

## **Appendix J**

### **ELECTRONIC GAME INDUSTRY COMPLIANCE WITH SELF-REGULATORY CODE REQUIREMENTS TO DISCLOSE RATING INFORMATION ON PRODUCT PACKAGING, IN ADVERTISING, AND ONLINE**

As discussed in Section VI of the Report, the electronic game industry's self-regulatory system has a detailed code of conduct governing the advertising of electronic games. The Interactive Digital Software Association's Advertising Code of Conduct ("IDSA" and "Adcode") sets forth numerous requirements concerning the display and use of rating icons and descriptors on product packaging and in print, television, and Internet advertising. This Appendix discusses industry compliance with these requirements. Because the motion picture and music recording industries do not currently have similarly detailed advertising requirements, there is no parallel discussion of those industries.<sup>1</sup>

#### **I. PRODUCT PACKAGING**

As a condition for obtaining a rating from the Entertainment Software Rating Board ("ESRB"), companies are required to place the assigned ESRB rating icon on the lower right or left portion of the front of the package, and any content descriptors in a rectangular box on the lower portion of the back of the package.<sup>2</sup> The rating icon must also be displayed on all cartridges, CDs, and floppy disks.<sup>3</sup>

The Commission reviewed the packaging of 24 of the M-rated games recently published by the 11 companies contacted by the Commission for this Report. Of the reviewed games, 15 were for console systems, while nine were made for personal computers ("PCs"). The Commission found a high level of compliance with the Adcode's packaging requirements. The packaging for each console game, and every PC game but one,<sup>4</sup> fully complied with the requirements for the appearance and location of rating icons and content descriptors.

#### **II. PRINT ADVERTISING**

According to the Adcode, print advertising includes advertising in newspapers, magazines and comic books, in-store displays at retailers, and consumer mailings.<sup>5</sup> It does not include giveaways such as key chains, balls, hats, and T-shirts.<sup>6</sup> Before January 31, 2000, the Adcode required the rating icon (but not the content descriptors) to be included in all print advertising promoting single titles.<sup>7</sup> Effective January 31, 2000, the Adcode added the

requirement to display the content descriptors with the rating icon in print advertising, using the following format:



To assess industry compliance with the Adcode's advertising requirements, the Commission reviewed print ads that appeared in various issues of four popular gaming enthusiast publications – *GamePro*, *PC Gamer*, *Computer Gaming World*, and *Electronic Gaming Monthly* – during an 18-month period (January 1999 - June 2000).<sup>8</sup> The review found that at least 16 companies placed five or more ads without any rating information, with two companies each placing at least 33 ads without any rating information.<sup>9</sup> Ten of the 11 companies contacted by the Commission for this Report placed at least one ad without any rating information during the 18-month period.

Beginning with the February 2000 issues,<sup>10</sup> the Commission also reviewed these publications for use of content descriptors in game ads. This review found that through the June 2000 issues, at least 13 companies had placed five or more ads *without* descriptors, despite the new requirement to include descriptors in print ads. All 11 of the companies contacted placed at least one ad that did not contain descriptors. The level of industry compliance may be improving. For example, in the September 2000 issue of *Electronic Gaming Monthly*, 26 out of 28 ads for games included both the rating icon *and* content descriptor(s).

### **III. BROADCAST ADVERTISING**

Before January 31, 2000, the Adcode required the rating icon (but not the content descriptors) to be included in all television advertising promoting single titles.<sup>11</sup> Effective January 31, 2000, the Adcode also requires television ads to include a voice-over stating the rating of the game, *e.g.*, “*Rated M for Mature.*”<sup>12</sup>

The Commission's review of several television shows during the months of March and April 2000 revealed that game commercials were in compliance with basic Adcode provisions concerning proper visual disclosure of the rating icon and voice-overs of rating information. Each ad had a visual disclosure of the rating icon, and only one ad for an M-rated game failed to include a voice-over statement about the rating.

#### IV. ONLINE PROMOTIONS

The Adcode has several specific requirements regarding the disclosure of rating information when a game publisher promotes a game on its Web sites. Web sites must include the rating icon and, on the purchase page, any applicable content descriptors issued by the ESRB for that title.<sup>13</sup> For game demos and trailers accessed online, the company must display the rating icon next to the name of the game on the Web page where the demo and/or trailer is accessed or on the specifications page before the demo download.<sup>14</sup> Online stores run by the publisher must include the rating icon *and* content descriptors on the page where game information, i.e., price, is provided.<sup>15</sup> In December 1999, the Commission reviewed 40 game publisher Web sites to examine the extent to which rating information was disclosed at those sites.<sup>16</sup> The methodology of this review is discussed in Appendix H. Eighteen companies, 14 of which are IDSA members, operate these sites. In general, the IDSA members showed better compliance with the Adcode than nonmembers.<sup>17</sup>

The review found no site in full compliance with the Adcode's online requirements. Although three-quarters of the sites complied with the basic requirement to display the ESRB rating icon,<sup>18</sup> less than 30% displayed the rating icon where a demo could be downloaded or viewed,<sup>19</sup> and only 9% displayed the content descriptors at the point where one could order a game.<sup>20</sup> Although not specifically required by the Adcode, none of the 40 sites visited made any attempt to verify the age of individuals ordering products; however, some sites stated that one must be 18 to place an order for a game.<sup>21</sup>

