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## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities: Reinstatement of Existing Collection; Comment Request

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Federal Trade Commission ("FTC" or "Commission") intends to conduct a survey of parents who have one or more children, age 11-16 years, who play video or personal computer games. The FTC will also survey children, between the ages of 11 and 16, who play video or personal computer games. The surveys are a follow up to the Commission's surveys conducted in 2000 on consumers' use of and familiarity with the Entertainment Software Rating Board ("ESRB") rating system. Before gathering this information, the FTC is seeking public comments on its proposed consumer research. Comments will be considered before the FTC submits a request for Office of Management and Budget ("OMB") review under the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501-3520.

**DATES:** Comments must be received on or before November 28, 2005.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to "Entertainment Industry Study: FTC File No. P994511" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex G), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to e-mail messages directed to the following e-mail box: [entstudy@ftc.gov](mailto:entstudy@ftc.gov). However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper

form, and the first page of the document must be clearly labeled "Confidential."<sup>1</sup>

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC Web site, to the extent practicable, at [www.ftc.gov](http://www.ftc.gov). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at <http://www.ftc.gov/ftc/privacy.htm>.

**FOR FURTHER INFORMATION CONTACT:**

Requests for additional information should be addressed to Keith R. Fentonmiller, (202) 326-2775, or Richard F. Kelly, (202) 326-3304, Attorneys, Federal Trade Commission, Bureau of Consumer Protection, Division of Advertising Practices, 600 Pennsylvania Ave., NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** In

September 2000, the Commission issued a report requested by the President and Congress entitled, Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording & Electronic Game Industries (hereafter "2000 Report").<sup>2</sup> The Commission found that the electronic game industry had engaged in widespread marketing of violent electronic games to children that: (1) Was inconsistent with the Electronic Software Rating Board ("ESRB") rating system; and (2) undermined parents' attempts to make informed decisions about their children's exposure to violent content.<sup>3</sup>

<sup>1</sup> Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

<sup>2</sup> Available at <http://www.ftc.gov/reports/violence/vioreport.pdf>.

<sup>3</sup> As indicated on its website, the ESRB "is a self-regulatory body for the interactive entertainment software industry established in 1994 by the Entertainment Software Association, formerly the Interactive Digital Software Association. ESRB independently applies and enforces ratings, advertising guidelines, and online privacy principles adopted by the computer and video game industry. The ESRB rating system helps parents and other consumers choose the games that are right for

Similar results were found for the motion picture and music recording industries. The Commission also found that advertisements for electronic games frequently failed to contain rating information. Further, the Commission's national surveys of parents and children found that only 61% of parents were aware of the ESRB system, and nearly half of those parents reported that they rarely or never use the ESRB system.<sup>4</sup>

In April 2001,<sup>5</sup> December 2001,<sup>6</sup> June 2002,<sup>7</sup> and July 2004,<sup>8</sup> the Commission issued follow-up reports to assess changes in industry practices. The first two follow-up reports documented progress by the electronic game industry to limit advertising in popular teen media. The third follow-up report found that the game industry was in substantial compliance with ESRB standards governing ad placements and disclosure of rating information in advertising. There were, however, some advertisements for Mature-rated games placed on television programs with large numbers of teen viewers and continued placement of such ads in game enthusiast magazines with large youth readership.<sup>9</sup> The Commission's July 2004 report found substantial compliance with ESRB standards governing ad placements and that industry members generally were prominently disclosing rating information in advertising and on product packaging. A "mystery shopper" survey of retailers conducted on behalf of the Commission in 2003, however, found that 69% of young teen shoppers (age 13-16) were able to buy Mature-rated games, although there was some improvement from earlier undercover shopping surveys conducted in 2000 and 2001.<sup>10</sup>

Members of Congress and parental advocacy groups continue to voice concern about parents' knowledge and use of the ESRB system, the accuracy of

their families. ESRB ratings have two parts: rating symbols that suggest what age group the game is best for, and content descriptors that indicate elements in a game that may have triggered a particular rating and/or may be of interest or concern."

<sup>4</sup> See 2000 Report, Appendix F at <http://www.ftc.gov/reports/violence/appendicesviort.pdf>. Appendix F also contains a detailed discussion of the underlying methodology and findings.

<sup>5</sup> Available at <http://www.ftc.gov/reports/violence/violence010423.pdf>.

<sup>6</sup> Available at <http://www.ftc.gov/os/2001/12/violencereport1.pdf>.

<sup>7</sup> Available at <http://www.ftc.gov/reports/violence/mvecrpt0206.pdf>.

