

## COMMITTEE AMENDMENT

[STAFF WORKING DRAFT]

March 8, 2004

Purpose: To protect children from violent programming.

**IN THE COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION—108TH Cong., 2D Sess.**

**S. 2056**, 108TH Congress, 2D Session

MARCH 9, 2004

INTENDED to be proposed by Mr. HOLLINGS

Viz: At the end of the bill add the following:

1 **TITLE II—CHILDREN’S PROTEC-**  
2 **TION FROM VIOLENT PRO-**  
3 **GRAMMING**

4 **SEC. 201. SHORT TITLE.**

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

7 **SEC. 202. FINDINGS.**

8 The Congress makes the following findings:

9 (1) Television influences children’s perception  
10 of the values and behavior that are common and ac-  
11 ceptable in society.

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

1 (A) uniquely pervasive presences in the  
2 lives of all American children; and

3 (B) readily accessible to all American chil-  
4 dren.

5 (3) Violent video programming influences chil-  
6 dren, as does indecent programming.

7 (4) There is empirical evidence that children ex-  
8 posed to violent video programming at a young age  
9 have a higher tendency to engage in violent and ag-  
10 gressive behavior later in life than those children not  
11 so exposed.

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

16 (6) There is empirical evidence that children ex-  
17 posed to violent video programming have an in-  
18 creased fear of becoming a victim of violence, result-  
19 ing in increased self-protective behaviors and in-  
20 creased mistrust of others.

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

24 (8) There is a compelling governmental interest  
25 in channeling programming with violent content to

1 periods of the day when children are not likely to  
2 comprise a substantial portion of the television audi-  
3 ence.

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

8 (10) Age-based ratings that do not include con-  
9 tent rating for violence do not allow parents to block  
10 programming based solely on violent content thereby  
11 rendering ineffective any technology-based blocking  
12 mechanism designed to limit violent video program-  
13 ming.

14 (11) The most recent study of the television  
15 ratings system by the Kaiser Family Foundation  
16 concludes that 79 percent of violent programming is  
17 not specifically rated for violence.

18 (12) Technology-based solutions, such as the V-  
19 chip, may be helpful in protecting some children, but  
20 cannot achieve the compelling governmental interest  
21 in protecting all children from violent programming  
22 when parents are only able to block programming  
23 that has, in fact, been rated for violence.

24 (13) Restricting the hours when violent pro-  
25 gramming can be shown protects the interests of

1 children whose parents are unavailable, unable to su-  
2 pervise their children's viewing behavior, do not have  
3 the benefit of technology-based solutions, are unable  
4 to afford the costs of technology-based solutions, or  
5 are unable to determine the content of those shows  
6 that are only subject to age-based ratings.

7 (14) After further study, pursuant to a rule-  
8 making, the Federal Communications Commission  
9 may conclude that content-based ratings and block-  
10 ing technology do not effectively protect children  
11 from the harm of violent video programming.

12 (15) If the Federal Communications Commis-  
13 sion reaches the conclusion described in paragraph  
14 (14), the channeling of violent video programming  
15 will be the least restrictive means of limiting the ex-  
16 posure of children to the harmful influences of vio-  
17 lent video programming.

18 **SEC. 203. ASSESSMENT OF EFFECTIVENESS OF CURRENT**  
19 **RATING SYSTEM FOR VIOLENCE AND EFFEC-**  
20 **TIVENESS OF V-CHIP IN BLOCKING VIOLENT**  
21 **PROGRAMMING.**

22 (a) REPORT.—The Federal Communications Com-  
23 mission shall—

24 (1) assess the effectiveness of measures to re-  
25 quire television broadcasters and multichannel video

1 programming distributors (as defined in section  
2 602(13) of the Communications Act of 1934 (47  
3 U.S.C. 522(13)) to rate and encode programming  
4 that could be blocked by parents using the V-chip  
5 undertaken under section 715 of the Communica-  
6 tions Act of 1934 (47 U.S.C. 715) and under sub-  
7 sections (w) and (x) of section 303 of that Act (47  
8 U.S.C. 303(w) and (x)) in accomplishing the pur-  
9 poses for which they were enacted; and

10 (2) report its findings to the Committee on  
11 Commerce, Science, and Transportation of the  
12 United States Senate and the Committee on Energy  
13 and Commerce of the United States House of Rep-  
14 resentatives, within 12 months after the date of en-  
15 actment of this Act, and annually thereafter.

16 (b) ACTION.—If the Commission finds at any time,  
17 as a result of its ongoing assessment under subsection (a),  
18 that the measures referred to in subsection (a)(1) are in-  
19 sufficiently effective, then the Commission shall complete  
20 a rulemaking within 270 days after the date on which the  
21 Commission makes that finding to prohibit the distribu-  
22 tion of violent video programming during the hours when  
23 children are reasonably likely to comprise a substantial  
24 portion of the audience.