Web site Adcode Issues	ESRB rating displayed?	ESRB content descriptors displayed?	Game clip available for downloading or viewing?	Rating at point of download/viewing?	Games offered for sale?	ESRB rating at point-of-sale?	ESRB content descriptors at point-of-sale?	Age check for ordering M-rated games?
<b>Summaries by sites</b>	30 Yes 10 No	4 Yes 36 No	29 Yes 11 No	8 Yes 21 No 11 N/A	32 Yes 8 No	24 Yes 8 No 8 N/A	3 Yes 29 No 8 N/A	32 No 8 N/A
<b>Percentage Yes</b>	75%	10%	70%	28%	80%	75%	9%	0%

## ENDNOTES

1. As noted in Section IV.D of the Report, in late August 2000, the Recording Industry Association of America recommended that recording industry members follow revisions to the parental advisory labeling program, to be effective October 1, 2000. These revisions include recommendations that the parental advisory label or other prominent notice of explicit content should appear in print advertising for explicit-labeled recordings, and in online retail sites throughout all stages of the transaction.
2. Adcode, V.A-D, G (June 30, 1999).
3. Adcode, V.H. Any samplers or “demos” and trailers included in software rated by the ESRB must be submitted to the ESRB for review, and the ESRB classifies it as either “Suitable for ALL Users” or “Suitable for MATURE Users.” Adcode, VII.D. Product packaging must contain a descriptor informing the consumer that the package includes demos and/or trailers and of the applicable ESRB rating. Adcode, VII.E. The product packaging rules apply also to demo disks used to promote a game or multiple games, with one notable exception: the rules do not require publishers to place a content descriptor for the sampler itself on the packaging containing the sampler; they require only that the rating icon or icons for the game or games appear on the disk. Adcode, VII.O.
4. One PC game did not have the ESRB rating on the game CD itself and also placed the descriptors on the bottom, rather than the back, of the box.
5. Adcode, VI.B, G.
6. Adcode, VI.G.
7. Adcode, VI.C.
8. The Commission reviewed nine issues of *PC Gamer*, 13 issues of *Computer Gaming World*, 16 issues of *Electronic Gaming Monthly*, and 18 issues of *GamePro*.
9. Of the 11 companies contacted by the Commission for this Report, the three least compliant placed ads without rating information in, respectively, 33 out of 109 ads without rating information (30%), 33 out of 158 ads without rating information (21%), and 26 out of 215 ads without rating information (12%).
10. Generally, the February issues were placed in circulation in mid-January.
11. Adcode, VII.A.
12. This voice-over requirement applies to television spots longer than 15 seconds. For spots 15 seconds or shorter, the required voice-over is shortened to “Rated M.”
13. Adcode, VII.B, D. The Adcode also specifies requirements for the ESRBi Interactive (“ESRBi”) system. Adcode, IX. That system applies to products like entertainment Web sites and Web pages, games, or “Entertainment Interactive Arenas,” such as chat rooms, bulletin

boards, or multi-player gaming areas. Adcode, IX.A. Under the ESRBi system, the ESRBi rating icon and content descriptors must appear on the home page of an entertainment Web site or in the site's navigational bar, on the first Web page of a section of Web pages rated by the ESRB, the Web page where a game is accessed, or at the point where an Entertainment Interactive Arena is accessed. Adcode, IX, C-F. Additionally, the Adcode provides that the disclaimer, "The content of this site/page/game (select as appropriate) may change due to interactive exchanges," must be included at the bottom of the page where the ESRBi icon is displayed. Adcode, IX.B.

14. Adcode, VIII.C.

15. Adcode, VIII.D.

16. In addition, the Commission reviewed the sites of five game developers (all non-IDSAs members). None of these sites displayed the game's rating anywhere on the site. This review highlights an apparent weakness of the Adcode in that it covers only the company that submits a game to the ESRB for rating, typically the game publisher. Accordingly, game developers, who generally do not submit games for rating, can promote and sell their games online outside the restrictions of the Adcode.

17. Both IDSA and non-IDSA members agree to follow the Adcode requirements for disclosure of rating information as a condition for obtaining a rating from the ESRB.

18. For the 14 IDSA members' sites, nine consistently displayed rating icons somewhere on the site for that specific game, while five companies were inconsistent (some games had rating icons while others did not), or showed no rating icons. Two of the four nonmembers consistently displayed the rating icon somewhere on the site for that specific game; the other two were inconsistent or displayed no rating icons.

19. Despite industry guidelines that require placement of the rating icon on the page where a game demo or trailer is downloaded, only four of 12 IDSA members that offered demos or trailers did this consistently (two were inconsistent in their use of the rating icon, and six did not use rating icons). The nonmembers, as a whole, did not place the rating icon at the point of download (one did not offer demos or trailers). The game trailers and demos themselves are not required to contain rating information.

20. The Adcode requires *both* the rating icon and content descriptors to appear on ordering or purchase pages. Adcode, VIII.D. Nine of the IDSA member company sites placed the rating icon on the purchase page, two showed no rating icon, and three did not offer the game for sale. Of the nonmembers, one placed the rating icon on the purchase page and three did not. Of the 15 companies that offered games for sale online, only one company, an IDSA member, displayed the content descriptors at the point of sale.

21. In a followup review conducted in May 2000, one site from each of the 18 companies was randomly revisited to determine if compliance had improved. Only one company had made changes to comply with the online Adcode. No company was in complete compliance, and none of the game developer sites had made changes to improve compliance.

