

10-1-2010

The Cultural, Psychological, and Legal Aspects of Video Game Censorship

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Honors Thesis

Title: The Cultural, Psychological, and Legal Aspects of Video Game Censorship

Spring/Fall 2010

Thesis Committee:

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INTRODUCTION

Video games are no longer a niche hobby. They have matured past child's play with the average age of a gamer being 34 years old who has been playing for 12 years (Entertainment Software Association, 2010). The video game industry has ballooned into a billion dollar powerhouse that rivals Hollywood's biggest blockbusters with 10.5 billion consumer dollars spent on computer and video games in 2009. The midnight release lines in front of stores all around the world show the fast growth of this relatively new medium. The ESA also reported that sixty-seven percent of American households own at least one video game console or computer used to play video games. Any censorship of such a popular medium may be a case of a vocal minority speaking for the majority and it is important to understand the user demographic and the content that any legal regulation affects.

CONFLICTING ATTITUDES AROUND THE WORLD

In the United States, the government is not directly involved in the regulation of content that is allowed in video games. Regulation is instead left to the Entertainment Software Rating Board which issues age ratings that are displayed on the front cover of all video games sold in stores. This is not the case in many parts of the world where video games suffer intense governmental scrutiny and have sometimes been banned through legislation. I propose that determining whether or not other countries have either culturally accepted or rejected violent video games can help to understand the social implications of censorship in this new medium. Before criticizing the actions of foreign countries there first needs to be an examination and understanding of how this nation has hypocritically both embraced and vilified video game violence.

For example, the United States Army has spent millions of dollars to develop and promote violent video games that they have created and distributed as promotional and recruitment tools. These games currently go under the franchise name “America’s Army” and have had twenty-eight iterations. The games have always been free to play and have been downloaded more than eight million times as of March 2007. Between 2002 and 2008 the series remained in the top ten most popular online “first person shooters”. This genre has the player take the viewpoint of the game's protagonist and typically has a gun taking much of the space on the screen. The America's Army games carry an Entertainment Software Rating Board (hereinafter abbreviated ESRB) rating of “Teen”, but since they are freely accessible online with no age verification they are routinely played by younger children. Many political proponents who argue against violent video games seem to forget that their own government is supplying their children realistic combat violence for free.

In Southeast Asia, governments have enacted strict restrictions regarding the video game playing habits of citizens to match their assumptions of potential harms. In July 2010, the Vietnamese Minister of Information and Communications, Le Doan Hop, created a series of temporary measures in response to a perceived public outcry about the negative influences of video games on youth (Vietnam News, 2010). Vietnam’s Ministry of Education and Training conducted a survey in Ho Chi Minh City that showed one hundred percent of primary school children played video games on the weekends and seventy-six percent played during the weekdays. With every child playing video games it is obvious that the demographic would include some wayward youth, yet the government response has been universal. Until new laws can be drafted and pushed through, a ban on all media ads promoting online games is in place, and internet cafes are required to shut down whatever video game services are offered, between

11pm and 6am every day. Gaming citizens are to be limited to three hours of any online game a day while educational games are set at a five hour limit. A new law will also require video game developers to submit reports that detail the violent content in their products, which will then be reviewed and assigned an age group rating to be placed on the packaging. This practice is already common in most countries regarding the sale of video games.

Korea has proposed similar initiatives to restrict the time spent playing online video games. Korea's Ministry of Culture, Sports, and Tourism is moving forward with plans that will try to block certain online games within a six hour long blackout period. Gamers will be given the option of when this period starts (12AM, 1AM, or 2AM). Once the individual's video game curfew is reached the game would then automatically shut off. A different approach to the policy would include slowing down the internet speeds for young users if they remained online for lengthy periods. The Ministry's plan also includes steps to prevent young gamers from using the registration numbers of their parents in order to negate these restrictions (Woong-ki, 2010).

