# REFLECTIONS ON THE RATINGS CRAZE

**Ratings Symposium**
**The Benjamin N. Cardozo School of Law**

SENATOR JOSEPH LIEBERMAN

I want to thank Monroe Price, the Benjamin N. Cardozo School of Law, and the Columbia Institute for Tele-Information for inviting me to speak before this distinguished group.

Because I have devoted a great deal of time over the past three years pushing for ratings, first for video games and more recently for television programming, I am heartened in many ways by the recent explosion of interest in this subject. One of the best indications of how far we have come in our attempts to help parents is this very gathering, and your efforts to confront and discuss some of the thornier questions raised by the ratings craze.

But at the same time, of course, I am also troubled by the forces that have brought you here today. As we do the necessary work of considering how best to label a violent TV program, the question we must keep coming back to is, what is triggering this outbreak of ratings fever? Why do so many people feel they need to be warned about the sights and sounds of the entertainment marketplace? The answer, I'm afraid, tells us something quite disturbing about the state of our culture and the burden facing families in 1997 America.

The ratings craze reflects a seismic and saddening shift in the relationship between producer and consumer of entertainment products. The old implicit contract we once counted on, in which the TV networks and the whole of the entertainment industry made an effort to meet parents halfway in trying to protect children, has been broken. In its place has arisen what can be described as an "anything-goes" mentality, in which the imperfect forces of the market are by-and-large king, and responsibility is too often a beggar that goes unheard.

The result is a cultural marketplace flooded with vulgar, hyper-violent, and sexually explicit products, in which parents are left to fend for themselves. As the tide rises, and the choices are sink or swim, parents are desperately turning to ratings and the V-chip as cultural and values life-preservers for their children.

The nature of this shift was perfectly captured in a recent article by Alan Ehrenhalt that was adapted from his excellent new

book, *The Lost City*.[1] Using television in the 1950's as a comparison point, Ehrenhalt wrote:

> Certainly no one could plausibly claim that [television] was not in the grip of market forces. But beyond certain boundaries, the market simply did not operate. No doubt there would have been considerable viewer demand for a pornographic version of *Some Like It Hot*, or perhaps a version of *20,000 Leagues Under the Sea* in which Kirk Douglas was eaten alive in CinemaScope by the giant squid.
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> Those things were absent from televisions in the 1950's not because no one would have watched them but because there were sanctions against their being shown. There was someone in a position of authority—in this case, a censor—who stepped in to overrule the market and declare that some things are too lurid, too violent, or too profane for a mass audience to see.[2]

That kind of self-censorship is largely gone today. On television, we've watched daytime trash TV talk shows sink ever lower in a competition to see who can be more outrageous, salacious, and offensive, thrusting the worst of the bedroom into our living rooms, as nine million children watch on a daily basis.[3] In the music industry, we have witnessed major corporations bankrolling grossly obscene "gangsta" rap records that celebrate murder, mayhem, misogyny, and homophobia as a way of life—music with lyrics so awful that no major paper in America will print them—and eagerly marketing these recordings to kids of any age.

In the video game industry, which features some of the most creative minds in the nation and which on the whole offers a wide variety of quality products, there is nevertheless a significant element that continues to churn out bloodier, gorier, and increasingly offensive games. Let me offer you one example in particular, a game called Primal Rage.[4] This game, which was brought to my office's attention by a concerned mother in Arizona, is filled with carnage, and keeps track of a player's score with a beating heart that oozes blood when one of the combatants is killed. What makes Primal Rage novel, however, is a scene known among teenage players as the "Golden Showers," in which an ape-like creature celebrates the killing of his opponent by actually urinating on the

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[1] ALAN EHRENHALT, THE LOST CITY: DISCOVERING THE FORGOTTEN VIRTUES OF COMMUNITY IN THE CHICAGO OF THE 1950'S (1995).

[2] Alan Ehrenhalt, *Learning From the Fifties*, WILSON Q., Summer 1995, at 8, 22.

[3] Nielsen ratings, *cited in* S. Res. 290, 104th Cong. (1996).

