



**Written Testimony of
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**United States Senate Committee on Commerce, Science & Transportation
Hearing on “Rethinking the Children’s Television Act for a Digital Media Age”
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Mr. Chairman and members of the Senate Commerce Committee, thank you for allowing me to speak to you about improving media for the benefit of children in this new Digital Media Age. My name is Jim Steyer, and I am the CEO and founder of Common Sense Media.

Common Sense Media is a nonpartisan, not-for-profit organization dedicated to improving the media entertainment and technology lives of kids and families. Our mission focuses on educating and empowering parents, teachers, and young people themselves about how best to navigate this extraordinary 24/7 media environment we all live in. Via our Web site, Common Sense provides information about Internet safety and media smarts in schools and community settings, as well as trustworthy ratings and reviews of various media – including movies, TV shows, and video games – to assist parents and educators in gauging whether content is age appropriate. We also provide a strong and independent public forum so that families can have a choice and a voice about the media they consume.

I have been involved in children’s media and education for more than 20 years as a parent, teacher, child advocate, and media entrepreneur. I founded Children Now in 1988 and served as its president for eight years, during which time we helped craft the original Children’s Television Act regulations. I then founded and served as CEO of JP Kids, an educational media company that developed kid-friendly content for TV, online, and other platforms. I am, by training, a civil rights and civil liberties lawyer, and I have taught popular courses in these topics as a professor at Stanford for the past 23 years. Finally, and most importantly, I am a dad of four kids of my own.

We founded Common Sense six years ago because we recognized that parents and educators were not getting the help they needed in this rapidly evolving world of media, entertainment, and technology. Common Sense’s rapid growth during these past six years provides clear testament that there is an enormous need for high-quality, trustworthy information, as well as a strong nonpartisan voice for kids and families across the country.

As we all know, media and entertainment profoundly impact the social, emotional, and physical development of our nation’s children. And we are at an historic and truly transformative moment in the development and impact of media and technology on our society. Parents and educators need help understanding and managing what their children see, hear, and surf. But who should provide this help? In truth, several key institutions should – nonprofit organizations, schools, the

media industry, and government. Each of us has an important role to play. Parents must parent, but we cannot simply tell parents that they must do more. We must help them by providing the tools, information, and knowledge they need to make smart choices for their families. The same is true for teachers in our 21st-century classroom.

Congress has a very significant role to play in the field of kids and media, as evidenced by this hearing today. Another example of Congress' role is this Committee's leadership in the passage last year of the Child Safe Viewing Act. We are very grateful to Sen. Pryor for his leadership in introducing that legislation and to the wisdom and commitment of this entire Committee in moving it forward. We eagerly anticipate the FCC's report on the topic next month and look forward to working with the Committee and the FCC on steps to empower America's families with the tools they need to protect and educate every child in this country. The good news, as is reflected in the actions and leadership of this Committee, is that these are truly bipartisan concerns, with leaders from both sides of the aisle joining together to serve the best interests of America's kids.

Industry clearly has a very significant role to play as well. Producers need to create more high-quality, educational programming. Networks and cable stations need to consistently air far more of that kind of programming and also be more considerate of who makes up the audience of their programming. To take just one example, the TV networks need to be far more mindful of the commercials and promos that are aired during programs that millions of children watch. And advertisers need to severely restrict advertising of junk food to children, who do not necessarily have the cognitive ability to differentiate between entertainment and advertising.

Education and children's organizations also have a critical role to play. For example, Common Sense helps millions of families each month by rating and reviewing a wide range of media content. As a truly independent third party, we serve as a trusted source for information, tools, and advice. We provide a trusted conduit between the media industry, parents, and teachers, and offer easy-to-use information on nearly every media title and topic under the sun.

All of us represented here today have an important role to play in serving children, but we cannot play these roles in a vacuum. We must work together. That's not to say that there should not be competition between leading media industry players – that's what drives innovation and creativity. But collaborating and coordinating activities that will benefit young people and their families can enable even small contributions to produce enormous benefits for our nation's kids, both at home and at school.