Such harsh restrictions come as a surprise given that in Korea the PC game "StarCraft" had become an unofficial national sport. Starcraft was released in March of 1998 and since then has sold over 9.5 million copies. Korea is responsible for almost half of that figure with 4.5 million copies purchased. Korean television channels dedicated to video gaming routinely air Starcraft tournaments where professional teams, which are sponsored by some of the nation's biggest companies, compete in arenas with thousands of spectators. In May of 2007, the video game developer Blizzard rented out the 16,000 seat arena in Seoul's Olympic Park to have the first demonstration of the much anticipated sequel StarCraft 2 (Scheisel, 2007). The obvious enthusiasm that Korea's general public shares for video games seems to be in direct contradiction to the legislation that is being pushed through the country's government.

No country, however, has impacted the development of the video game industry more than Japan, where video games have been widely adopted as a premier form of entertainment. A 2003 survey showed that over ninety-two percent of Japanese adolescents played video games (Cowell & Kato, 2003). Handheld and home consoles were reported as the most popular and almost all children had access to multiple game types. Although there are a large number of arcades in Japan, there have been low reports of usage mostly due to strict regulations that prevent anyone under the age of 16 entering one without their parents. This widespread cultural acceptance of gaming could be influenced by how two very successful Japanese companies (Nintendo and Sony) have dominated the video game market for years. It was the release of the Nintendo Entertainment System that pulled the industry out of the crash of the 1970s after the consumer market had been flooded with low quality games. Japan does have censorship laws that require sexual content to be obscured; however, the government imposes no restrictions on the themes or ideas in video games (Alexander, 2003).

In South America, countries have sought legal bans on video games. Brazilian Senator Vader Rapp has promoted a bill that would make it a crime to make, import, or distribute offensive video games. This bill would carry a penalty of a one to three year prison sentence (Rosenberg, 2009). Enforcement of this law would be ridiculously expensive in terms of both money and personnel when you consider the huge battle with piracy the country is trying to fight. The Brazilian Association for the Development of Electronic Games estimated that ninety-four percent of the games marketed in the country are pirated merchandise (Franco, 2009). Outlawing what would have once been the legal purchase of an “offensive” game will only increase the already very high rate of piracy.

In November 2009, Venezuela passed the Law for the Prohibition of Violent Video Games and Toys. This law made it illegal to import, manufacture, sell, rent, or distribute violent toys or video games. “Violent” video games were defined as having information or images that promote or incite violence and the use of weapons. Venezuelan citizens who are caught purchasing any of these prohibited materials are now subject to a fine of 2,000-4,000 “tax units” while those who provide them will be punished with 3 to 5 years in prison (Gilbert, 2010). The severity of these punishments are outlandish considering that under Venezuelan law there is less jail time and lower fines associated with giving children real guns, cigarettes, or forcing them into manual child labor (Jardin, 2009). These laws and regulations, enacted all over the world, to regulate video games illustrate a widespread governmental reaction to perceived but unsubstantiated harms attributed to video gaming.

THE GOVERNMENT DEFINES THE OBSCENE

At the heart of the dispute about whether and to what degree video games should be regulated is the question of censorship of entertainment in a free society. Violent video games are often portrayed in the media as attacking and corrupting youth specifically. Does this signal a trend or bias to focus more on violence in video games over older media such as television/movies? Are video games to be judged more harshly than other forms of entertainment? An answer requires an examination of the history of censorship in America. The United States Constitution’s First Amendment right to the freedom of speech has always extended to protect the entertainment its citizens create. In a free society there should only be limits on the most harmful or dangerous material. Still, there has always been a conflict between the preservation of fundamental freedom and society's changing boundaries of “morality”.

In 1873, Anthony Comstock pushed the United States Congress to pass the Comstock Law to broaden what the government could see as a potential threat (Kutner & Olson, 2008). This law made the possession, transportation, advertisement, or sale of any material deemed “obscene, lewd, or lascivious” illegal. Comstock had already been in the business of supervising the morality of the public by establishing the New York Society for the Suppression of Vice that same year. He personally claimed his motto to be “morals, not art or literature”. This was an important point in our nation’s history as the beginning of the government's attempt to exercise power over what is, and is not, allowed for its citizens to view.

