

Calendar No. 182

105TH CONGRESS
1ST Session

S. 363

[Report No. 105-89]

A BILL

To amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content.

SEPTEMBER 25, 1997

Reported with amendments

Calendar No. 182

105TH CONGRESS
1ST SESSION

S. 363

[Report No. 105–89]

To amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 1997

Mr. HOLLINGS (for himself, Mr. INOUE, Mr. DORGAN, Mr. FORD, and Mr. BYRD) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 25, 1997

Reported by Mr. MCCAIN, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend the Communications Act of 1934 to require that violent video programming is limited to broadcast after the hours when children are reasonably likely to comprise a substantial portion of the audience, unless it is specifically rated on the basis of its violent content so that it is blockable by electronic means specifically on the basis of that content.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Children’s Protection
 5 from Violent Programming Act”.

6 **SEC. 2. FINDINGS.**

7 *The Congress makes the following findings:*

8 *(1) Television influences children’s perception of*
 9 *the values and behavior that are common and accept-*
 10 *able in society.*

11 *(2) Broadcast television, cable television, and*
 12 *video programming are—*

13 *(A) uniquely pervasive presences in the lives*
 14 *of all American children; and*

15 *(B) are readily accessible to all American*
 16 *children.*

17 *(3) Violent video programming influences chil-*
 18 *dren, as does indecent programming.*

19 *(4) There is empirical evidence that children ex-*
 20 *posed to violent video programming at a young age*
 21 *have a higher tendency to engage in violent and ag-*
 22 *gressive behavior later in life than those children not*
 23 *so exposed.*

24 *(5) Children exposed to violent video program-*
 25 *ming are prone to assume that acts of violence are ac-*

1 *ceptable behavior and therefore to imitate such behav-*
2 *ior.*

3 (6) *Children exposed to violent video program-*
4 *ming have an increased fear of becoming a victim of*
5 *violence, resulting in increased self-protective behav-*
6 *iors and increased mistrust of others.*

7 (7) *There is a compelling governmental interest*
8 *in limiting the negative influences of violent video*
9 *programming on children.*

10 (8) *There is a compelling governmental interest*
11 *in channeling programming with violent content to*
12 *periods of the day when children are not likely to*
13 *comprise a substantial portion of the television audi-*
14 *ence.*

15 (9) *Age-based ratings systems do not allow par-*
16 *ents to block programming based solely on violent*
17 *content thereby rendering ineffective any technology-*
18 *based blocking mechanism designed to limit violent*
19 *video programming.*

20 (10) *If programming is not rated specifically for*
21 *violent content and therefore cannot be blocked solely*
22 *on the basis of its violent content, then restricting the*
23 *hours when violent video programming is shown is*
24 *the least restrictive and most narrowly tailored means*
25 *to achieve a compelling governmental interest.*

1 (11) *Studies show that warning labels based on*
2 *age restrictions tend to encourage children's desire to*
3 *watch restricted programming.*

4 (12) *Technology-based solutions may be helpful*
5 *in protecting some children, but may not be effective*
6 *in achieving the compelling governmental interest in*
7 *protecting all children from violent programming*
8 *when parents are only able to block programming*
9 *based on the age of the child and not on the violent*
10 *content of the programming.*

11 (13) *Absent the ability to block programming*
12 *based specifically on the violent content of the pro-*
13 *gramming, the channeling of violent programming is*
14 *the least restrictive means to limit unsupervised chil-*
15 *dren from the harmful influences of violent program-*
16 *ming.*

17 (14) *Restricting the hours when violent program-*
18 *ming can be shown protects the interests of children*
19 *whose parents are unavailable, unable to supervise*
20 *their children's viewing behavior, do not have the ben-*
21 *efit of technology-based solutions, or unable to afford*
22 *the costs of technology-based solutions.*

1 **SEC. 2. 3. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO**
 2 **PROGRAMMING.**

3 Title VII of the Communications Act of 1934 (47
 4 U.S.C. 701 et seq.) is amended by adding at the end the
 5 following:

6 **“SEC. 718. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO**
 7 **PROGRAMMING NOT SPECIFICALLY**
 8 **BLOCKABLE BY ELECTRONIC MEANS.**

9 “(a) UNLAWFUL DISTRIBUTION.—It shall be unlaw-
 10 ful for any person to distribute to the public any violent
 11 video programming not blockable by electronic means spe-
 12 cifically on the basis of its violent content during hours
 13 when children are reasonably likely to comprise a substan-
 14 tial portion of the audience.