As others have discussed today, the TV and media landscape has changed in ways that none of us could have imagined 20 years ago. We are at a critical moment of opportunity, and it is incumbent upon each of us to seize that moment and act with wisdom and foresight to serve future generations. Television and other media are now vastly more accessible on a myriad of platforms. You can watch full episodes of your favorite shows by simply pointing your smartphone's browser to Hulu.com or TV.com. On YouTube – a company that didn't exist a mere five years ago – young people are watching hundreds of millions of videos a day. Perhaps most radically different however, is the fact that the very nature of creating and producing media content has drastically altered. No longer is media the purview of a handful of large broadcast or

cable networks. On YouTube alone, users are creating and uploading hundreds of thousands of videos daily – in fact, during every minute of this hearing, at least ten hours of video will be uploaded to YouTube. And with the recent DTV transition and the billions of dollars we will spend to expand broadband across the nation, this landscape will change even more dramatically in the years ahead.

The Digital Media Age creates myriad opportunities and challenges for today’s families and educators. It opens the world up to our children to learn and explore, yet it also makes them vulnerable to harm. So how do we ensure that America’s kids have the knowledge, ethics, and skills they need to harness the educational and economic power of the digital world responsibly and to avoid its potential dangers? This critical question requires urgent attention from policy makers, parents, educators, and the media industry. And, as we proposed to the FCC during their recent Notice of Inquiry, it should be the centerpiece of our national broadband plan. Working together, we must create the teaching and parenting tools that will enable us to educate, empower, and protect our children and bring teachers and parents up to speed as well. As we all know, our kids are the true natives in this rapidly evolving digital media environment, but parents and educators also need to do their homework.

This new Digital Media Age also presents this Committee and this Congress with a unique and extraordinary opportunity to reshape the media and education landscapes in positive ways. And we at Common Sense urge you to think big ... very big. We encourage you to use your power to examine both the positives and negatives of TV and other media platforms. And we would suggest that you frame your discussions and legislative efforts around three basic concepts that media should provide to America’s children in this digital age. We must:

- Educate,
- Empower, and
- Protect.

Educate: It’s time to make dramatic new improvements to the original goals and accomplishments of the Children’s TV Act. We should, of course, encourage more educational TV and media. Yet in 2009 and beyond, we must also educate kids – and their parents and teachers – *about* this digital media age, as well as the enormous amounts of video and other content that kids can now access, create, and share on so many different platforms at any hour of the day or night.

Empower: Parents must be able to make informed choices about the media that their kids consume. Every family is different – and indeed, every child is different – so all families will not make the same choices. Yet all families need easy-to-use tools and independent information to make safe, smart, and responsible choices about the media that their children consume and create.

Protect: The Children’s Television Act focused on educational children’s programming and required three hours per week from broadcasters. But as every parent knows, there’s a great deal of TV and other media that *isn’t* designed for children but still reaches millions of them. Whether the concern is sex, too much violence, interactive advertising, junk food marketing, or other

inappropriate advertising and promotions during sporting events, we must define a healthy balance between safe and smart digital media practices for kids and families and other important societal rights. As someone who has taught courses on First Amendment law and civil rights to thousands of Stanford students over the past 20 years, I know that this nation can strike a proper constitutional balance between protecting our children and respecting important First Amendment freedoms.

Educating America's Children

This hearing comes at a very opportune moment. Quite simply, it is time to build on the goals and accomplishments of the Children's TV Act. We should, of course, encourage more educational TV and media, but we must also educate kids – and their parents and teachers – about the realities of this digital media age and the enormous amounts of video and other content that kids can now access.

Since the Children's Television Act first became law, there have been remarkable advances in both the level of technology and the quantity of programming. Some would argue that the quality of TV programming has risen by leaps and bounds, while others would say that it has fallen off a cliff. Both may be true, depending on your perspective, but they ignore the larger reality.

It's worth noting that, in its early years, television was hailed for its potential to deliver educational content. The 1950s are often referred to as "the golden age" for children's television because of the quantity and high quality of educational programming. Just a few years later, however, then-FCC Chairman Newton Minow famously called most TV programming a "vast wasteland."