The Comstock Law set a precedent for the censorship of objectionable material under the vague legal term of “obscenity”, side stepping the First Amendment right to the freedom of speech. This unconstitutional view was supported by many legislators who knew that rallying for the protection of children from undefined obscene material would be an easy way to garner political support from the public. For decades conservative politicians continued to fight against cultural change by exaggerating or fabricating potential harms. The 1920s headline stories of real life murders and crimes in Hollywood spurred the cries that movies were having a negative effect on society. The censorship of rock and roll music started in the 1950s, memorialized when television censors only allowed Elvis Presley to be shown from the waist up on the The Ed Sullivan Show, and served to fuel the genre’s popularity.

This history illustrates the moral hysteria which has often accompanied new forms of entertainment in this country. The process of knee-jerk moral outrage at the new is followed by an eventual acceptance and this cycle has repeated itself over centuries. It is important to understand that criticism over a new medium like video games is subject to the same patterns of misinformation as in the past. Today’s parents are the first generation to have children who use

so much technology and are often more proficient with it. With almost every child exposed to video games today it should only be a matter of time before the myth that games corrupt youth is moot.

BEATING THE GOVERNMENT TO THE PUNCH

The Entertainment Software Rating Board (ESRB) is the self-regulating body established by the Entertainment Software Association in 1994 to assign video game content ratings. The efficacy of the ESRB has been repeatedly called into question, and perhaps some of this criticism is warranted. Video game developers are only required to submit a DVD containing a montage of what they believe to show the most extreme content over several categories. Video games do not receive a thorough play test before receiving a rating. The argument that ESRB raters should play every game to completion hugely underestimates the complexity of today's video games. Many require more than 50 hours of playtime to reach the end and have branching decisions that alter the story of the game that would demand repeated plays. With thousands of video games produced each year, there cannot be an efficient system that has content raters see every sequence in each game. Another criticism is that up until 2007 the ESRB testers were hired on only a temporary basis and did not require any experience in child development. Currently these raters work on a full time basis but still do not need any experience with children and have no formal training. However, the purpose of the ESRB is to only provide content descriptions of video games, not to broadly analyze how certain games would affect children. The rating system is to be used as an informational tool and ultimately requires the parents to decide whether a game is appropriate for their children.

The creation of the ESRB is not the first time that an entertainment industry has tried to regulate itself in opposition to government interference. In the 1920s more and more states were forming their own Motion Picture Commissions in order to regulate which movies would be shown in theaters. When New York State decided to form its own commission the film industry feared losing the largest and most profitable market so they preemptively created the Motion Pictures Producers and Distributors of America, now known as the Motion Picture Association of America (Kutner & Olson, 2008). The movie industry figured out quickly that they should form their own censorship board and public relations group primarily out of an interest in saving money rather than protecting free speech. If state governments had succeeded in changing the standards of what was allowed to be shown in theaters then there would be costly distribution and editing problems when movies were sent out to different states. This industry created self-regulation was the precursor to the modern ESRB which strives to maintain autonomy from government interference.

The 1950s also saw the demonization of comic books with more than fifty cities trying to push laws that would regulate the sale of comic books. The New York State legislature even succeeded to pass a bill to make it a crime to sell comics that were seen to corrupt children by inciting violence. The governor of the state vetoed the bill before it could go into effect because he was unsure whether it was constitutional. In 1954 the Senate Subcommittee on Juvenile Delinquency held hearings over what content should be legally inappropriate for readers. The Comics Magazine Association of America, much like the film industry before them, decided that they would beat the government to the punch by creating their own regulatory committee in form of the Comic Code Authority (CCA). This new self-regulatory system included strict rules that all comics were to abide by to receive the Comics Code seal including that "in every instance

good shall triumph over evil" and forbade including zombies, werewolves or vampires in any of their stories.

