

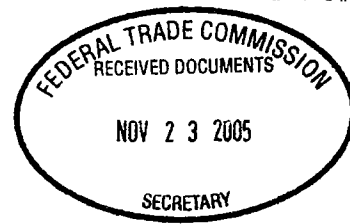


ENTERTAINMENT SOFTWARE RATING BOARD

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ORIGINAL

November 22, 2005



Federal Trade Commission
Office of the Secretary
Room H-135 (Annex G)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: *Entertainment Industry Study: FTC File No. P994511*

Dear Sir/Madame:

I appreciate the opportunity to provide comments about the proposed survey regarding consumer awareness, use, and an assessment of the accuracy of the ESRB rating system for computer and video games. We are concerned that the surveys as proposed in the Notice regarding the "Entertainment Industry Study" dated September 28, 2005 include actual and potential deficiencies that will inevitably produce findings that do not accurately reflect attitudes about our rating system and thus do not contribute to our shared goal of ensuring that ESRB ratings are as helpful to parents as is reasonably possible.

In offering these comments, it is our goal to improve the proposed methodology and, thereby, enhance the quality of the information collected about how consumers, particularly parents, view, understand and interact with the rating system.

Our concerns cover four areas, which include:

1. By not examining other entertainment rating systems – which you have tested in the past – the FTC is likely to create a significant perceptual disadvantage for our system since other independent studies have found that the ESRB system is perceived by parents to be the most effective of all entertainment rating systems.
2. As currently planned, the research does not accomplish the stated goal to measure the "accuracy" of ESRB ratings.
3. Failing to survey the parents most likely to use the ratings – as would be the case under the current plan -- will produce results that will inevitably make the ratings appear less effective than they demonstrably are.

4. The methodology of the study includes using both focus groups and telephone surveys of limited scale, which will minimize the utility of the research and its findings.

Video Game Ratings Vs. Other Entertainment Ratings

Every study conducted by the FTC since the initial 2000 report has examined all forms of entertainment media. Notably, the FTC's 2000 research surveyed parents on the rating systems for video games, films and music. We believe that conducting research on video games alone provides no means of comparison to measure how parents' use or perceive accuracy for video game ratings compared to other entertainment rating systems. Studies conducted by independent organizations such as Kaiser Family Foundation have shown that ESRB ratings are perceived by parents to be the most effective of all entertainment rating systems. Yet, the data on video games collected in the FTC study proposed would be utilized without such context, diminishing its utility.

Further, at the hearing the FTC itself held in October 2004, there was extensive criticism of other media rating systems from consumer and child advocates. Given such a public record, it is troubling that the agency which has an unbroken track record of conducting comprehensive reviews of all entertainment industries since 2000 – is singling out video games alone for special scrutiny. Surely, to the extent there is an issue of consumer protection, policymakers have the same need to understand how all ratings are perceived, not just those of one media. This said, we do not believe the agency ought to engage in the highly subjective exercise of determining whether ratings for any entertainment media are “accurate” given the impossibility of establishing a uniform standard for accuracy (see below). But if it is to do so, fairness dictates that it uphold its past history for inclusiveness.

Ratings Accuracy

The Notice refers to studies to assess the accuracy of ESRB ratings. But it is clear that the studies proposed cannot possibly result in a true assessment of the accuracy of ESRB ratings. At best, the studies seek to learn if parents agree with the ESRB ratings, and even this is open to question due to survey design flaws.

The Notice issued by the FTC provides no information regarding the definition of ratings accuracy. This is absolutely critical and central to the entire undertaking. The ESRB regularly commissions Peter D. Hart Research Associates to conduct surveys on awareness, use and validity – not the accuracy -- of the ratings. It is impossible to test accuracy because that requires creation of a uniform standard with which everyone agrees, a desirable goal perhaps but an impossibility in a pluralistic culture where values and standards differ widely by region, by age, background, and more. One can determine if an ad for toothpaste makes accurate claims about whitening teeth because there is empirical science which can confirm

the accuracy of such a claim. But the essence of any rating is that it is subjective and thus not susceptible to a uniform standard of accuracy.

All that said, the FTC methodology will not even allow it to measure whether there is agreement with ESRB rating designations. In the case of the Hart research, we understood that simply asking parents if they believe ratings are valid without actually allowing them to see footage of games undermines the integrity of the research. Thus, the Hart research first shows parents footage of games, then shows them the ESRB rating, and only after these steps do we ask if they agree with the assigned rating. In this way, we are truly testing parental agreement.

But it does not appear as if the FTC intends to show parents game footage and the relevant rating for each game shown. Without viewing footage of games, what is the basis for determining if someone thinks ESRB ratings are “accurate?” In addition, how will the agency screen parents to determine their level of familiarity, not just with the ratings, but with the content being rated? At a minimum, the FTC must limit those who respond to the quantitative survey only to those parents who 1) are familiar with the rating system, b) use the rating system, and c) pay attention to the actual content of the games they purchase for their kids. Without these controls, the integrity of the results would be severely compromised.

Focus Group Design

We have several concerns about the focus groups. First, doing them in just two cities is of dubious validity. Generally, research firms advise doing focus groups in at least four geographically diverse cities. In addition, the absence of information on where the proposed focus groups will be held leaves open a critical variable that could expose the product to criticism since it is well known that residents of different communities have different values and standards.

We understand that the focus groups are only intended to 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.” But it is not clear what this means. If the focus groups are meant to also measure parents’ perception of ratings accuracy, then more information describing methodology, instruction given to parents during the focus groups, and the materials used in the groups would be needed in order to accurately assess the utility, burden, and quality of the information derived from the focus groups.

