Request No. 5 recording are stickered.
7. For each Request No. 4 recording and Request No. 5 recording (both the explicit and edited versions), provide:
 - a. each different advertisement² and a detailed description of each different promotion used in the United States.³
 - b. a dissemination schedule for each different television, radio, magazine, newspaper, or Internet advertisement provided in response to Request No. 7a; and
 - c. all marketing plans.⁴
8. The total unit and dollar sales in the United States for each Request No. 4 recording and Request No. 5 recording.

² “Advertisement” or “advertising” shall mean any written or verbal statement, illustration or depiction, or other material that is designed, directly or indirectly, to create interest in, promote, or affect the sale of goods or services, appearing in any medium, including but not limited to brochures, newspapers, magazines, pamphlets, leaflets, circulars, mailers, book inserts, mousepads, free standing inserts, letters, catalogues, recording singles, music videos, demos, album cover art provided to retailers or other recording industry members, posters, stickers, tattoos, festival handouts, charts, billboards, public transit cards, point of purchase displays, package inserts, package labels, films, slides, radio, television, or cable television, on-line, electronic, or Internet messages or images, audio programs transmitted over a telephone system, or program-length commercials (“infomercial”). It also includes co-op advertising and any other advertising or promotion done with any third party.

³ “Promotion” shall mean any activity or event that is designed, directly or indirectly, to create interest in, or affect, the sale of goods or services, including but not limited to artist appearances, endorsements, and/or concert tours or performances.

⁴ “Marketing Plan” includes advertising and marketing objectives and strategies, themes, or concepts, as well as media recommendations, media plans, marketing reports, business studies, creative strategies or briefs, and any other documents that set out, describe, or discuss the planned or actual approaches for marketing, advertising, or promoting recordings or recording artists, whether created by the company or by its agents, including but not limited to ad agencies, media buyers, or advertising consultants.

Responses to the remaining Requests should be provided no later than February 23, 2000.

Please provide:

Parental Advisory Label

9. A detailed description of the process that **[company name]** has followed, and the personnel involved, since January 1, 1998 to determine whether a recording should *receive* the PAL. Please also provide:
- a. all policies, guidelines, or criteria used in determining whether a recording should *receive* the PAL.
 - b. a list of the affiliated record labels or other companies that use the same process and the personnel involved at these companies. If this process varies by affiliated record label or other company, please describe the process that each such company follows.
 - c. any plans or proposals to modify the parental advisory labeling system, including the process by which you decide to sticker a recording.

If the process has changed during this period, please describe such changes and the date of such changes.

10. A detailed description of the process that **[company name]** has followed, and the personnel involved, since January 1, 1998 to determine the *format, appearance, and placement* of the PAL on a particular recording, including instructions as to the design, size, or attachment of the PAL on the recording. Please also provide:
- a. all policies, guidelines, or criteria used in determining the format, appearance, and placement of the PAL.
 - b. a list of the affiliated record labels or other companies that use the same process and the personnel involved at these companies. If this process varies by affiliated record label or other company, please describe the process that each such company follows.

If the process has changed during this period, please describe such changes.

11. A list of all of **[company name]**'s stickered recordings sold in the United States during 1998 and 1999, organized by year, including the name of the recording, the recording artist, and the record label(s) involved. Please designate those stickered in whole or in part due to violent content.
12. A detailed description of the method by which **[company name]** determined, or affiliated record labels or other companies determined, and the personnel involved in determining, which recordings to list in response to Request No. 4 and whether the recordings listed in Request No. 5 were stickered in whole or in part due to violent content.

13. All documents received from the Recording Industry Association of America, the National Association of Recording Merchandisers, or other recording industry members⁵ since January 1, 1995 referring or relating to: how the decision to sticker recordings with explicit content is made, how the PAL should appear (the design and placement) on a recording package, how the PAL should be applied/affixed to a recording, and whether the PAL should appear in advertising or marketing materials for the recording.
14. A detailed description of any steps **[company name]** has taken since January 1, 1997 to educate the public about any part of the parental advisory labeling system. Please provide any surveys, studies, focus group reports, or other research conducted since January 1, 1997 discussing or evaluating any such educational efforts.

Advertising and Marketing

15. A detailed description of **[company name]**'s policies, procedures, or guidelines for advertising or marketing a recording, including the approval and review process used, since January 1, 1998. Please also provide:
 - a. a description of any differences in that process when **[company name]** advertises or markets a stickered recording or the edited version of a stickered recording.
 - b. a list of the affiliated record labels or other companies that use the same process during this time period. If this process varies by affiliated record label or other company, please provide all relevant information for each label or company.
 - c. all written policies, procedures, or guidelines, including employee training materials, referring or relating to those policies.
16. A detailed description of whether and in what circumstances since January 1, 1998 **[company name]** (or any affiliated record label or other company) has advertised or marketed a recording containing explicit content without displaying the PAL, or without stating that the recording contained explicit content, in any advertisement or promotion for that recording.
17. A detailed description of the process that **[company name]** has used since January 1, 1998 to decide whether to produce, advertise, or promote an edited version of a stickered recording. Please also describe the process that affiliated record labels or other companies use, if different. If the process has changed during this period, please describe such changes.
18. For recordings for which **[company name]** has advertised both an explicit and an edited version, provide a detailed description of how the advertising or promotion for the explicit and edited versions has differed since January 1, 1999 (e.g., does **[company name]**

⁵ "Industry member" means all members of the recording industry, including record labels, distributors, retailers, or recording industry associations.

provide retailers with cover art for both versions?).