[4] Created by Sega Genesis, produced by Time Warner Interactive (1994). *See* Marshall, *infra* note 5.

corpse. The depiction is short, and the animation is primitive, but that does not make the scene any less repulsive or degrading.[5]

More proof that the old rules are breaking down can be found in the manner in which many entertainment executives have responded to public protests about falling standards. When asked about the increasingly lewd and crude fare being shown in the traditional family hour, a top programming executives at one of the major TV networks said: "[i]t is not the role of network television to program for the children of America."[6] On the other hand, the president of MTV was recently quoted as saying, "I have prevented my kids from watching MTV at home. It's not safe for kids."[7] And a spokesman for Sega Genesis, which helps market Primal Rage, said this when asked about the "Golden Showers" scene: "We are entertainment providers. It is our policy not to limit the product or censor the product."[8] That kind of effort to throw off responsibility is the best way to bring on government regulation.

It seems clear that part of what is spurring this competition downward are the pressures of the entertainment marketplace. There is no denying that sex and violence sell, and there are enormous sums of money at stake. Compounding the problem, of course, is the absence of any real market mechanism or incentive to protect children.

But I believe the shift I alluded to above has as much to do with the loss of values as it does with the loss of market share. There is a lot of evidence to suggest that the entertainment industry is gradually losing its ability and/or willingness to draw lines, to make moral judgments, or to "limit its products" in any way—borrowing the words of the Sega spokesman.[9] When Bill Bennett, Sam Nunn, and I confronted the producers of the trash TV talk shows with some of the degrading and exploitative material featured on their shows,[10] few of them were willing to acknowledge there was anything "wrong" with putting a 13-year-old girl on national television to talk about the 100 men with whom she had sex. One could

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5 *See* Toni Marshall, *Angry Reactions to Primal Rage*, WASH. TIMES, Mar. 19, 1996, at C8.

6 Donald Ohlmeyer, NBC West Coast President, *quoted in* Alex Strachan, *Please Do Adjust Your Sets: Morality versus the marketplace*, VANCOUVER SUN, Aug. 26, 1995, at H1.

7 Tom Preston, *quoted in* Anthony Violanti, *Around and About*, BUFF. NEWS, Apr. 14, 1995, at 26.

8 Lee McEnany, Group Director of Corporate Communications at Sega Genesis, *quoted in* Marshall, *supra* note 5.

9 *Id.*

10 An open letter to National Association of Television Program Executives ("NATPE") 1996 buyers from William Bennett and Senators Sam Nunn and Joe Lieberman, Jan. 22, 1996, Cong. Press Release (on file with the author). William Bennett is the former Secretary of Education.

argue that exploiting a 13-year-old for profit that way is tantamount to child abuse, yet we were told by some producers that we should not force "our morality" on others. Another said, "[l]ighten up, this is entertainment."

These comments demonstrate in vivid terms the degree to which our old expectations no longer apply, as well as the enormity of the challenge parents face in raising their kids today. This is a time when people are increasingly losing trust in their neighborhoods, their schools, their government, and most of the institutions they once depended on to help them keep their children safe and healthy. It is increasingly difficult to reinforce the values parents teach at home. Now, many parents are finding out that they cannot trust the people who run the electronic culture, and that is only adding to their frustration.

I assure you, from my conversations with constituents back in Connecticut, that this frustration is felt deeply and broadly, by parents of all religions, races, income levels, political persuasions, etc. I cannot tell you how many times parents have told me that they feel locked in a losing struggle with the electronic culture to shape their children's values, to instill in them a sense of right and wrong. They believe the electronic culture is so pervasive, and the messages being sent so subversive and so enticing, that they view the entertainment media as a tangible threat from which their children need to be protected.

Viewed against this backdrop, it is little wonder that the demand for ratings is growing. This is a time when technologies are exploding, when it is getting harder and harder to even keep track of all the channels of communication, that the electronic culture is opening to our children. Ratings offer at least a modicum of support for parents who are looking for a helping hand from some place, any place, that will lessen their burden. A label or advisory on a TV show or video game does not improve the quality of the product—the fact of the matter is that if you put a rating on garbage, it is still garbage. But at least a warning will help parents do what they can to prevent their children from being soiled.

Assuming that the amount of garbage flowing into the marketplace is not about to subside any time soon, we owe it to parents, at a minimum, to reach a consensus on providing them with more constructive information about the products available to their children. My experience in working with the entertainment software industry to establish a voluntary rating system leaves little doubt in my mind that while this is not an easy job, it can be done, and done well, and without infringing on free speech rights. There have

been a number of kinks to work out along the way, and there is still room for improvement, but the good news is that most new video and computer games coming out today are being rated and the ratings are receiving positive reviews from parents who are using them in their decision-making.