Although the CCA had no legal authority over publishers, they created the Comics Code seal of approval as a prerequisite for a comic book to be sold by magazine distributors. This arrangement drove some publishers out of business that thrived earlier in the heyday of horror comics. Publishers' adherence to the CCA weakened when stores that exclusively sold only comics opened and the reliance on newsstand sales diminished. In 2001, Marvel comics withdrew from the CCA and instead implemented a system they created themselves. However, their rival company DC still submits comics to the CCA for approval, although if not granted they are still published (Kutner & Olson, 2008). The lax adherence of comic book publishers to their own regulatory system parallels a current concern as the video game industry moves toward selling content over the internet. Before a video game is sold in retail stores it must be submitted to the Electronic Software Ratings Board to receive an age rating. In this new form of distribution video game developers may no longer have an incentive to submit their games to this process before being sold online.

LEARNING CRIME FROM VIDEO GAMES

The scientific basis for censoring violence in entertainment media has been largely questionable. One of the first books to try to establish a link between violent media and real life crime was *Our Movie Made Children* by Henry James Forman. The book featured testimonials from convicts who said that the gangster movies made popular in the 1930s taught them techniques to becoming better criminals. More recently in the famed "DC Sniper" case the attorney for Lee Malvo claimed that the teen had taught himself to kill by playing Halo. "He's

trained and desensitized with video games ... to shoot human forms over and over" (Miller, 2003). To attribute Malvo's skill with firearms to playing Halo is a stretch considering he later admitted that he had actually trained by shooting a real gun at paper plates that were supposed to represent human heads. Also, he had a long history of anti-social and criminal behavior. He had even been caught torturing small animals, a behavior regarded as one of the best predictors of future violent criminal behavior. If the argument is that violent video games can influence aggression leading to violent crime in adolescents then it is also important to examine statistics of youth crime.

High profile news stories such as the "DC Sniper" have perpetuated the misconception that youth violence has been growing these past few years and that today it is at an all time high. Since video games are a relatively new and massive change to the experience of childhood, they may understandably create a false sense of insecurity in parents who have not shared this experience. In truth, youth violence has been declining since its peak year in 1994. The United States Office of Juvenile Justice and Delinquency Prevention reported that the juvenile arrest rate saw an increase in the 1980s, peaked in 1994, and has been on the decline ever since. The decline between 1994 and 2002 had even offset the previous increase. Arrests for robbery, aggravated assaults, rape and murder fell forty-four percent between 1994 and 2001. The peak number of murder arrests of thirty-eight hundred in 1993 fell to fourteen hundred by 2001 (Snyder & Sickmund, 2006). The same study examined the arrest rate increase reporting "close to 90% of the overall increase was due to the murders of non-family members committed by males with a firearm. Nearly three quarters of the increase was the result of crimes committed by black and other minority males and in two thirds of these murders the victims were minority males."

If violent video games correlated with an increase in violent juvenile crime then minorities as a group would have to be exposing themselves to such media for an excess amount of time compared to others. There is no evidence that black teenage males spend more time playing violent video games than other ethnic groups. There have been studies, however, that show they have a greater likely-hood of being exposed to known risk factors of violence. For example, living in poverty is strongly associated with seeing violence in a person's everyday life and, in 2007, thirty-five percent of black children lived under the poverty line (U.S. Bureau of the Census, 2009).

SCHOOL SHOOTINGS

Another example of video games portrayed as a criminogenic force are their reported ties to the tragic school shootings over the past decade. After the Columbine High School shooting on April 20, 1999 people rushed to make judgments to explain the rampages of Dylan Klebold and Eric Harris. In the personal writings of each shooter there were numerous mentions of the violent video game "DOOM". For a school assignment Harris had written that it was his love for the game that made him different: "DOOM is such a big part of my life and no one I know can recreate environments in DOOM as good as me. I know almost anything there is to know about the game, so I believe that separates me from the rest of the world" (Block, 2007). The two boys had even created their own levels for the game although contrary to rumor, none of them resembled their high school. Despite evidence of the severe emotional problems plaguing these two boys, their video games provide an easier explanation of their actions. Since then video games have been frequently cited as contributing to violent outbursts committed by adolescents.

