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REGULATION OF VIOLENT VIDEO GAMES

Since 2000, seven states and two local governments have enacted laws that attempted to restrict minors from playing, purchasing, or renting video games containing fictitious violent imagery. In all nine cases, federal courts – applying established First Amendment law – have enjoined the laws. On behalf of the retailers it represents, the Entertainment Merchants Association (EMA) has been a plaintiff in eight of the nine lawsuits, and it submitted an amicus brief to the Court of Appeals for the Seventh Circuit in the ninth case. EMA, which was known as the Video Software Dealers Association at the time, VSDA also was a plaintiff in an earlier, seminal constitutional challenge to a Missouri regulation of depictions of violence in entertainment, *Video Software Dealers Ass'n v. Webster*, 968 F.2d 684 (8th Cir. 1992).

EMA opposes the enactment of laws restricting minors' access to motion pictures and video games based on the depictions of violence in them because we are committed to protecting the First Amendment rights of retailers and their customers. The Association's advocacy is propelled by the recognition that video games and other forms of entertainment can educate, amuse, inspire, challenge, and bring people together and that society is invigorated if individuals and families can decide for themselves, without the interference of government, what they shall see, read, hear, and play.

EMA also has operational concerns about the proposals, as most lack meaningful standards that would allow retailers and their clerks to determine which materials are covered. It does not believe that retail clerks should be placed at risk of criminal sanctions if they unwittingly cross an unknowable line, as would result from some of the proposals.

Finally, while EMA must oppose legal restrictions, the home entertainment industry understands it has an important role to play in helping ensure that children do not gain access to videos and video games their parents deem inappropriate for them. EMA and its members are committed to actively assisting parents in this regard. They assist parents through voluntary ratings enforcement programs, in-store signage about the video game rating system, and public education campaigns.

According to the Federal Trade Commission, video game retailers have steadily and significantly improved the level of ratings enforcement since 2000. In its most recent survey, the FTC found that children it sent into retail establishments to purchase Mature-rated games were turned down 58% of the time. The turn-down rate is even higher, 65%, for the national retail chains where the vast majority of video games are purchased.