Today we stand at a similar pivotal moment in terms of digital media's impact on the lives and education of our nation's children. The Internet is no longer in its infancy, and digital media is growing rapidly and becoming increasingly important in so many facets of children's lives. Tens of millions of young children go online every week, and they can use the Internet to access vast quantities of educational and informational material ... or to find content that makes television's vast wasteland look like the Promised Land.

In sum, my own four kids – and all of America's children – are growing up at the epicenter of a technological revolution. Digital media defines their lives in unprecedented ways; they spend far more time online, texting, watching TV and movies, and playing video games than they do in school or with their parents. The convergence of portable personal technologies, unfiltered access to information, and user-generated content profoundly impacts how they grow and learn.

The key to success in this Digital Media Age will be preparing our children – as well as their parents and their teachers – to make smart and safe choices about what they find, watch, hear, share, and create with digital media.

As noted before, television and media are vastly more accessible today, and truly mobile. While advanced filtering technologies can be of great assistance to parents at home during the early childhood years, these technologies become less effective as children reach their "tween" and

teen years and have access to content outside the home or are able to download content on their own mobile devices. These youths often become more technically savvy than their parents and are able to circumvent blocking technologies (often without their parents' knowledge.) Children need digital literacy education to understand the power of the digital messaging that they absorb on a daily basis. Common Sense believes that the best filter is the one we build in a child's brain, and building that filter begins with digital literacy education long before the child becomes a tween – literally from the preschool years onward.

Common Sense's core mission focuses on consumer empowerment and the education of parents, educators, and kids about the impact of media on their cognitive, social, emotional, and physical well being. Media touches every part of our kids' lives. It impacts the way they socialize, communicate, gather and process information, and participate in political and economic life, and it is the means by which they form opinions and values. Families and educators need to help children become good digital citizens and to highlight how media content can impact opinions, values, and behaviors. Through schools and community groups, children should be instructed on how to be media savvy and safe, how to search for age-appropriate content, as well as how to be responsible and ethical in their own conduct in the digital media world.

Over the past year, Common Sense has developed a national media education program for schools – Common Sense Schools – that is designed to educate parents and teachers about their kids' media lives and how to be involved in what they're hearing, seeing, and surfing. In the past few months alone, more than 3,700 schools in every state and the District of Columbia have signed up as members. This rapid growth exceeded even our most optimistic expectations and stands as a clear indicator of how concerned parents and schools are about their kids' media lives. The Common Sense Schools program is age-and-stage specific about the issues typically faced by kids in their interactions with media – i.e., discussions re: texting that surface in grades 5-6, cyberbullying issues in grades 6-8, and social networking issues in grades 8-12.

The success of this program has made it far more apparent that digital literacy and citizenship should not only be directed to parents and teachers, but also targeted specifically to our nation's youth in every school and community group across the country. Common Sense calls upon legislators to fund digital literacy programs through the Department of Education, the National Telecommunications and Information Administration, and other government agencies and to support legislation that would encourage digital literacy, such as the SAFE Internet Act, S. 1047, introduced by Senator Menendez this past May, and its companion in the House, the AWARE Act, H.R. 3222, introduced last week by Rep. Wasserman Schultz and Rep. Culberson.

In order to survive and thrive in today's global economy, today's students must be digitally literate, which means being able to use and understand digital technologies and messages. These new forms of media literacy must become integral parts of their education, both for traditional studies (reading, writing, math, science) as well as for the 21st-century skills they will need to succeed (creativity, innovation, communication, critical thinking, civic participation). There are several basic steps that this Congress and this nation need to take in order to develop Digital Literacy and Citizenship programs for every child in America:

- Create basic resources for educating teachers, parents, and kids;

- Fund professional development for educators in schools;
- Fund and deliver additional education/technology resources in under-served schools and communities; and
- Make media education and Digital Literacy an essential part of every school's basic curriculum.¹

How does America benefit if we make this investment? It is perfectly clear: The nation whose children best harness the educational and creative powers of digital media will write the economic and educational success story of the 21st century. Digital media is bringing significant changes to the ways that kids live and learn – and those changes can create opportunities or pose potential dangers. We need to fund teachers, curricula, and parenting tools that teach kids – and adults – to understand and manage media's role in their lives. The emerging fields of Digital Literacy and Citizenship are the keys to that preparation. And they deserve this Committee's and America's investment and leadership today.