For example, Florida lawyer, Jack Thompson, a self proclaimed “expert” on video games, has frequently appeared on the news claiming that violent video games are directly responsible for school shootings. Immediately after the news broke of the Virginia Tech shooting Thompson appeared on multiple news channels accusing the shooter, Cho Seung Hui, of having trained in high school on the game Counter-Strike: “These are real lives. These are real people that are in the ground now because of this game. I have no doubt about it” (Benedett, 2007). MSNBC had a television interview with one of Cho’s roommates, Karan Grewal, who said he had never seen him play video games. Later authorities would publicly release their search warrant that detailed that no video games or game consoles were found in Cho’s college dorm. Even when faced with this information and Cho's history of mental illness, Thompson still continued to attribute the violence of the Virginia Tech shooting to video games.

Jack Thompson is only one of many ill informed pundits who believe school shooters can be profiled and that all shooters have expressed interest in and trained for their crimes with video games. The evidence does not support this. The United States Secret Service and the Department of Education (2002) conducted a study where they determined that no accurate catch-all profile could be developed. They examined thirty-seven non-drug and non-gang related shootings and stabbings between 1974 through 2000 and found that only one in eight school shooters played violent video games and only one in four expressed interest in violent movies. In 2000, the FBI’s National Center for the Analysis of Violent Crime issued a report called “The School Shooter: A Threat Assessment Perspective”. This report also discounted the idea that school shooters fit a certain profile and that this profile could be used to filter out potential threats. Based on this study, the FBI issued a statement that no research has identified ways to distinguish school

shooters from other students and that many nonviolent students would show some of the behaviors or personality traits of such a profile (O'Toole, 2000).

THE FEAR OF DESENSITIZATION

Today's society has a heightened fear of depicted violence which is not justified when compared with past generations. Violence has been entertainment for thousands of years. In the first century B.C.E. the Romans held gladiatorial games where real lives were lost for amusement. Today's violence is obviously much more benign, yet it cannot be denied that we, as a modern society, have long allowed our children be exposed to violence on a daily basis. Since the 1930s children have loved the exaggerated, animated violence of classic Looney Tunes characters like Wile E. Coyote and Bugs Bunny. This appeal for abstract cartoon violence was later parodied in *The Simpsons* with the more violent *Itchy* and *Scratchy* shorts. In the 1950s children watched westerns on TV and the demand for toy guns sky rocketed. Back then it was more likely to be termed "action" instead of "violence". The 1980s cartoon shows including *G.I. Joe*, *Transformers*, and *He-Man* all included weapons and their toys flooded store shelves. Now there has been a turn away from such action oriented shows to focus on more neutral themes. No longer are young children watching *Power Rangers* on TV but instead *SpongeBob* dominates; children's television programming has been neutered and lacks the physical energy of old. There is a fear that any encouragement of aggressive play could lead to children acting out in other situations.

Parents have expressed their fears in how they restrict play fighting. Parents are often stepping in sooner or making rules to ban any rough play. This overlooks studies that have shown that this kind of play is necessary for natural child development (Jones, 2002). No one can

seriously argue that toddlers fresh out of the sandbox should move straight into violent video games but it does show the fear society has in terms of expressing aggression in any form no matter how harmless or innocent. This kind of overreaction only intensifies when children grow older and parents maintain less and less supervision over them. Children will always get their hands on something they should not. They still find access to cigarettes, liquor, and drugs which are all harder to find than the now commonplace video game. Children can still buy games online, borrow them from friends, or have older siblings buy them. If restriction is not the best option parents should perhaps try to understand why children love the video games that they do.

Video games can help children deal with the unfamiliar concepts of violence and death. This lack of understanding can be frightening but video games can empower children by having them do the impossible actions in imaginary worlds. The empowerment of playing the hero and overcoming obstacles can raise confidence and self-worth. A concern is that such games desensitize children to real world violence. The idea is that each time we see something horrible, the less and less it will affect us the next time. The desensitization that occurs in real life situations is needed for surgeons to operate or for the police to investigate crime scenes. Desensitization can be considered an understanding of the negative aspects of violence so when confronted with it a person is not consumed by fear or shock. When a person doesn't recoil at the sight of blood they aren't projecting a lack of humanity but an understanding of the actualities of life. In this way desensitization is just the end result of overcoming fear and uncertainty (Jones, 2002).