Telephone Survey

The FTC proposes to randomly call 1,000 households and complete 250 parent and 150 child surveys. In order to participate, parents must have at least one child between the ages of 11 and 16 that plays video games. We have several major concerns here.

First, the margin of error for the sample size contemplated is unconscionably high -- +/- 6.2%, and for 150 children, the margin of error is +/- 8.0%. Given the fact that the results of this work are likely to be fodder for intense political debate, the FTC must hold itself to a higher standard leaving far less room for persons on either side of the debate to misuse the data generated. In short, the FTC should increase the sample size. We would note that the Hart survey referred to earlier has a far more acceptable margin of error of +/- 4.4%.

Further, the margins of error would increase with respect to questions regarding accuracy because those questions would only be asked to a subset that are aware of the ratings, thereby reducing the number of respondents and increasing the margins of error. (See comments in Rating Accuracy Section above.)

Second, the telephone survey would exclude 45% of all parents with children under 18 that play video games because of the age criteria. Limiting the survey to only parents of children between 11-16 is problematic on several levels. Most significantly, it ignores a substantial group of parents who regularly use and rely on the ESRB ratings – those with kids between 3-11. Excluding the opinions of nearly half of the rating system's prime audience fundamentally and profoundly compromises the validity of the survey. This can be seen from the FTC's own data. Appendix F of the FTC 2000 report shows that parents of younger children demonstrate different behaviors with respect to product selection and purchasing restrictions than parents of older children. Moreover, ESRB's research has found that parents of children age 12 and under are actually *twice* as likely to use ESRB ratings to restrict usage of Mature games with their kids than parents of older children. Limiting the survey respondents to parents of older children would yield an incomplete picture of the ratings' primary audience, and produce results that are not truly representative of the actual usage and effectiveness of the rating system. In addition, the focus on parents with older children biases the results. This is because it is fair to assume that children 11-16 are more likely to play Teen or even Mature rated games, with or without the tacit approval of their parents, where content is edgier. Thus, by definition, one is more likely to find some variation on agreement with a rating in such cases than with the more benign content typically found in games rated EC, E, and E-10+.

Third, the survey would also collect data from children, age 11-16, regarding the rating system. We simply do not understand the relevancy of data measuring the awareness, use and accuracy of the ratings as reported by children. The rating system was created to provide parents with information about the content of video games so that they can choose which games are appropriate for their children and family. What children think is irrelevant.

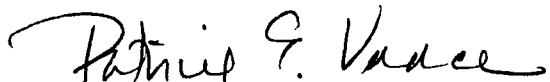
We are also concerned because it is not clear how information from children will be collected. Will parents be present when the surveys are filled out? If so, this clearly compromises the responses. Rather than surveying children, the agency would be better served by increasing the sample size of the parent survey, thus reducing the margin of error without increasing total cost.

Conclusion

While we remain supportive of the FTC and its attention to the entertainment industry rating systems, we feel strongly that the survey as contemplated includes deficiencies that would adversely affect the findings and utility of the research. We stand ready to offer additional support in terms of providing insight gleaned from conducting similar surveys and suggesting improvements.

Attached is a memorandum from Jay Campbell at Hart Research, which summarizes many of our concerns. Please feel free to contact me if you believe it to be beneficial to discuss these issues directly with us. Thank you again for the opportunity to provide comments about the proposed survey.

Sincerely,

A handwritten signature in black ink that reads "Patricia E. Vance". The signature is written in a cursive, flowing style.

Patricia E. Vance
President

Attachment – Memorandum from Jay Campbell, Peter D. Hart Research Associates, Inc.

MEMORANDUM

TO: THE FEDERAL TRADE COMMISSION

FROM: Jay Campbell, Peter D. Hart Research Associates

DATE: November 17, 2005

RE: FTC RESEARCH ON VIDEO GAME RATING SYSTEM

Peter D. Hart Research Associates has been conducting public opinion research on behalf of the Entertainment Software Rating Board (ESRB) since 1999. We have conducted numerous studies that gauge parents' awareness of the ESRB rating system; their use of the ratings in determining whether or not games are appropriate for their families; and their level of agreement with the ratings the ESRB assigns.

At the request of the ESRB we have reviewed the FTC's notice of your intention to conduct research about parents' attitudes toward video game ratings. We have several comments about the FTC's proposed methodology:

- **Nearly half of those parents whose children play video and computer games are being eliminated from the study.** Our research has shown that 45% of parents whose children play games have children who fall out of the FTC study's 11- to 16-year-old age range. Summarily dismissing these parents from the study leaves out a large segment of the ratings' audience.
- **The proposed sample sizes for the two telephone surveys are quite small.** Not only would these samples yield substantial margins of error (+/- 6.2% for the parents survey; +/- 8% for the survey of children), they would not allow the researchers to divide the results into subsamples where some of the most useful and interesting information can be found. For example, we have found that younger parents and those with higher levels of education are more likely than average to utilize the ratings when buying or renting games for their families.
- **The number of telephone calls necessary to complete the surveys may be underestimated.** Our research has found that approximately 90% of parents in your sample target (those with children ages 11 to 16) have children who play video games; so, of your 1,000 households called, 900 will have eligible respondents. Drawing 250 completed interviews from these 900 would mean that you would complete one survey out of every four calls made (approximately). This is a fairly reasonable target for a

Peter D. Hart Research Associates, Inc.

regular phone survey, but it is made somewhat ambitious by the fact that one out of every six households would have to have a child in the household who is willing and able to complete a survey as well (in order to obtain the 150 interviews with children). It assumes that in many of these households the parents and children will be home at the same time, when, in fact, call-back interviews may be necessary, which would add to the time and cost of the project.

We hope that these comments are helpful. If you have any questions, please do not hesitate to contact Jay Campbell at 202-234-5570 or jcampbell@hartresearch.com.