

108TH CONGRESS
1ST SESSION

S. 161

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

JANUARY 14, 2003

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

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FINDINGS.**

5 The Congress makes the following findings:

6 (1) Television influences children’s perception
7 of the values and behavior that are common and ac-
8 ceptable in society.

9 (2) Broadcast television, cable television, and
10 video programming are—

11 (A) uniquely pervasive presences in the
12 lives of all American children; and

13 (B) readily accessible to all American chil-
14 dren.

15 (3) Violent video programming influences chil-
16 dren, as does indecent programming.

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

22 (5) There is empirical evidence that children ex-
23 posed to violent video programming have a greater
24 tendency to assume that acts of violence are accept-
25 able behavior and therefore to imitate such behavior.

1 (6) There is empirical evidence that children ex-
2 posed to violent video programming have an in-
3 creased fear of becoming a victim of violence, result-
4 ing in increased self-protective behaviors and in-
5 creased mistrust of others.

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

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

14 (9) A significant amount of violent program-
15 ming that is readily accessible to minors remains
16 unrated specifically for violence and therefore cannot
17 be blocked solely on the basis of its violent content.

18 (10) Age-based ratings that do not include con-
19 tent rating for violence do not allow parents to block
20 programming based solely on violent content thereby
21 rendering ineffective any technology-based blocking
22 mechanism designed to limit violent video program-
23 ming.

24 (11) The most recent study of the television
25 ratings system by the Kaiser Family Foundation

1 concludes that 79 percent of violent programming is
2 not specifically rated for violence.

3 (12) Technology-based solutions, such as the V-
4 chip, may be helpful in protecting some children, but
5 cannot achieve the compelling governmental interest
6 in protecting all children from violent programming
7 when parents are only able to block programming
8 that has, in fact, been rated for violence.

9 (13) Restricting the hours when violent pro-
10 gramming can be shown protects the interests of
11 children whose parents are unavailable, unable to su-
12 pervise their children's viewing behavior, do not have
13 the benefit of technology-based solutions, are unable
14 to afford the costs of technology-based solutions, or
15 are unable to determine the content of those shows
16 that are only subject to age-based ratings.

17 (14) After further study, pursuant to a rule-
18 making, the Federal Communications Commission
19 may conclude that content-based ratings and block-
20 ing technology do not effectively protect children
21 from the harm of violent video programming.

22 (15) If the Federal Communications Commis-
23 sion reaches the conclusion described in paragraph
24 (14), the channeling of violent video programming
25 will be the least restrictive means of limiting the ex-

1 posure of children to the harmful influences of vio-
2 lent video programming.

3 **SEC. 3. ASSESSMENT OF EFFECTIVENESS OF CURRENT**
4 **RATING SYSTEM FOR VIOLENCE AND EFFEC-**
5 **TIVENESS OF V-CHIP IN BLOCKING VIOLENT**
6 **PROGRAMMING.**

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

9 (1) assess the effectiveness of measures to re-
10 quire television broadcasters and multichannel video
11 programming distributors (as defined in section
12 602(13) of the Communications Act of 1934 (47
13 U.S.C. 522(13)) to rate and encode programming
14 that could be blocked by parents using the V-chip
15 undertaken under section 715 of the Communica-
16 tions Act of 1934 (47 U.S.C. 715) and under sub-
17 sections (w) and (x) of section 303 of that Act (47
18 U.S.C. 303(w) and (x)) in accomplishing the pur-
19 poses for which they were enacted; and

20 (2) report its findings to the Committee on
21 Commerce, Science, and Transportation of the
22 United States Senate and the Committee on Com-
23 merce of the United States House of Representa-
24 tives, within 12 months after the date of enactment
25 of this Act, and annually thereafter.

1 (b) ACTION.—If the Commission finds at any time,
2 as a result of its ongoing assessment under subsection (a),
3 that the measures referred to in subsection (a)(1) are in-
4 sufficiently effective, then the Commission shall complete
5 a rulemaking within 270 days after the date on which the
6 Commission makes that finding to prohibit the distribu-
7 tion of violent video programming during the hours when
8 children are reasonably likely to comprise a substantial
9 portion of the audience.

10 (c) DEFINITIONS.—Any term used in this section
11 that is defined in section 715 of the Communications Act
12 of 1934 (47 U.S.C. 715), or in regulations under that sec-
13 tion, has the same meaning as when used in that section
14 or in those regulations.