19. All documents since January 1, 1997 referring or relating to the policies or practices of any publication, broadcast or cable company, or Internet media for accepting advertisements for recordings or music videos that are stickered or that contain violent content.
20. All demographic data on the viewing or listening audiences for each different advertisement or promotion provided in response to Request No. 7a above.
21. To the extent not provided in response to Request No. 7, all documents, including documents by **[company name]**, its advertising agencies, media buyers, marketing consultants, licensors or licensees, since January 1, 1998 referring or relating to the demographics of the target and actual audiences for each of the Request No. 4 recordings and Request No. 5 recordings (and for the artists involved in these recordings).
22. The name and address of each advertising agency, media buyer, or other consultant, however denominated, used by **[company name]** in the planning, preparation, or dissemination of each advertisement or promotion provided in response to Request No. 7a above.
23. All agreements by which **[company name]** has licensed stickered albums, stickered singles, or music videos from such recordings, for other uses in 1998 and 1999, including in other products such as video games, television programs, motion pictures, or their soundtracks. Please also provide all documents regarding **[company name]**'s involvement in, approval of, or clearance of any advertising or promotional efforts by licensees marketing those recordings or music videos.
24. A list of each product placement (an appearance or mention of the recording or music video provided in response to Request No. 23 above) by the name of the recording or music video, and the name, date, and time of the production's first airing.
25. All documents referring or relating to **[company name]**'s policies or practices during 1998 and 1999 to encourage or discourage the purchase of, download of, or access to (e.g., listening stations in record stores or availability on the Internet) stickered recordings to children under 18.
26. A detailed description of the steps taken by **[company name]** to encourage retailers to use or consider the parental advisory labeling system in decisions whether to stock, display, advertise, promote, make available for in-store (or on-line) listening, or sell stickered recordings.
27. All marketing plans for **[non-explicit content recording]**.

Internet

28. To the extent not already provided, all documents since January 1, 1998 referring or

relating to **[company name]**'s policies or practices regarding the *advertising or promotion* of stickered recordings on the Internet. Please also list the affiliated record labels or other companies that have used the same policies or practices during this time period. If these policies or practices vary by affiliated record label or company, please provide all relevant information for each label or company. If the policies or practices have changed during this period, please describe such changes.

29. All documents since January 1, 1998 referring or relating to **[company name]**'s policies and practices regarding making stickered recordings available for *listening or purchase* on the Internet, including any limitations placed on the age of those who can listen to, download, or buy such recordings. Please include all documents referring or relating to efforts to enforce any such limitations. Please also list the affiliated record labels or other companies that have used the same policies or practices during this time period. If these policies or practices vary by affiliated record label or company, please provide all relevant information for each label or company. If the policies or practices have changed during this period, please describe such changes.
30. A detailed description of any steps taken by **[company name]** to identify the ages of persons visiting the web sites identified in response to Request No. 3 above.
31. All documents referring or relating to the demographics of persons accessing the web sites identified in response to Request No. 3 above or the appeal of those web sites and web pages to children under 18.

Sales and Popularity of Recordings

32. The unit and dollar sales of all **[company name]** recordings sold in the United States, by year and genre, for 1998 and 1999.
33. The unit and dollar sales of all **[company name]** stickered recordings (and the unit and dollar sales of any edited versions of these recordings) sold in the United States, by year and genre, for 1998 and 1999. Please also provide the unit and dollar sales of **[company name]** recordings stickered in whole or in part due to violent content sold in the United States, by year, for 1998 and 1999.
34. To the extent not already provided, all documents referring or relating to the sales of each Request No. 4 recording and Request No. 5 recording to children under 18.

Complaints and Inquiries

35. All complaints or inquiries, and any responses thereto, since January 1, 1997 that **[company name]** has received that relate to the violent content of any recording, the advertising or marketing of stickered recordings, the failure to sticker recordings as containing explicit content, or the appeal of advertisements or stickered recordings to children under 18.

36. A detailed description of the process [**company name**] has followed since January 1, 1997 when responding to complaints or inquiries on the issues described in Request No. 35 above.

Research and Analysis

37. All studies, surveys, data, focus group reports, copytests, or other research conducted since January 1, 1997 referring or relating to:
- a. the music buying or listening preferences of children under 18;
 - b. the marketing or advertising of stickered recordings to children under 18;
 - c. the parental advisory labeling system, including consumer awareness of, understanding of, use of, or satisfaction with that system; or
 - d. the violent content in recordings or music videos.
38. All studies, surveys, data, focus group reports, copytests, or other research conducted since January 1, 1997 referring or relating to the advertising, marketing, sale, or availability of stickered recordings on the Internet.
39. All studies, surveys, data, focus group reports, copytests, or other research referring or relating to any of the Request No. 4 recordings or Request No. 5 recordings or to any planned or actual advertisements for any of these recordings regardless of the date or author of the research, report, or study.



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection

[Sample C - Electronic Game Company Letter]

[Company or counsel name and address]

Re: Study of the Marketing of Violent Entertainment to Children
Matter No. P994511

Dear **[company official or counsel]**:

As you know, the Federal Trade Commission is conducting a study of the marketing practices of the motion picture, music recording, and video and personal computer game industries. The purpose of this inquiry is to determine, among other things, how entertainment materials determined by industry to warrant a parental advisory or to be inappropriate for certain age groups because of their violent content are being marketed, and specifically whether they are being marketed to children. This inquiry is undertaken pursuant to the provisions of Section 6 of the FTC Act, 15 U.S.C. § 46. To prepare its report, the Commission is examining (1) the voluntary rating or labeling systems used by members of each industry, and (2) the practices of industry members in marketing such violent materials.

Attached is the Commission's request for information from **[company name]**. We have set two response dates by which to provide the requested information. We ask that you provide the material responsive to the first group of requests by February 2, 2000. These requests seek information about the marketing of several games that have been rated by the Entertainment Software Rating Board as Mature or Teen due to their violent content. We request production of material responsive to the remaining requests by February 23. These requests seek a broader range of information on issues relating to the company's use of the self-regulatory systems for rating games and its advertising and marketing policies.

Any materials that you submit that constitute trade secrets or privileged or confidential commercial or financial information within the meaning of Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. § 46(f), are subject to that provision's constraints on public disclosure. In addition, documents submitted in response to this request that are marked as confidential will not be disclosed without first giving you ten days' notice of the Commission's intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act, 15 U.S.C. §§ 46(f) and 57b-2, and the applicable Commission Rules.

In addition to the material requested, we would be happy to consider any other additional information you believe we should include in our review. Please note that, although an effort has been made to be as comprehensive as possible, the attached requests are not to be construed as all-inclusive. To complete our report we may request additional documents or information.

Thank you for your cooperation in this matter. If you have any questions about the request or would like to discuss the matter, please feel free to call me at 202-326-####.