Empowering America's Families

As a long-time advocate for giving parents and educators a choice and a voice about the media that our kids consume, Common Sense supports all efforts that empower parents to decide what media content is appropriate for their families. There have been many important advances in this area since the passage of the Children's Television Act, but as all parents and educators know, many challenges remain, and new ones arise with rapidly changing technology.

As noted above, our nation's children live in a 24/7 digital world in which they use multiple media devices – often simultaneously – in a given day, and in which the average 8- to 18-year-old child spends at least 44.5 hours per week consuming media. Parents understandably want easy-to-use tools that can assist them in finding suitable content for their children. However, many parents are often unaware of available media tools or are uncertain how to program or operate tools like filters or parental control devices.

To further complicate matters, many parents are confused by the way in which TV and other media are now accessed through a variety of platforms – with each using different filtering and blocking technologies, as well as a myriad of different rating systems. Most families increasingly access TV and media not only through broadcast television and cable, but also through an interconnected digital world of Internet-enabled stationary and mobile devices, Internet-enabled video games, and various satellite services. The vast array of different technologies requires that parents learn how to program or block for each new platform and Internet-enabled device – a time-consuming and often frustrating exercise. Little wonder, then, that parents are confused or overwhelmed, and many simply stop trying to navigate this digital world with their kids.

As these technologies and services converge, it is vital that the public and private sectors work together to develop tools for parents that are easy to understand, easy to use, and designed to operate across different media and technology platforms. Such work should clearly include

¹ “Digital Literacy and Citizenship in the 21st Century – Educating, Empowering and Protecting America's Kids: A Common Sense Media White Paper.” June 2009. Available online at <http://www.commonensemedia.org/digitalliteracy>

upgrading key tools and technologies so that parents can use them to access additional independent information, ratings, and reviews beyond the industry's own self-regulated – and oft criticized – rating systems.

A consumer should further be able to understand both *who* is rating the material and the factors that determine that rating – i.e., violence, nudity, profanity, and smoking. Parental empowerment tools will be significantly improved – and used by many more parents – if more parents know how and by what standards content is rated. Congress should support the ability of every family to access independent third-party ratings information – such as those of Common Sense and others – through newly developed filters, as well as the existing V-Chip infrastructure.

If these tools can be used to access and apply third-party ratings in addition to the industry's self-regulation and ratings, America's parents will be able to customize the tools to fit the age of their children, their specific concerns about avoiding certain types of content, and their personal interest in finding content that they deem appropriate. Further, independent third-party ratings and reviews, which are analogous to third-party resources like *Consumer Reports*, can also provide explanatory text as to why certain digital messages might be inappropriate for a child's particular age and stage of development.

Parental demand for independent third-party ratings is demonstrated by the growth of Common Sense Media, which should have well over 10 million unique visitors to our Web site in 2009, and which now offers more than 10,000 ratings and reviews of movies, TV shows, video games, Web sites, books, music, and other media content. Here are a few examples of recent Common Sense Media reviews and parent tips:

Reviews:

I Love You, Beth Cooper

<http://www.commonsensemedia.org/movie-reviews/i-love-you-beth-cooper/details#video-review-section>

Harry Potter and the Half-Blood Prince

<http://www.commonsensemedia.org/movie-reviews/harry-potter-and-half-blood-prince/details#video-review-section>

Last House on the Left

<http://www.commonsensemedia.org/movie-reviews/last-house-left/details#video-review-section>

Parent Tips:

TV Violence

<http://www.commonsensemedia.org/tv-violence>

Texting and Kids

<http://www.commonsensemedia.org/responsible-text-messaging-tips>

Social Networking

<http://www.common sense media.org/social-network-tips>

Ratings from trusted independent sources can now easily be integrated with V-Chip technology and other filters. These third-party ratings help simplify the converged digital world and can help guide families in selecting appropriate content. Moreover, they can be – and in Common Sense Media’s case are – distributed in partnership with major industry players.