15 **SEC. 4. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO PRO-**
16 **GRAMMING THAT IS NOT SPECIFICALLY**
17 **RATED FOR VIOLENCE AND THEREFORE IS**
18 **NOT BLOCKABLE.**

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

1 **“SEC. 715. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO**
2 **PROGRAMMING NOT SPECIFICALLY**
3 **BLOCKABLE BY ELECTRONIC MEANS.**

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

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

17 “(1) may exempt from the prohibition under
18 subsection (a) programming (including news pro-
19 grams and sporting events) whose distribution does
20 not conflict with the objective of protecting children
21 from the negative influences of violent video pro-
22 gramming, as that objective is reflected in the find-
23 ings in section 551(a) of the Telecommunications
24 Act of 1996;

1 “(2) shall exempt premium and pay-per-view
2 cable programming and premium and pay-per-view
3 direct-to-home satellite programming; and

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

8 “(c) ENFORCEMENT.—

9 “(1) FORFEITURE PENALTY.—The Commission
10 shall impose a forfeiture penalty of not more than
11 \$25,000 on any person who violates this section or
12 any regulation promulgated under it for each such
13 violation. For purposes of this paragraph, each day
14 on which such a violation occurs is a separate viola-
15 tion.

16 “(2) LICENSE REVOCATION.—If a person re-
17 peatedly violates this section or any regulation pro-
18 mulgated under this section, the Commission shall,
19 after notice and opportunity for hearing, revoke any
20 license issued to that person under this Act.

21 “(3) LICENSE RENEWALS.—The Commission
22 shall consider, among the elements in its review of
23 an application for renewal of a license under this
24 Act, whether the licensee has complied with this sec-

1 tion and the regulations promulgated under this sec-
2 tion.

3 “(d) DEFINITIONS.—For purposes of this section—

4 “(1) BLOCKABLE BY ELECTRONIC MEANS.—

5 The term ‘blockable by electronic means’ means
6 blockable by the feature described in section 303(x).

7 “(2) DISTRIBUTE.—The term ‘distribute’

8 means to send, transmit, retransmit, telecast, broad-
9 cast, or cablecast, including by wire, microwave, or
10 satellite, but it does not include the transmission, re-
11 transmission, or receipt of any voice, data, graphics,
12 or video telecommunications accessed through an
13 interactive computer service as defined in section
14 230(f)(2) of the Communications Act of 1934 (47
15 U.S.C. 230(f)(2)), which is not originated or trans-
16 mitted in the ordinary course of business by a tele-
17 vision broadcast station or multichannel video pro-
18 gramming distributor as defined in section 602(13)
19 of that Act (47 U.S.C. 522(13)).

20 “(3) VIOLENT VIDEO PROGRAMMING.—The

21 term ‘violent video programming’ as defined by the
22 Commission may include matter that is excessive or
23 gratuitous violence within the meaning of the 1992
24 Broadcast Standards for the Depiction of Violence
25 in Television Programs, December 1992.”.

1 **SEC. 5. FTC STUDY OF MARKETING STRATEGY IMPROVE-**
2 **MENTS.**

3 The Federal Trade Commission shall study the mar-
4 keting of violent content by the motion picture, music re-
5 cording, and computer and video game industries to chil-
6 dren, including the marketing practices improvements de-
7 scribed by industry representatives at the hearing held by
8 the Senate Committee on Commerce, Science, and Trans-
9 portation on September 13, 2000. The Commission shall
10 assess the extent to which these marketing practices have
11 improved under the model of self-regulation as rec-
12 ommended by the Commission in its September, 2000, re-
13 port, Making Violent Entertainment to Children: A Re-
14 view of Self Regulation and Industry Practices in the Mo-
15 tion Picture, Music Recording and Electronic Game In-
16 dustries. The Commission shall report the results of the
17 study, including findings, and recommendations, if any, to
18 the Senate Committee on Commerce, Science, and Trans-
19 portation and the House of Representatives Committee on
20 Commerce within 18 months after the date of enactment
21 of this Act.

22 **SEC. 6. SEPARABILITY.**

23 If any provision of this Act, or any provision of an
24 amendment made by this Act, or the application thereof
25 to particular persons or circumstances, is found to be un-
26 constitutional, the remainder of this Act or that amend-

1 ment, or the application thereof to other persons or cir-
2 cumstances shall not be affected.

3 **SEC. 7. EFFECTIVE DATE.**

4 The prohibition contained in section 715 of the Com-
5 munications Act of 1934 (as added by section 2 of this
6 Act) and the regulations promulgated thereunder shall
7 take effect 1 year after the regulations are adopted by the
8 Commission.

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