FANTASY VS. REALITY

Research in the effects of violent media have shown that cartoon violence is more at risk for imitation than gory, mature content. When a child does not see the negative consequences of violence, like blood or pain, when watching violent content they are more prone to imitate violent behavior (Kutner & Olson, 2008). Many games skewed to younger teen audiences do not include blood and the enemies that the player kills disappear quickly. This “everything will turn out alright” attitude could do more harm than showing the realistic gory after-effects in Mature-rated titles.

In 2011, Nintendo will release the 3DS which will attempt once again to bring 3D visuals to the handheld gaming market. Sony has already released a firmware patch for the Playstation 3 allowing 3D play. For Sony it is an obvious move to push into the 3D games market since the company also is a major manufacturer of 3D capable TVs. This expensive push of new hardware also represents the consumer’s desire for a more realistic and immersive gaming experience. As a result, there is now worry that video game violence is getting too real. It is reasonable to imagine that no longer will blood be splashed just onto the screen but will seem to splash literally into our faces. A question now arises as to whether or not this virtual change will influence how violence is perceived and imitated and whether the ESRB should create new guidelines for 3D video games.

These fears may be unfounded since the ability to discern fantasy from reality is an understated fundamental concept that every child learns at a very young age. Interviews done with teenage children who often play Mature-rated games can recognize that their actions of shooting aliens and driving tanks are only possible in the realm of a video game. (Kutner & Olson, 2008) When these children were themselves asked at what age they thought other

children should be playing such violent games they often suggested around a year younger than themselves (14). They expressed that it was not the violent content that they were hesitant to suggest for younger children rather the swearing that is present in many Mature-rated titles. The act of learning and imitating the swear words in video games was much more within these children's understanding of the real world than over the top action/violence. The kids interviewed also gave suggested older age requirements for games that contained sexual content, which could be attributed to the natural teen awkwardness about the subject material.

LINK TO AGGRESSION

The Video Game Health Labeling Act of 2009 sponsored by Congressmen Joe Baca (D - Calif.) and Frank R. Wolf (R - Va.) calls for a sticker that says "WARNING: Excessive exposure to violent video games and other violent media has been linked to aggressive behavior." (Modine, 2009). This lofty claim is the main justification for any legislation that would restrict the sale of violent video games to minors so it stands to reason that the research on which it relies should be dissected. Researchers testing the asserted "link" between video games and violence have relied on vague and imprecise operational definitions for measuring aggression cognition such as how long a participant would blast an air horn after playing a violent video game for a short period. (Anderson et al, 2010). These measures could vary by miniscule amounts and cannot be used to generalize past laboratory settings. These measures are also not representative of actual physical, violent behaviors.

The same procedures used to determine aggression could also inadvertently measure any frustration that is encountered because of poor game play mechanics or just from trying to learn how to play a game in a short period of time. Most violent video games also carry an intense

competitive nature and a person's internal inability to deal with any frustration that can come from poor performance could affect results. Even if not playing against another real person violent video games carry their own inherent sense of competition since the player must compete against the video game's enemies to survive. Some studies have also interchangeably used the terms "aggression" and "violence". This kind of inference into causality overlooks that a behavior can be aggressive but not violent. Such behaviors can be self assertive and healthy to express (Ferguson, 2010). These experimental aggression studies often make assumptions without differentiation between real world violence and aggressive behavior. Drawing parallels between any aggression shown in laboratory experiments and actual criminal behavior ignores the reality that the subject can tell fantasy from reality and knows the consequences of their actions.

A 2010 study by Bushman and Whitaker found that when people are angry they express more desire to play violent video games because of the belief that they will help them vent their anger and regain their calm. This catharsis effect supports Colwell and Kato's 2003 study showing that a child's preference in aggressive video games significantly predicted lower aggression. Thus, any positive relation between playing violent games and aggression may simply be correlational and not causal, meaning that aggressive children are more drawn to aggressive games.