Another important empowerment issue is that many parents do not want to just block certain content but also want to quickly and easily locate content that is age appropriate or educational. Common Sense accordingly supports the enabling or “opening up” of the V-Chip and other tools to read for an E/I classification for Educational/Informational programs – or for other similar ratings provided by independent third parties. These types of ratings would enable parents to search for programs they desire in lieu of merely blocking that which is deemed objectionable. That definition may always be difficult, but it’s another very simple example in which access to high-quality third-party information would empower parents to find the positive educational media that they want for their kids.

On a related note, Common Sense Media recommends expanding the current definition of “video programming” under Section 47 U.S.C. § 602(20) of the Communications Act. The definition of “video programming” should not be limited to programming comparable to that of a “television broadcast station.” Such a definition is disconnected from the media environment facing today’s families, where so much video is watched on sites such as YouTube.com and Hulu.com via both mobile and stationary devices. Rather, the definition should be written as expansively as possible to reflect current technological and market realities as well as those likely to come. And it should be expanded to include content provided on video hosting Web sites. This will be an important step toward encouraging the industry to work collaboratively to develop tools that enable parents to easily select, filter, and find content on the myriad devices their children now use.

Protecting Our Nation’s Children

Much of this hearing will focus on TV shows and other media that are designed for children. But we should also recognize that a great deal of TV and media that are *not* “designed” for children still reaches literally millions of children on a regular basis. And I think that many of us would agree that much of that media is *not* appropriate for children – and, indeed, that some of it may well be detrimental to their health and proper development.

To underscore this public health reality, last year Common Sense Media asked researchers from the Yale University School of Medicine, the National Institutes of Health, and the California Pacific Medical Center to conduct a comprehensive analysis of existing research tracking the impact of media on children’s health. This stellar research team published an executive summary of their meta-analysis in December 2008.² The researchers reviewed more than 170 quantitative

² “The Impact of Media on Child and Adolescent Health: Executive Summary of a Systematic Review”, Common Sense Media, December 2008. Available online at http://www.common sense media.org/sites/default/files/CSM_media+health_final.pdf

studies examining the relationship between media exposure and seven critical health outcomes for children:

- Childhood obesity;
- Tobacco use;
- Sexual behavior;
- Drug use;
- Alcohol use;
- Low academic achievement; and
- Attention deficit hyperactivity disorder (ADHD).

In 80 percent of the studies, researchers found that greater media exposure was associated with negative health outcomes for children and adolescents. This meta-analysis of the very best studies on media and child health published in the last 28 years clearly shows the connection between media exposure and long-term negative health outcomes, especially childhood obesity. That is to say, media in certain forms can truly be a significant public health issue for our kids.

Whether your primary concern is protecting children from sex, violence, or other inappropriate content... or whether it is improving the educational opportunities created by television and the new Digital Media Age, we believe – as outlined above – that the first step is educating and empowering parents. Parents are in the best position to make smart choices about what they do and don't want in their homes – not to mention in their children's laptops, game consoles, and mobile phones. And more education and information will help more parents do what they want to do – make the right choices for their kids. The same is true for America's teachers and the classrooms that they manage and lead across this great land.

But our focus on parents and educators does *not* absolve business and government of their own critical responsibilities. There are vital areas in which government and business can and should do far more to help parents and teachers protect our children from inappropriate content.

For example, a significant amount of advertising is aimed at adults, yet seen by far too many kids. Last fall, Common Sense Media reviewed advertisements and network promotions shown during Sunday afternoon broadcasts of professional football games. These games may not be officially classified as “children's programming,” but they are programs that millions of families – including my own – like to watch and enjoy together. In fact, according to Nielsen reports, more than 5.3 million kids ages 2 to 17 – and nearly 2.8 million kids ages 2 to 11 – watch the average pro football game on broadcast television or ESPN each week.

During the 2008 NFL season, we reviewed nearly 60 games – more than 180 hours of coverage – and watched nearly 6,000 commercials. Here's what we found:

- 40 percent of the games included advertisements for medications for erectile dysfunction (Viagra and Cialis).
- More than 500 of the advertisements involved significant levels of violence, including gun fights, explosions, and murders.
- 300 of the advertisements were for alcohol.