<sup>8</sup> Available at <http://www.ftc.gov/os/2004/07/040708kidsviolencerept.pdf>.

<sup>9</sup> Mature-rated games contain content that may be suitable for persons 17 years of age and older.

<sup>10</sup> See July 2004 Report, Appendix B at <http://www.ftc.gov/reports/violence/appendicesviort.pdf>.

the ratings that the ESRB has assigned to some games, and children's ability to purchase Mature-rated games at the retail level. In response to these concerns and as part of the agency's ongoing monitoring of the electronic game industry's self-regulatory system, the FTC is soliciting public comments on obtaining information on these issues through proposed consumer research. The Commission intends to seek OMB clearance under the PRA before engaging in the proposed consumer research.

Under the PRA, Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3), 5 CFR 1320.3(c). In 2000, OMB approved the FTC's request to conduct surveys on consumers' use of and familiarity with the rating or labeling systems of the following entertainment industries: (1) Motion picture; (2) recording; and (3) video and personal computer games (OMB Control Number 3084-120). After receiving OMB approval, the FTC conducted the consumer research and issued the 2000 Report in September 2000. As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB reinstate the clearance for the surveys, which expired in May, 2003.

The FTC invites comments on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the FTC, including whether the information will have practical utility; (2) the accuracy of the FTC's estimate of the burden of the proposed collections of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collecting information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before November 28, 2005.

### 1. Description of the Collection of Information and Proposed Use

The FTC proposes to conduct two focus groups of ten parents in two different cities (for a total of four focus groups) regarding their assessment of

the accuracy of the ESRB ratings. In order to qualify as a participant, the parents must have one or more children, age 11-16 years, who play video or personal computer games. The focus groups are exploratory qualitative research that would be used in formulating a questionnaire for use in a subsequent telephone survey of parents regarding their use and knowledge of the ESRB ratings and their assessment of the accuracy of the ratings.

Based on insights obtained from the focus groups, the FTC staff will develop a questionnaire and survey a random sample of 250 adult respondents who are parents of one or more children, age 11-16 years, who play video or personal computer games. The FTC intends to also pretest the survey questions on 24 parent respondents to ensure that all questions are easily understood. In many respects, the questionnaire will be similar to the one used for the 2000 Report. For example, the survey will continue to explore parents' attitudes regarding and awareness of the ESRB system. In addition, the FTC staff intends to develop new questions based upon the information collected via focus groups, such as parents' perception of the accuracy of the ESRB ratings.

The FTC also will survey 150 children between the ages of 11 and 16 who play video or personal computer games.<sup>11</sup> The survey will explore children's attitudes regarding the ESRB system, as well as children's perception of the accuracy of the ESRB ratings. Like the parent survey, the FTC intends to pretest the survey questions on 24 child respondents to ensure that all questions are easily understood and the questions will be based upon those used for the 2000 Report.

The information from the focus groups and the surveys will be collected on a voluntary basis, and the identities of the consumers will remain confidential. The FTC will contract with a consumer research firm to identify consumers, conduct the focus groups, and carry out the surveys. The results will assist the FTC in determining whether and how consumers use the ESRB rating system and whether they perceive ESRB game ratings to be accurate.

### 2. Estimated Hours Burden

For the focus groups, the contractor will identify respondents either by drawing names from a pre-assembled parent list or by conducting telephone screening within the general population. If telephone screening is used, the

contractor would contact parents and ask whether they have at least one child between the ages of 11 and 16 who plays electronic games. FTC staff estimates that the screening questions will be asked of approximately 500 respondents in order to obtain a large enough random sample for the focus groups.

For the parental telephone survey, the contractor will first identify eligible parents using screening questions in a telephone survey then ask whether respondents, with a child between the ages of 11 and 16, would participate in the children's survey. Allowing for non-response, the screening questions will be asked of approximately 1,000 respondents to provide a large enough random sample for the surveys. As noted, the children's survey will be conducted as an adjunct to the parents' survey, i.e., by speaking to a child in the same household as the adult respondents identified in the paragraph above. As a result, the extra time required to screen for child respondents will be *de minimis*.

The FTC staff estimates that the screening for the focus groups and the surveys will require no more than two minutes of each respondent's time. Thus, cumulatively, screening should require a maximum of 50 hours (1500 total respondents  $\times$  2 minutes for each).