15 “(b) RULEMAKING PROCEEDING.—The Commission
 16 shall conduct a rulemaking proceeding to implement the
 17 provisions of this section and shall promulgate final regu-
 18 lations pursuant to that proceeding not later than 9
 19 months after the date of enactment of the Children’s Pro-
 20 tection from Violent Programming Act. As part of that
 21 proceeding, the Commission—

22 “(1) may exempt from the prohibition under
 23 subsection (a) programming (including news pro-
 24 grams and sporting events) whose distribution does
 25 not conflict with the objective of protecting children
 26 from the negative influences of violent video pro-

1 gramming, as that objective is reflected in the find-
 2 ings in section 551(a) of the Telecommunications
 3 Act of 1996;

4 “(2) shall exempt premium and pay-per-view
 5 cable programming; and

6 “(3) shall define the term ‘hours when children
 7 are reasonably likely to comprise a substantial por-
 8 tion of the audience’ and the term ‘violent video pro-
 9 gramming’.

10 “(c) REPEAT VIOLATIONS.—If a person repeatedly
 11 violates this section or any regulation promulgated under
 12 this section, the Commission shall, after notice and oppor-
 13 tunity for hearing, immediately revoke any license issued
 14 to that person under this Act.

15 “(d) CONSIDERATION OF VIOLATIONS IN LICENSE
 16 RENEWALS.—The Commission shall consider, among the
 17 elements in its review of an application for renewal of a
 18 license under this Act, whether the licensee has complied
 19 with this section and the regulations promulgated under
 20 this section.

21 “(e) DEFINITIONS.—For purposes of this section—

22 “(1) BLOCKABLE BY ELECTRONIC MEANS.—
 23 The term ‘blockable by electronic means’ means
 24 blockable by the feature described in section 303(x).

1 “(2) DISTRIBUTE.—The term ‘distribute’
 2 means to send, transmit, retransmit, telecast, broad-
 3 cast, or cablecast, including by wire, microwave, or
 4 satellite.”.

5 **SEC. 3. 4. ASSESSMENT OF EFFECTIVENESS.**

6 (a) REPORT.—The Federal Communications Com-
 7 mission shall—

8 (1) assess the effectiveness of measures under-
 9 taken under section 718 of the Communications Act
 10 of 1934 (47 U.S.C. 718) and under subsections (w)
 11 and (x) of section 303 of that Act (47 U.S.C.
 12 303(w) and (x)) in accomplishing the purposes for
 13 which they were enacted; and

14 (2) report its findings to the Committee on
 15 Commerce, Science, and Transportation of the Unit-
 16 ed States Senate and the Committee on Commerce
 17 of the United States House of Representatives,

18 within 18 months after the date on which the regulations
 19 promulgated under section 718 of the Communications
 20 Act of 1934 (as added by section 2 of this Act) take effect,
 21 and thereafter as part of the biennial review of regulations
 22 required by section 11 of that Act (47 U.S.C. 161).

23 (b) ACTION.—If the Commission finds at any time,
 24 as a result of its assessment under subsection (a), that
 25 the measures referred to in subsection (a)(1) are insuffi-

1 ciently effective, then the Commission shall initiate a rule-
2 making proceeding to prohibit the distribution of violent
3 video programming during the hours when children are
4 reasonably likely to comprise a substantial portion of the
5 audience.

6 (c) DEFINITIONS.—Any term used in this section
7 that is defined in section 718 of the Communications Act
8 of 1934 (47 U.S.C. 718), or in regulations under that sec-
9 tion, has the same meaning as when used in that section
10 or in those regulations.

11 **SEC. 4. 5. SEPARABILITY.**

12 If any provision of this Act, or any provision of an
13 amendment made by this Act, or the application thereof
14 to particular persons or circumstances, is found to be un-
15 constitutional, the remainder of this Act or that amend-
16 ment, or the application thereof to other persons or cir-
17 cumstances shall not be affected.

18 **SEC. 5. 6. EFFECTIVE DATE.**

19 The prohibition contained in section 718 of the Com-
20 munications Act of 1934 (as added by section 2 of this
21 Act) and the regulations promulgated thereunder shall
22 take effect 1 year after the regulations are adopted by the
23 Commission.