Very truly yours,

[Counsel for the FTC]

[Sample Electronic Game Company Information Requests]

REQUEST FOR INFORMATION

Instructions for Preparing Responses

1. Each request below seeks production of all documents within the possession, custody, or control of as well as any other person (including, without limitation, attorneys, agents, accountants, advertising agencies and advisors) acting or purporting to act on **[company name]**'s behalf. "Document(s)" means the original (or, in lieu thereof, an exact copy), and all non-identical copies (whether different from originals by reason of notations made on such copies or otherwise) of all written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, including, but not limited to, letters, contracts, correspondence, complaints, focus group reports, advertising material, and computer printouts. It also includes electronic mail.
2. "You," "Your company," or "**[company name]**" means, **[company name]** and all subsidiaries and affiliates used to market video games, personal computer games or coin-operated games.
3. "And" as well as "or" shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of the particular request all documents that otherwise might be construed to be outside its scope. "Any" and "all" mean each and every.
4. If, for any request, there are documents that would be responsive to this request, but which were destroyed, mislaid, or transferred, describe the circumstances and date on which they were destroyed, mislaid, or transferred.
5. Each document not subject to a claim of privilege shall be submitted in its entirety even if only a portion of that document relates to the request. This means that the document shall not be edited, cut or expunged and shall include all appendices, tables or other attachments.
6. If any requested document or statement is the subject of a claim of privilege or is otherwise withheld, the claim must be asserted or the reason for withholding stated no later than the date set for production of the information for each document withheld. A claim of privilege shall include:
 - a. the type, title, specific subject matter and date of the document;
 - b. the request(s) to which the document is responsive;
 - c. the objection to production and the reasons for the objection; and
 - d. the names, addresses and positions of each author and recipient of the document.

7. Please identify each request for which the document is responsive. Documents that may be responsive to more than one request need not be submitted more than once.
8. Please stamp each page of each responsive document submitted with a “Bates” number, provide an index to the documents, and provide two sets of such materials.
9. Several terms are defined in the individual requests. Please use those definitions for responding to all of the requests.
10. Unless otherwise indicated, this request asks for information and documents from January 1, 1997.
11. Your submission must be dated and signed by an officer authorized to do so on your company’s behalf, certifying that, to the best of the signer’s knowledge, information, and belief, formed after a reasonable inquiry, the submission is complete and correct as of the time it is made. Under 18 U.S.C. § 1001, anyone who knowingly and willfully makes false statements or representations to a United States government agency is subject to fines and/or imprisonment.

Responses to Requests 1-7 should be provided no later than February 2, 2000.

Please provide:

COMPANY INFORMATION

1. The full name and address of your company and of any parent, subsidiary or affiliated companies.
2. A current organizational chart identifying the various departments and organizations within [**company name**]. Please also provide a detailed description of the responsibilities of each department or organization involved in the advertising or marketing of your company's products.
3. A list of your company's video, personal computer and coin-operated games (hereinafter called "game" or "games"), and products based on those games (e.g., action figures, t-shirts, hats), marketed by the company at any time since January 1, 1997. Please also provide the date your company first began marketing those products.
4. The web addresses for all sites operated, authorized, registered, owned or sanctioned by your company to promote, make available for play or download, or sell one or more of its games or demos for those games, or to market products based on its games.

MARKETING INFORMATION

5. Each different advertisement¹ and a detailed description of each different promotion² used

¹ "Advertisement" or "advertising" shall mean any written or verbal statement, illustration or depiction, or other material that is designed, directly or indirectly, to create interest in, promote, or affect the sale of goods or services, appearing in any medium, including but not limited to, brochures, newspapers, magazines, pamphlets, leaflets, circulars, mailers, book inserts, mousepads, free standing inserts, letters, catalogues, recording singles, music videos, demos, album cover art provided to retailers or other recording industry members, posters, stickers, tattoos, festival handouts, charts, billboards, public transit cards, point of purchase displays, package inserts, package labels, films, slides, radio, television, or cable television, on-line, electronic, or Internet messages or images, audio programs transmitted over a telephone system, or program-length commercials ("infomercials"). It also includes co-op advertising and any other advertising or promotion done with any third party.

² "Promotion" shall mean any activity or event that is designed, directly or indirectly, to create interest in, or affect the sale of, goods or services.

in the United States by your company for “rated games.”³ Include a dissemination schedule for each of the television, radio, magazine, newspaper or Internet advertisements.

6. The total unit and dollar sales in the United States for each of your company’s rated games for 1997, 1998 and 1999. Indicate the percentage of total unit and dollar sales for all of your company’s games that the rated games represent for each of those years.
7. All marketing plans⁴ for the following games (hereinafter referred to as “specified games”⁵):

[list of games]

Responses to the remaining Requests should be provided no later than February 23, 2000.

Please provide:

RATINGS PROCESS

8. A detailed description of the process **[company name]** follows to obtain ratings from the ESRB for its video and personal computer game products or for web sites featuring multi-player on-line games or other interactive areas, such as chat rooms or bulletin boards. If the process has changed since January 1, 1997, describe such changes. Provide any

³ “Rated games” means games that were rated Teen, Mature or Adults Only because of their violent content using the Entertainment Software Rating Board (ESRB) or Entertainment Software Rating Board Interactive (ESRB*i*) system, were rated with a violence level of 2 or higher using the Recreational Software Advisory Council (RSAC) or Recreational Software Advisory Council Interactive (RSAC*i*) system, or received a red label designation because of violent content using the system for coin-operated games developed by the American Amusement Machine Association (AAMA), the Amusement and Music Operators Association (AMOA), and the International Association of Family Entertainment Centers (IAFEC).

⁴ “Marketing Plan” includes advertising and marketing objectives and strategies, themes, or concepts, as well as media recommendations, media plans, marketing reports, business studies, creative strategies or briefs, and any other documents that set out, describe, or discuss the planned or actual approaches for marketing, advertising or promoting video games, personal computer games or coin-operated games, whether created by the company or by its agents, including but not limited to, ad agencies, media buyers, or advertising consultants.