1 (c) DEFINITIONS.—Any term used in this section  
2 that is defined in section 715 of the Communications Act  
3 of 1934 (47 U.S.C. 715), or in regulations under that sec-  
4 tion, has the same meaning as when used in that section  
5 or in those regulations.

6 **SEC. 204. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO**  
7 **PROGRAMMING THAT IS NOT SPECIFICALLY**  
8 **RATED FOR VIOLENCE AND THEREFORE IS**  
9 **NOT BLOCKABLE.**

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

13 **“SEC. 715. UNLAWFUL DISTRIBUTION OF VIOLENT VIDEO**  
14 **PROGRAMMING NOT SPECIFICALLY**  
15 **BLOCKABLE BY ELECTRONIC MEANS.**

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

22 “(b) RULEMAKING PROCEEDING.—The Commission  
23 shall conduct a rulemaking proceeding to implement the  
24 provisions of this section and shall promulgate final regu-  
25 lations pursuant to that proceeding not later than 9

1 months after the date of enactment of the Children’s Pro-  
2 tection from Violent Programming Act. As part of that  
3 proceeding, the Commission—

4 “(1) may exempt from the prohibition under  
5 subsection (a) programming (including news pro-  
6 grams and sporting events) whose distribution does  
7 not conflict with the objective of protecting children  
8 from the negative influences of violent video pro-  
9 gramming, as that objective is reflected in the find-  
10 ings in section 551(a) of the Telecommunications  
11 Act of 1996;

12 “(2) shall exempt premium and pay-per-view  
13 cable programming and premium and pay-per-view  
14 direct-to-home satellite programming; and

15 “(3) shall define the term ‘hours when children  
16 are reasonably likely to comprise a substantial por-  
17 tion of the audience’ and the term ‘violent video pro-  
18 gramming’.

19 “(c) ENFORCEMENT.—

20 “(1) FORFEITURE PENALTY.—The forfeiture  
21 penalties established by section 503(b) for violations  
22 of section 1464 of title 18, United States Code, shall  
23 apply to a violation of this section, or any regulation  
24 promulgated under it in the same manner as if a  
25 violation of this section, or such a regulation, were

1 a violation of law subject to a forfeiture penalty  
2 under that section.

3 “(2) LICENSE REVOCATION.—If a person re-  
4 peatedly violates this section or any regulation pro-  
5 mulgated under this section, the Commission shall,  
6 after notice and opportunity for hearing, revoke any  
7 license issued to that person under this Act.

8 “(3) LICENSE RENEWALS.—The Commission  
9 shall consider, among the elements in its review of  
10 an application for renewal of a license under this  
11 Act, whether the licensee has complied with this sec-  
12 tion and the regulations promulgated under this sec-  
13 tion.

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

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

18 “(2) DISTRIBUTE.—The term ‘distribute’  
19 means to send, transmit, retransmit, telecast, broad-  
20 cast, or cablecast, including by wire, microwave, or  
21 satellite, but it does not include the transmission, re-  
22 transmission, or receipt of any voice, data, graphics,  
23 or video telecommunications accessed through an  
24 interactive computer service as defined in section  
25 230(f)(2) of the Communications Act of 1934 (47

1 U.S.C. 230(f)(2)), which is not originated or trans-  
2 mitted in the ordinary course of business by a tele-  
3 vision broadcast station or multichannel video pro-  
4 gramming distributor as defined in section 602(13)  
5 of that Act (47 U.S.C. 522(13)).

6 “(3) VIOLENT VIDEO PROGRAMMING.—The  
7 term ‘violent video programming’ as defined by the  
8 Commission may include matter that is excessive or  
9 gratuitous violence within the meaning of the 1992  
10 Broadcast Standards for the Depiction of Violence  
11 in Television Programs, December 1992.”.

12 **SEC. 205. FTC STUDY OF MARKETING STRATEGY IMPROVE-**  
13 **MENTS.**

14 The Federal Trade Commission shall continue to  
15 study the marketing of violent content by the motion pic-  
16 ture, music recording, and computer and video game in-  
17 dustries to children, including the improvements to mar-  
18 keting practices developed and implemented by those in-  
19 dustries. The Commission shall update its study and re-  
20 port annually, including findings and recommendations, to  
21 the Senate Committee on Commerce, Science, and Trans-  
22 portation and the House of Representatives Committee on  
23 Energy and Commerce.

1 **SEC. 206. SEPARABILITY.**

2 If any provision of this title, or any provision of an  
3 amendment made by this title, or the application thereof  
4 to particular persons or circumstances, is found to be un-  
5 constitutional, the remainder of this title or that amend-  
6 ment, or the application thereof to other persons or cir-  
7 cumstances shall not be affected.

8 **SEC. 207. EFFECTIVE DATE.**

9 The prohibition contained in section 715 of the Com-  
10 munications Act of 1934 (as added by section 204 of this  
11 title) and the regulations promulgated thereunder shall  
12 take effect 1 year after the regulations are adopted by the  
13 Commission.

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