The FTC intends to pretest both the parental and children's surveys on 24 parent and 24 child respondents to ensure that all questions are easily understood. This pretest will take approximately 15 minutes per person. The hours burden imposed by the pretest will be approximately 12 hours (48 respondents  $\times$  15 minutes per survey). Participating in the focus groups will take approximately three hours per respondent. With ten respondents per focus group and four total focus groups, the total burden will be 120 hours. Answering the parental and children's surveys will impose a burden per respondent of approximately 15 minutes, totaling 100 hours for all respondents to the surveys ((250 parent respondents + 150 children respondents)  $\times$  15 minutes per survey). Thus, total hours burden attributable to the consumer research is approximately 282 hours (50 + 12 + 120 + 100).

### 3. Estimated Cost Burden

The cost per respondent should be negligible. Participation is voluntary, and will not require any labor expenditures by respondents. There are no capital, start-up, operation,

<sup>11</sup> The children will be selected from the same household as the adult survey respondents.

maintenance, or other similar costs to the respondents.

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**FEDERAL TRADE COMMISSION**

**Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules**

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section

7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
<b>Transactions Granted Early Termination—08/29/2005</b>			
20051403	Newell Rubbermaid, Inc	Esselte Group Holdings AB	Esselte BVBA, Esselte Holdings Inc., Goldcup D 892 AB
20051444	Grupo Ferrovial, S.A	Wayne W. Webber	Southern Crushed Concrete, Inc., Webber Management Group, Inc.
20051449	School Specialty, Inc	Wicks Communications & Media Partners, L.P.	Delta Education, LLC
20051451	Credit Suisse Group	The PMI Group, Inc	SPS Holding Corp.
20051457	PBI Media Holdings LLC	PRIMEDIA Inc	PRIMEDIA Business Magazine and Media Inc.
20051459	MetroCast Cablevision of New Hampshire, LLC.	Paul F. Harron, Jr	Gans Communications, L.P.
20051460	Waste Connections, Inc	Mr. Gregory L. Gibson	Mountain Jack Environmental Services, Inc.
20051466	Starwood Capital Hospitality Fund 1-2, L.P.	Groupe Taittinger SA	Groupe Taittinger SA
20051467	The Veritas Capital Fund II, L.P	Mitchell J. Wade	MZM, Inc.
20051468	Alan B. Miller	KEYS Group Holdings LLC	KEYS Group Holdings LLC
20051471	First Reserve Fund X, L.P	Chart Industries, Inc	Chart Industries, Inc.
20051477	GGC Investment Fund II, L.P	CCG Investments BVI, L.P	Concerto Software, Inc.
20051478	GGC Investment Fund II-A, L.P	CCG Investments BVI, L.P	Concerto Software, Inc.
20051480	First Data Corporation	Citigroup Inc	New Payment Services, Inc.
20051485	SSA Global Technologies, Inc	E.piphany, Inc	E.piphany, Inc.
20051486	New York State Catholic Health Plan, Inc.	Rayan Community Health Network, Inc	CenterCare, Inc.
20051490	ShoreView Capital Partners, L.P	Protective Industries, LLC	Caplugs, LLC, Niagara Plastics, LLC, Protective Industries, LLC
<b>Transactions Granted Early Termination—08/31/2005</b>			
20051394	Dover Corporation	Michael Inglis	Harbor Electronics, Inc.
20051406	Invitrogen Corporation	BioSource International, Inc	BioSource International, Inc.
20051407	Oracle Corporation	i-flex Solutions Limited	i-flex Solutions Limited
20051440	Beacon Roofing Supply, Inc	Brazos Equity Fund, L.P	SDI Holding, Inc.
<b>Transactions Granted Early Termination—09/01/2005</b>			
20051484	ValueClick, Inc	Fastclick, Inc	Fastclick, Inc.
<b>Transactions Granted Early Termination—09/02/2005</b>			
20051476	Grupo Ferrovial, S.A	The Wayne and Joan Webber Foundation.	W.W. Webber, Inc.
20051489	E*TRADE Financial Corporation	Bank of Montreal	Harrisdirect LLC
20051494	PAR Investment Partners, L.P	US Airways Group, Inc	US Airways Group, Inc.
20051497	LS Power Equity Partners, L.P	Calpine Corporation	Calpine Construction Finance Company, L.P., Calpine Leasing, Inc., Calpine Philadelphia, Inc., Ontelaunee Power Operating Company, Inc., Philadelphia Biogas Supply, Inc.
20051499	QBE Insurance Group Limited	White Mountains Insurance Group, Ltd	National Farmers Union Property and Casualty Company
20051501	Spectrum Equity Investors IV, L.P	Mortgagebot LLC	Mortgagebot LLC