⁵ For each specified game, we mean all titles in the series using that name. Thus, for example, our request for the marketing plans for **[game name]**, includes the marketing plans for each game of the **[game name]** brand, series or franchise, including **[game name]**, and any other title that is part of that series.

information received from ESRB that describes the rating system or how companies may obtain a rating for their games or for web sites featuring games or other interactive areas.

9. A detailed description of the process [**company name**] follows to obtain ratings from RSAC (now part of the Internet Content Rating Association - ICRA) for its video and personal computer game products or for web sites featuring those products. If the process has changed since January 1, 1997, describe such changes. Provide any information received from RSAC or ICRA that describes the rating system or how companies may obtain a rating.
10. A list of your company's web sites rated by RSAC or ICRA, including the address of the web site, its rating, and the date that it received its rating.
11. A detailed description of the process [**company name**] follows to obtain ratings using the AAMA system for its coin-operated games. If the process has changed since January 1, 1997, describe such changes. Provide any information received from AAMA that describes the rating system or how companies may obtain a rating.
12. A list of the coin-operated games rated using the AAMA system since January 1, 1995, including the name of the coin-operated game, its rating, the date that it received its rating, and the date the company first began marketing the game.
13. A detailed description of any steps taken by [**company name**] to educate the public about any of the rating systems for games. Provide any surveys, studies, focus group reports, or other research discussing or evaluating any such educational efforts.

ADVERTISING AND MARKETING

14. All documents authored by your company or received from the ESRB, AAMA or others that describe or specify how the rating or its descriptors should a) appear (i.e., the design) on a game, b) be applied/affixed with the game, or c) be included in advertising or marketing materials for the game. Describe in detail any instance where the policies, procedures or guidelines set out in those documents were not followed; and include a copy of any advertisement or package that did not follow those procedures, and the date and place where that advertisement or package was published, broadcast or disseminated.
15. A detailed description of [**company name**]'s policies, procedures or guidelines for advertising or promoting a game. Please describe any differences that may exist in that process when your company advertises games rated Teen versus games rated Everyone. Describe also any differences in that process when your company advertises games rated Mature versus games rated Teen. Include copies of any written standards, guidelines or policies of the company on how it advertises or promotes games to the public, including any training materials for personnel that refer or relate to those policies.

16. All documents referring or relating to the policies or practices of any publication, broadcast or cable company, or Internet media for accepting advertisements for violent games or for rated games.
17. All demographic data on the viewing and listening audience for each advertisement or promotion for the specified games provided in response to request five, above.
18. To the extent not already provided, all documents, including those authored by your company, its advertising agencies, media buyers, marketing consultants, licensors or licensees referring or relating to the demographic(s) of the target or actual audience(s) for the specified games.
19. The name and address of each advertising agency, media buyer or consultant used by **[company name]** in the planning, preparation or dissemination of advertising, marketing or promotion for the specified games.
20. All agreements by which **[company name]** has licensed the name, images or characters from any rated game developed by your company. Provide all documents referring or relating to your company's involvement in, approval of, or clearance of any advertising or promotional efforts by licensees marketing those products.
21. All agreements with third-party developers or licensors that authorize your company to market toys, action figure or other products based on rated games that you publish. Include a detailed description of what role, if any, a game developer or licensor plays in the development or approval of marketing plans for any game or product based on those games. Provide all documents referring or relating to game developer or licensor involvement in, approval of, or input into the marketing plans or advertising for any of the specified games.
22. A list of each product placement (an appearance or mention of the trademark, product name, or product) of any of your company's rated games in motion pictures or in television (cable or broadcast) programs, by name of the game, and name, date and time of the production's first airing.
23. All documents referring or relating to efforts by your company to encourage or discourage the purchase, rental, play, downloading or use of its rated games or game demos by those under the age for which the game is rated.
24. A detailed description of the steps taken by **[company name]** to encourage retailers to use or consider the rating systems in decisions whether to stock, display, advertise, promote, rent or sell games.
25. All marketing plans referring or relating to efforts by **[company name]** to promote action games or shooter games to teenagers (excluding marketing plans created solely to promote a specific game title).

26. All marketing plans for the following games:

[list of games]

INTERACTIVE DIGITAL SOFTWARE ASSOCIATION ADVERTISING CODE

27. All written policies of your company, referring or relating to Section IV. B. and IV. C. of the IDSA advertising Code of Conduct (hereinafter "Code") that requires companies not to "specifically target advertising for entertainment software products rated for Teen, Mature, or Adults Only, to consumers for whom the product is not rated as appropriate," or "represent in their advertising ... that a title is appropriate for persons under the age for which the game has been rated." State the date on which the company first adopted and last amended each of these policies.
28. A detailed description of the steps taken by your company to ensure that advertisements for Teen, Mature or Adults Only games are not "specifically targeted" to consumers for whom the product is not rated as appropriate. Include in this description: a) what information you possess on the demographics of the expected audience before each ad is placed; b) what information you obtain on the actual demographics of the audience that viewed or heard the ad; and c) what instructions you give to media buyers, brokers, advertising agencies and others who place your company's advertisements regarding the audience demographics for the media in which ads are to be placed.
29. A detailed description of the steps taken by your company to ensure that advertisements for Teen, Mature or Adults Only games not represent that a title is appropriate for persons under the age for which the game is rated.
30. A detailed description of any instance(s) where IDSA notified your company about a complaint or inquiry regarding your company's advertising, marketing or labeling of its games. Describe how that complaint or inquiry was resolved.

INTERNET

31. To the extent not already provided, all documents referring or relating to **[company name]**'s policies or practices regarding advertising or promotion of rated games on the Internet. If the policies or practices have changed since January 1, 1997, describe such changes.
32. All documents referring or relating to your company's policies and practices regarding making rated games available for play, demos for those rated games available for download, or rated games available for sale on the Internet, including any limitations placed on the age of those who can play, download, or buy such games. Include all documents relating to any efforts to enforce any such limitations.

33. A detailed description of any steps taken by your company to identify the ages of persons visiting the company's web sites.
34. All documents referring or relating to the demographics of persons accessing your company's web sites (listed in response to request four) or to the appeal of those web sites and web pages to children under 17.