As the TV industry goes about fashioning its own rating system, we should be sensitive to the difficulties they face, and not expect perfection overnight. We must also remember that the ratings are there for parents—not children—and that the overriding goal in crafting a rating system should be to give parents the information they need to make smart judgments about what is best for their families.

This will be a real challenge, but it is very doable. In 1995, two broadcast stations in the United States—one in Buffalo,[11] the other in Bellington, Washington[12]—rated all of their programming with little trouble as part of the Canadian V-Chip trials.[13] "It's not subjective," said Lois Ringle, director of operations at WUTV, one of the stations. "We're applying the classifications, so we're finding it simple and straightforward."[14]

A common complaint of programmers is that ratings will scare away advertisers from "cutting edge" shows like *NYPD Blue*, and will result in a blanding of prime time television.[15] This argument reminds me of the old Yogi Berra line about a restaurant that "was so popular no one goes there any more." Can we really expect advertisers to stop visiting a program that delivers large audiences just because it will carry a short advisory?

Ideally, what will happen is that the new information will in fact trigger more viewers to turn off shows that are routinely offensive or gratuitously violent. Some in the TV industry consider that censorship, but as Los Angeles Times TV Critic Howard Rosenberg recently pointed out, in reality, this is simply the market working.[16] "Giving viewers more data would be an act of censorship? Against whom, the networks? How so, when their beloved marketplace would hold the power? What kind of reverse logic is this? Since

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11 WUTV, an affiliate of FOX.

12 KVOS, an independent station.

13 *See* Joanne Ingrassia, *Canada Eyes U.S. as it Tests V-Chip*, ELECTRONIC MEDIA, Mar. 4, 1996, at 26.

14 *Id.* Phil Kloer, *Controversial System; TV Networks Plan Fast Start on Ratings*, ATLANTA J. & CONST., Dec. 20, 1996, at 01H (reporting on the United States ratings guidelines that "classif[y] all television shows except news and sports into six categories."). *Id.* The U.S. system was implemented by the television industry in January 1997.

15 *See* Howard Rosenberg, *Tuning In to the Great TV Labeling Debate*, L.A.TIMES, Feb. 19, 1996, at F1.

16 *Id.*

when is not watching an act of censorship?"[17]

The V-chip legislation,[18] which I joined Kent Conrad in sponsoring in the Senate, was clearly not censorship. In fact, I see it as a way to avoid genuine censorship. The American public is growing increasingly angry about the degradation of our culture, not just because they find much of the entertainment media offensive, but because they believe that the moral crises we are experiencing today—loss of values, rampant crime, teenage pregnancy, vulgarity—are connected in a very real way to the loss of standards in the electronic culture. If television and the other media continue to slide downward, there will be calls for real acts of censorship.

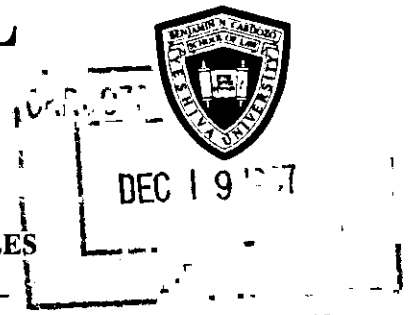
There is also a real danger that the TV industry and the other media will mistakenly come to the conclusion that ratings are the total solution to the public's concerns. Ratings and technologies like the V-chip are tools that empower parents, and are therefore worthwhile. But they are no substitute for broadcaster responsibility, nor will they snuff out the yearning of millions of Americans for the leaders of the entertainment industry to exercise the kind of self-restraint—the authority that Alan Ehrenhalt talked about[19]—that they once did. As my friend and partner Bill Bennett has pointed out, it is certainly a good thing to put up a warning sign next to a polluted lake, but it is simply not the same thing as cleaning up the lake itself.

My hope is that the nation's culture producers will see the demand for ratings and the V-chip for the powerful symbols of discontent they are, and treat this "ratings craze" as a beginning and not an end of the need for greater self-regulation. I value the work you are doing here today. At the end of the day, however, I believe we owe America's families more than good warnings on bad programs.

17 *Id.*
18 S. Res. 290, 104th Cong. (1996).
19 *See supra* note 2 and accompanying text.

# CARDOZO ARTS & ENTERTAINMENT LAW JOURNAL

1997
Volume 15, Number 1

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