- 80 of the advertisements involved significant levels of sexuality, including scenes about prostitution and strippers.
- Nearly half (44.7%) of the violent or sexual advertisements were promotions by the networks for their own programs.³

The appeal of pro football and other sports to families is easy to understand. In addition to being fun and exciting, the games can offer many positive lessons for parents to share with children, including the importance of teamwork and fair play. But parents like me want to watch pro sports on TV with our kids without getting sucker-punched by ads aimed at adults. We know this is a matter of concern because when we released the report earlier this year, we created a Web site where parents could email NFL Commissioner Roger Goodell to tell him how they felt about these ads – and he immediately received more than 1,000 emails.

We're currently looking at Major League Baseball weekend daytime broadcasts as well, and thus far, we're seeing similarly adult-oriented messages and images. The leagues and the networks should clearly do far more to make this a safer, healthier space for families. And if they don't, then this Committee should hold them responsible. Based upon my Stanford legal background and teaching, I can assure you that such efforts can be done in a way that is consistent with our First Amendment principles.

Many parents and educators are also concerned about the prevalence of junk food advertising during children's shows. In 2005, for example, the Institute of Medicine (IOM) released a report that found compelling evidence that TV advertising influences children's food and beverage preferences, purchase requests, and consumption habits. The IOM recommended that the food industry voluntarily shift advertising and marketing targeted to kids to products and beverages that are lower in calories, fat, salt, and added sugars and higher in nutrient content. If the industry was not able to achieve significant reform, the IOM recommended that Congress intervene.

In response to this study, the food and advertising industries created the Children's Food and Beverage Advertising Initiative, a voluntary self-regulatory program that currently includes 15 food and beverage companies. Industry leaders assert that the Initiative has sufficiently addressed concerns about unhealthy food advertising to children. But many educators and public health experts would beg to disagree. The industry's Initiative is clearly insufficient, since there still exists no uniform nutrition standard for defining healthy foods that the food and beverage companies adopt. Either the industry must create a serious and responsible standard, or Congress should intervene in a direct and assertive manner.

A second important advertising concern relates to interactive advertising. In 2004, my colleagues at Children Now suggested that it was time, while interactive advertising was still in its infancy, to create industry guidelines and regulations that would protect children from the potentially harmful effects of interactive advertising. In late 2004, the FCC, by a 5-0 vote, tentatively concluded that they were correct.

³ "Broadcast Dysfunction: Sex, Violence, Alcohol and the NFL". Common Sense Media, January 2009. Available online at http://www.common sense media.org/sites/default/files/CSM_football_012809_FINAL.pdf

We are grateful for the leadership that Chairman Rockefeller and others on this Committee have provided in this important area. We are also grateful to the Commissioners who insisted that there should be no commercial Internet links embedded in children's programs unless technology is available to let parents decide whether they want their children to have access to such links. The Commissioners also unanimously agreed that digital broadcasters should not be able to circumvent existing advertising rules through interactive technology. Unfortunately, nearly five years after this ruling, the tentative conclusion has not been made permanent. Interactive advertising on Web sites is consistently being used to market unhealthy foods to children, taking advantage of children's unique vulnerability to commercial persuasion. Now is this time to make the earlier public health conclusion permanent. We greatly appreciate your recent efforts in this matter and encourage you to finish the task, as well as the other important children's media tasks at hand.

In closing, I'd like to thank this Committee for its continued vision and leadership. Moreover, Common Sense would urge the Committee to consider that the television world and its rapid and extraordinary transformation in this new Digital Media Age are still built upon our public airwaves. As our elected representatives, you retain the power to license companies to use these public airwaves. And their use should be linked to the public interest and, most of all, to the best interests of our children and the educational and life needs of future generations. Together, we must all ensure that the public interest is met – not only through more and better educational TV and media – but also through a new national commitment to digital media literacy and citizenship for every family, school, and community across this great land.

Thank you very much for the opportunity to testify at this important hearing. We have also attached some exhibits for the Committee's review.