SALES AND POPULARITY OF GAMES

35. The unit and dollar sales of all your company's games sold in the United States, by year and rating for 1997, 1998 and 1999.
36. To the extent not already provided, all documents referring or relating to the age of purchasers, players, users or renters of your company's rated games.

COMPLAINTS AND INQUIRIES

37. All complaints or inquiries, and any responses thereto, received by **[company name]** regarding a) the violent content of any game, b) the advertising or advertising copy used for any rated game, or c) whether your company's advertisements or games appeal to those under the age for which the game is rated as appropriate.
38. A detailed description of the process **[company name]** follows when responding to complaints or inquiries on the issues described in the previous Request.

RESEARCH AND ANALYSIS

39. All surveys, studies, data, focus group reports, or other research referring or relating to:
 - a. the game buying or playing preferences of children under 17;
 - b. the marketing or advertising of Mature rated games to children under 17, and of Teen rated games to children under 13;
 - c. the rating systems for games, including consumer awareness of, understanding of, use of, or satisfaction with those systems; or
 - d. the violent content of games or the violent content of advertising for games.
40. All studies, surveys, data, focus group reports, copy tests or other research referring or relating to any of the specified games or to a proposed, planned or actual advertisement for any of the specified games regardless of the date or author of the research, report or study.



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection

[Sample D - Theater Owner Letter]

[Company or counsel name and address]

Re: Study of the Marketing of Violent Entertainment to Children
Matter No. P994511

Dear **[company official or counsel]**:

I am writing you concerning the Federal Trade Commission's study of the marketing practices of the motion picture, music recording, and video and personal computer game industries. The purpose of this study is to determine, among other things, how entertainment materials determined by industry to warrant a parental advisory or to be inappropriate for certain age groups because of their violent content are being marketed, and specifically whether they are being marketed to children. This inquiry is undertaken pursuant to the provisions of Section 6 of the FTC Act, 15 U.S.C. § 46. To prepare its report, the Commission needs to examine: (1) the voluntary rating or labeling systems used by members of each industry; (2) the practices of industry members in marketing such violent materials; and (3) the access that minors have to these materials.

As **[company name]** is a major exhibitor of motion pictures, the Commission is requesting your assistance in gathering materials needed for this study. We have attached the Commission's request for information from **[company name]**. We ask that you provide the material responsive to the requests by February 17, 2000.

Any materials that you submit that constitute trade secrets or privileged or confidential commercial or financial information within the meaning of Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. § 46(f), are subject to that provision's constraints on public disclosure. In addition, documents submitted in response to this request that are marked as confidential will not be disclosed without first giving you ten days' notice of the Commission's intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act, 15 U.S.C. §§ 46(f) and 57b-2, and the applicable Commission Rules.

In addition to the material requested, we would be happy to consider any other additional information you believe we should include in our review. Please note that, although an effort has been made to be as comprehensive as possible, the attached requests are not to be construed as all-

inclusive. To complete our report we may request additional documents or information.

Thank you for your assistance. If you have any questions about the request or would like to discuss the matter, please feel free to call me at 202-326-####.

Very truly yours,

[Counsel for the FTC]

[Sample Theater Owner Information Requests]

REQUEST FOR INFORMATION

Instructions for Preparing Responses

1. Each request below seeks information or documents within the possession, custody, or control of [company name], as well as any other person (including, without limitation, attorneys, agents, accountants, advertising agencies and advisors) acting or purporting to act on [company name]'s behalf. "Document(s)" means the original (or, in lieu thereof, any exact copy), and all non-identical copies (whether different from originals by reason of notations made on such copies or otherwise) of all written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced, including, but not limited to, letters, contracts, correspondence, complaints, focus group reports, advertising material, and computer printouts. It also includes electronic mail.
2. "You," "your company" means [company name], all parents, subsidiaries and affiliates, as well as any d/b/a that [company name] uses to market or exhibit motion pictures.
3. "And" as well as "or" shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of the particular request all documents that otherwise might be construed to be outside its scope. "Any" and "all" mean each and every.
4. If, for any request, there are documents that would be responsive to this request, but were destroyed, mislaid, or transferred, describe the circumstances and date on which they were destroyed, mislaid, or transferred.
5. Each document not subject to a claim of privilege shall be submitted in its entirety even if only a portion of that document relates to the request. This means that the document shall not be edited, cut or expunged and shall include all appendices, tables or other attachments.
6. If any requested document or statement is the subject of a claim of privilege or is otherwise withheld, the claim must be asserted or the reason for withholding stated no later than the date set for production of the information for each document withheld. A claim of privilege shall include:
 - a. the type, title, specific subject matter and date of the document;
 - b. the requests to which the document is responsive;
 - c. the objection to production and the reasons for the objection; and
 - d. the names, addresses and positions of each author and recipient of the document.

7. Please identify each request for which the document is responsive. Documents that may be responsive to more than one request need not be submitted more than once.
8. Please stamp each page of each responsive document submitted with a “Bates” number, provide an index to the documents, and provide two sets of such materials.
9. Several terms are defined in the individual requests. Please use those definitions for responding to all of the requests.
10. Your submission must be dated and signed by an officer authorized to do so on the company’s behalf, certifying that, to the best of the signer’s knowledge, information, and belief, formed after a reasonable inquiry, the submission is complete and correct as of the time it is made. Under 18 U.S.C. § 1001, anyone who knowingly and willfully makes false statements or representations to a United States government agency is subject to fines and/or imprisonment.

Please provide the following information:

1. The full name and address of your company and of any parent, subsidiary or affiliated companies.
2. A current organizational chart identifying the various departments and organizations within **[company name]** and a detailed description of the various responsibilities of each department or organization involved in the theatrical exhibition of motion pictures or the advertising or marketing of motion pictures through theatrical trailers or otherwise.
3. The web address for all sites operated, authorized, registered, owned, or sanctioned by **[company name]** to promote theater attendance in general or attendance at any specific motion picture.
4. The total number of domestic theaters and screens owned or operated by **[company name]**.
5. A detailed description of **[company name]**'s policies, procedures, or guidelines for enforcing the age restrictions on R and NC-17 rated movies. Provide copies if any of the above policies are in writing or on video. Also provide copies of all employee training materials.
6. Provide all documents referring or relating to enforcing the age restriction of the rating system since January 1, 1999. This includes, but is not limited to, complaints or inquiries from consumers and responses thereto, correspondence with the National Association of Theatre Owners ("NATO"), the Motion Picture Association of America ("MPAA"), any film distributor, or with other exhibitors.
7. A detailed description of **[company name]**'s policies, procedures, or guidelines regarding the showing of theatrical trailers preceding motion pictures or in theater lobbies. In particular, describe its policies concerning trailer compatibility with the feature presentation motion pictures. Provide copies if any of the above policies are in writing or on video.
8. Provide all documents referring or relating to the compatibility of trailers with the feature presentation since January 1, 1999. This includes, but is not limited to: a) all **[company name]** documents identifying the trailers to be shown with any feature presentation; b) all **[company name]** documents referring or relating to compatibility issues; c) any correspondence with motion picture distributors, MPAA, NATO, or other exhibitors referring or relating to compatibility issues; or d) any complaints or inquiries from the public regarding trailer compatibility and **[company name]**'s response thereto.
9. All documents, since January 1, 1999, referring or relating to: a) how movie ratings and their descriptors should be displayed or made available to the public; b) whether product ratings and their descriptors should be included in advertising or marketing materials for motion pictures; and c) the role of exhibitors in informing the public about the rating

systems for movies.

10. A detailed description of any steps **[company name]** has taken since January 1, 1997 to educate the public about any part of the movie rating system. Please provide any surveys, studies, focus group reports, or other research conducted since January 1, 1997 discussing or evaluating any such educational efforts.
11. A detailed description of all cooperative advertising agreements between **[company name]** and any film distributor concerning any PG-13 or R rated motion pictures (if rated as such due to violent content) exhibited by **[company name]** or to be exhibited since January 1, 1999. Please include copies of all such agreements.
12. All complaints or inquiries, and any responses thereto, since January 1, 1999, referring or relating to the rating, advertising, or marketing of PG-13 or R rated motion pictures (if rated as such due to violent content), and any other documents referring or relating to such complaints.
13. Each different advertisement,¹ and a detailed description of each promotion,² used by **[company name]** for any motion picture rated PG-13 or R (if rated as due to violent content) it exhibited since January 1, 1999 and a dissemination schedule for each different newspaper, periodical, Internet, radio and television advertisement. This includes, but is not limited to, any cooperative advertisement pursuant to any agreement identified in response to Request 11.
14. Any correspondence with any film distributor, since January 1, 1999, regarding the results of inspections performed by trailer tracking or checking services and all other documents referring or relating to that correspondence.
15. A representative sample of any contracts between **[company name]** and any film distributor, since January 1, 1999, concerning exhibition of a motion picture in a theater.

¹ “Advertisement” or “advertising” shall mean any written or verbal statement, illustration or depiction, or other material that is designed, directly or indirectly, to create interest in, promote, or affect the sale of goods or services, appearing in any medium, including but not limited to brochures, newspapers, magazines, pamphlets, leaflets, circulars, mailers, book inserts, mousepads, free standing inserts, letters, catalogues, recording singles, music videos, demos, album cover art provided to retailers or other recording industry members, posters, stickers, tattoos, festival handouts, charts, billboards, public transit cards, point of purchase displays, package inserts, package labels, films, slides, radio, television, or cable television, on-line, electronic, or Internet messages or images, audio programs transmitted over a telephone system, or program-length commercials (“infomercial”). It also includes co-op advertising and any other advertising or promotion done with any third party.

² “Promotion” shall mean any activity or event that is designed, directly or indirectly, to create interest in, or affect the sale of, goods or services, including but not limited to celebrity appearances, endorsements, and/or performances.

16. A detailed description of any steps taken by [**company name**] to identify the ages of the persons visiting web sites identified in response to Request No. 3 above.
17. All studies, surveys, data, focus group reports, copytests, or other research conducted since January 1, 1997 referring or relating to:
 - a. the film preferences of children under 17;
 - b. the marketing or advertising of R rated movies to children under 17;
 - c. the movie rating system; and
 - d. the violent content in movies.
18. All documents, since January 1, 1997 referring or relating to the marketing of: a) R or NC-17 rated films to persons under 17 years of age; b) PG-13 rated films to persons under 13. Please provide documents that discuss the above issues in general or in relation to a particular film.
19. A detailed description of [**company name**]'s policies, procedures, or guidelines regarding the placing of violent³ coin-operated games in theater lobbies. In particular, describe any policies that require the display of a rating on those games, or that discourage playing of those games by children. Provide copies if any of the above policies are in writing or on video.

³ For purposes of this request, a coin-operated game is violent if it received a red label designation because of its violent content, using the rating system developed by the American Amusement Machine Association (AAMA), the Amusement and Music Operators Association (AMOA), and the International Association of Family Entertainment Centers (IAFEC).



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection

[Sample E - Retailer Letter]

[company or counsel name and address]

Re: Study of the Marketing of Violent Entertainment to Children
Matter No. P994511

Dear **[company official or counsel:]**

I am writing you concerning the Federal Trade Commission's study of the marketing practices of the motion picture, music recording, and video and personal computer game industries. The purpose of this study is to determine, among other things, how entertainment materials determined by industry to warrant a parental advisory or to be inappropriate for certain age groups because of their violent content are being marketed, and specifically whether they are being marketed to children. This inquiry is undertaken pursuant to the provisions of Section 6 of the FTC Act, 15 U.S.C. § 46. To prepare its report, the Commission needs to examine: (1) the voluntary rating or labeling systems used by members of each industry; (2) the practices of industry members in marketing such violent materials; and (3) the access that minors have to these materials.

As **[company name]** is a major retailer of music recordings, films, and video and personal computer games, the Commission is requesting your assistance in gathering materials needed for this study. We have attached the Commission's request for information from **[company name]**. We ask that you provide the material responsive to the requests by February 17, 2000.

Any materials that you submit that constitute trade secrets or privileged or confidential commercial or financial information within the meaning of Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. § 46(f), are subject to that provision's constraints on public disclosure. In addition, documents submitted in response to this request that are marked as confidential will not be disclosed without first giving you ten days' notice of the Commission's intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act, 15 U.S.C. §§ 46(f) and 57b-2, and the applicable Commission Rules.

In addition to the material requested, we would be happy to consider any other additional information you believe we should include in our review. Please note that, although an effort has been made to be as comprehensive as possible, the attached requests are not to be construed as all-inclusive. To complete our report we may request additional documents or information.

Thank you for your assistance. If you have any questions about the request or would like to discuss the matter, please feel free to call me at 202-326-####.

Very truly yours,

[Counsel for the FTC]

[Sample Retailer Information Requests]

REQUEST FOR INFORMATION

Instructions for Preparing Responses

1. Each request below seeks information or documents within the possession, custody, or control of **[company name]**, as well as any other person (including, without limitation, attorneys, agents, accountants, advertising agencies, and advisors) acting or purporting to act on **[company name]**'s behalf. "Document(s)" means the original (or, in lieu thereof, an exact copy) and all non-identical copies (whether different from originals by reason of notations made on such copies or otherwise) of all written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced, including, but not limited to, letters, contracts, correspondence, complaints, focus group reports, advertising material, and computer printouts. It also includes electronic mail.
2. "[Company name]," "you," or "your company" as used throughout the requests includes **[company name]**, **[name of specific subsidiaries]**, and all subsidiaries and affiliates of these entities used to market, sell, or rent movies, music recordings, or video or personal computer games.
3. "And" as well as "or" shall be construed both conjunctively and disjunctively, as necessary, in order to bring within the scope of the particular request all documents that otherwise might be construed to be outside its scope. "Any" and "all" mean each and every.
4. If, for any request, there are documents that would be responsive to this request, but which were destroyed, mislaid, or transferred, describe the circumstances and date on which they were destroyed, mislaid, or transferred.
5. Each document not subject to a claim of privilege shall be submitted in its entirety even if only a portion of that document relates to the request. This means that the document shall not be edited, cut, or expunged and shall include all appendices, tables, or other attachments.
6. If any requested document or statement is the subject of a claim of privilege or is otherwise withheld, the claim must be asserted or the reason for withholding stated no later than the date set for production of the information for each document withheld. A claim of privilege shall include:
 - a. the type, title, specific subject matter, and date of the document;
 - b. the requests to which the document is responsive;
 - c. the objection to production and the reasons for the objection; and

- d. the names, addresses, and positions of each author and recipient of the document.
- 7. Please identify each request to which a document is responsive. Documents that may be responsive to more than one request need not be submitted more than once.
- 8. Please stamp each page of each responsive document submitted with a “Bates” number, provide an index to the documents, and provide two sets of such materials.
- 9. Several terms are defined in the individual requests. Please use those definitions for responding to all of the requests.
- 10. Unless otherwise indicated, this request asks for information and documents from January 1, 1998.
- 11. Your submission must be dated and signed by an officer authorized to do so on your company’s behalf, certifying that, to the best of the signer’s knowledge, information, and belief, formed after a reasonable inquiry, the submission is complete and correct as of the time it is made. Under 18 U.S.C. § 1001, anyone who knowingly and willfully makes false statements or representations to a United States government agency is subject to fines and/or imprisonment.

Responses to the following Requests should be provided no later than [date] 2000.

Please provide:

Company Information

1. The full name and address of your company and of any parent, subsidiary, or affiliated company. Please also provide all retail store names through which **[company name]** does business in the United States and the number of stores, for each retail outlet, operating in 1999.
2. A current organizational chart identifying the various departments and organizations within **[company name]**. Please also provide a detailed description of the responsibilities of each department or organization involved in the advertising¹ of specified products.²
3. The web address for all sites operated, authorized, registered, owned, or sanctioned by **[company name]** to: (a) promote³ any specified product; (b) make available for play, viewing, listening, download, or rental any specified product; or (c) sell any specified product (“**[company name]** web site(s)”). Please describe any arrangements to place a hyperlink to **[company name]** web sites on non **[company name]** web sites promoting any specified product.

Advertising and Marketing

4. A detailed description of any steps **[company name]** has taken to follow, participate in, enforce, or educate the public about the rating (movies and games) or labeling (music

¹ “Advertisement” or “advertising” shall mean any written or verbal statement, illustration or depiction, or other material that is designed, directly or indirectly, to create interest in, promote, or affect the sale of goods or services, appearing in any medium, including but not limited to brochures, newspapers, magazines, in-store magazines, pamphlets, leaflets, circulars, mailers, book inserts, mousepads, free standing inserts, letters, catalogues, recording singles, music videos, demos, album cover art provided to retailers or other recording industry members, posters, stickers, tattoos, festival handouts, charts, billboards, public transit cards, point of purchase displays, package inserts, package labels, films, slides, radio, television, or cable television, on-line, electronic, or Internet messages or images, audio programs transmitted over a telephone system, or program-length commercials (infomercials). It also includes co-op advertising and any other advertising or promotion done with any third party.

² “Specified products” means movies, music recordings, or video or personal computer games (“games”).

³ “Promotion” or “promote” shall mean any activity or event that is designed, directly or indirectly, to create interest in, or affect, the sale of goods or services.

recordings) systems used by industry members⁴ in advertising, selling, or renting rated or stickered⁵ products.

5. A detailed description of any steps [**company name**] has taken to implement industry programs to assist parents in using the rating or labeling systems, such as the Video Software Dealers Association’s “Pledge To Parents” program or ESRB’s “Commitment to Parents” program.
6. A detailed description of [**company name**]’s policies, procedures, or guidelines, including the approval or review process, for *advertising or marketing* any rated or stickered product in all media, including in-store magazines and the Internet. Also provide all written policies, procedures, or guidelines, including employee training materials, referring or relating to those policies. If the policies, procedures, or guidelines have changed during the relevant period, please describe such changes.
7. A detailed description of [**company name**]’s policies, procedures, or guidelines relating to whether advertisements or promotions for rated or stickered products show or describe the rating, the content descriptors,⁶ or the PAL. Provide all such written policies, procedures, or guidelines. Please describe any steps taken by [**company name**] to ensure that advertisements or promotions for rated or stickered products show or describe the rating, the content descriptors, or the PAL. If the policies, procedures, or guidelines have changed during the relevant period, please describe such changes.
8. A detailed description of [**company name**]’s policies, procedures, and guidelines for making rated or stickered products available for *viewing, listening, playing, rental, downloading, or purchase* in any [**company name**] store or on any [**company name**] web site. Please describe any limitations placed on the age of those who can view, listen to, play, rent, download, or purchase such rated or stickered products, and any efforts to enforce any such limitations. Also provide all written policies, procedures, or guidelines, including employee training materials, referring or relating to those policies. If the

⁴ “Industry member” means all members of the movie, music recording, and video and personal computer game industries, including owners, manufacturers, distributors, developers, publishers, retailers, or industry associations.

⁵ “Rated” or “stickered” product(s) means: movies rated R or NC-17 by the Motion Picture Association of America’s Classification and Rating Administration; music recordings containing an Explicit Content Parental Advisory Label (“PAL”); and video and personal computer games rated Mature or Adults Only under the Entertainment Software Rating Board (“ESRB”) or ESRB interactive rating systems.

⁶ Content descriptors provide information on why a movie, video game, or personal computer game received a particular rating. For example, video games rated “Mature” because of their violent content may include content descriptors such as “realistic violence” or “realistic blood and gore,” and movies rated “R” because of their violent content may include content descriptors such as “rated R for sci-fi violence and gore” or “rated R for graphic violence.”

policies, procedures, or guidelines have changed during the relevant period, please describe such changes.

9. For a recording that has both a stickered explicit version and a non-stickered edited version, and for a movie that has both a rated version and an unrated version, provide a detailed description of: whether **[company name]** makes both versions of the recording/movie available for sale or rental and whether **[company name]** advertises or promotes each version. If so, describe any general differences in the advertising or promotion of the two versions since January 1, 1999.
10. For rated or stickered products, each different advertisement and a detailed description of each different promotion disseminated or used during the periods May 28 through June 6, 1999 and December 3 through December 12, 1999. Please include a dissemination schedule for each of the advertisements.
11. All demographic data on the viewing or listening audiences for each advertisement or promotion provided in response to Request No. 10 above.
12. A detailed statement of whether, and how often, **[company name]** has entered into cooperative agreements with industry members since January 1, 1999 to advertise rated or stickered products. Please provide a detailed description of the process for reviewing and approving such advertisements, and the names and positions of the personnel involved (from **[company name]** or other industry members). Please provide a sample copy of such an agreement.
13. All demographic data (excluding zip codes) on persons visiting **[company name]** retail stores or web sites, including those persons viewing, listening, playing, renting, downloading, or purchasing any rated or stickered product since January 1, 1999.

Trailers and clips

14. A detailed description of how **[company name]** obtains movie or game trailers or clips for exhibition in its stores or on **[company name]** web sites, including the role of any film distributor or game publisher in that process. Also provide all written agreements between **[company name]** and any film distributor or game publisher on this issue.
15. A detailed description of **[company name]**'s policies, procedures, and guidelines for showing trailers and clips for movies and games in its stores. Describe whether there are any differences in these policies based on whether the trailer or clip is for a rated movie or game. Provide all written policies, procedures, or guidelines, or any instructions **[company name]** sends to its stores, concerning the exhibition of trailers or clips.
16. All movie or game trailers or clips (or trailer tapes if more than one trailer is contained on a video tape) exhibited in any **[company name]** store or on any **[company name]** web site for the periods May 28 through June 6, 1999 and December 3 through December 12, 1999.

Sales and Popularity of Specified Products

17. The total unit and dollar sales in the United States of all movies, music recordings, and games sold or rented by **[company name]** for 1998 and 1999, by year and product category.
18. The unit and dollar sales in the United States of all rated movies, rated games, and stickered music recordings (and the unit and dollar sales of any edited versions or unrated versions of these recordings or movies) sold or rented by **[company name]** for 1998 and 1999, by year and product category.
19. For 1998 and 1999, a list, using unit sales, by year and product category of:
 - your fifty best-selling movies;
 - your fifty best-selling rated movies;
 - your fifty best-selling games;
 - your fifty best-selling rated games;
 - your fifty best-selling music recordings; and
 - your fifty best-selling stickered music recordings.
20. For 1998 and 1999, a list, using unit rentals, by year and product category of:
 - your top fifty movie rentals;
 - your top fifty rated movie rentals;
 - your top fifty game rentals; and
 - your top fifty rated game rentals.
21. To the extent not already provided, all demographic data on the actual purchasers, players, users, or renters of: (a) the fifty best-selling rated or stickered products and (b) the fifty top rentals of rated products identified in Requests No. 19 and No. 20 above.

Complaints and Inquiries

22. All complaints or inquiries, and any responses thereto, that **[company name]** has received that relate to:
 - a. the violent content of any specified product;
 - b. the advertising or marketing of rated or stickered products, including the failure of advertisements or product packages to display the rating or the PAL;
 - c. the failure to sticker music recordings as containing explicit content;
 - d. the rental or sale of rated or stickered products to children under 18; or
 - e. the appeal of advertisements for rated or stickered products to children under 18.

Please redact any personally identifiable information that would reveal the identity of the person renting or buying a movie to ensure that there be no inadvertent disclosure of personally identifiable information prohibited by the Video Privacy Protection Act, 18 U.S.C. Section 2710.

23. A detailed description of the process [company name] has followed when responding to complaints or inquiries on the issues described in Request No. 22 above.

Research and Analysis

24. All studies, surveys, data, focus group reports, copytests, or other research referring or relating to:
 - a. the movie, music, or game buying, viewing, listening, or renting preferences of children under 18;
 - b. the marketing or advertising of rated or stickered products to children under 18;
 - c. the rating or labeling systems used by industry members for the specified products, including consumer awareness of, understanding of, use of, or satisfaction with these systems; or
 - d. the violent content in the specified products or in music videos.
25. All studies, surveys, data, focus group reports, copytests, or other research referring or relating to the advertising, marketing, sale, rental, or availability of rated or stickered products on the Internet.