VIDEO GAMES CONTINUE TO BE KID FRIENDLY

There is also an underlying assumption that violence dominates the video game industry. In truth, there are no Mature-rated games in the top ten bestselling games of all time and there are only two in the top twenty. In 2007, the video game industry saw a one hundred and ten

percent increase in sales of family friendly games, largely due to the success of Nintendo's Wii home console. In 2009, eighty-three percent of all games sold had the Teen or Everyone age rating (Entertainment Software Association, 2010). These statistics show that video games have not abandoned the image of wholesome fun that they once had when first emerging with characters like Pac Man, Mario and Sonic the Hedgehog.

The positive social advantages are often overlooked with video games. In school many young children use gaming to spur conversations with new children and to build up their existing friendships. For a child who is not athletically or academically gifted, video games can be a way to impress peers and show a form of mastery in a hobby many children share. Playing video games can be an activity that is fun for the whole family and seventy-five percent of parents reported that they played games with their children to socialize and build better relationships (Entertainment Software Association, 2010).

The misconception of more and more children becoming addicted to video games could be attributed to the fact that games are still not seen as a socially acceptable hobby by older adults. If a child spent the same amount of time doing some other activity such as collecting baseball cards it would be less likely termed an obsessive compulsion. If parents assume that no or little activity with violent video games is what is normal and healthy, then most children would be labeled abnormal and sick. There is no predetermined time limit to when a child has officially spent too much time playing video games. The time spent with them is not even the most appropriate indicator of harm (Skoric et al, 2009).

Better signs of potential problems are if a child is ignoring important responsibilities or becoming extremely isolated. Focusing on extensive video game play could be overlooking an underlying problem such as depression and become a case of looking at the symptoms rather

than the disease. The motivations that a child has in playing video games are also better indicators of how it will affect their lives. Video games help fulfill the basic psychological needs for competence, autonomy, and relatedness. The amount of interaction with video games a child has and their levels of these psychological needs to be satisfied will determine if they view the activity with harmonious or obsessive passion (Przybylsk et al, 2009). High requirements of the three needs would lead to harmonious passion where a child intrinsically enjoys spending more time playing video games. Obsessive passion would be a result if a child requires low levels of psychological engagement yet continues to spend time playing video games; their play would be characterized as tense, frustrating and compulsive. If a child's heavy interaction with video games feels unhealthy to him or she then it can become destructive.

PARENTAL RESPONSIBILITY

Mainstream media constantly and inexplicably describes the uphill battle that parents face to keep harmful violent video games out of their children's hands. Senator Hilary Clinton has said that: "The disturbing material in Grand Theft Auto and other games like it is stealing the innocence of our children, and it's making the difficult job of being a parent even harder." (Boliak, 2005). This comment exemplifies the misconception that parents are unable to regulate the violent video games that could find a way into their home. All new video game consoles (Microsoft's Xbox 360, Nintendo's Wii, Sony's Playstation 3 and Playstation Portable) have parental controls that are similar to the V chip that is found in all new television sets. A parent can, through password protection, decide which games the home console will run based on ESRB ratings. This also affects which movies can be run on the system. The Xbox 360 even allows parents to set restrictions to limit how many hours the video game console can be on per

day or week (Entertainment Software Rating Board, 2008). The tools to regulate a child's video game play are there even when a parent is absent.

An Electronic Software Association (2009) study reported that seventy-six percent parents knew of, and found, these parental controls useful. However, ignorance must extend to personal supervision as well since ninety-two percent of video game players under the age of eighteen report that their parents are with them when they purchase or rent games. This misconception of subversive violent video games somehow sneaking into American homes provides an easy excuse for parents who do not control the bad behaviors of their children. If the Supreme Court found that video games were indeed harmful enough to be regulated by law there would also be the concern of how much government intrusion is allowed when stepping into the parental role.

MEDIA BIAS

The media appears to have a bias against video gaming, perhaps fostered by the desire to create "news". Fox News chose to distort facts and display alarmism when the video game "Mass Effect" was released in 2008. On January 21, 2008, a Fox News segment, "The Live Desk With Martha MacCallum", falsely reported that the game included full frontal nudity and graphic interactive sex scenes. In actuality, the optional scene is not interactive and contains very little nudity. The news segment also accused the publisher Electronic Arts of marketing the game to children, completely disregarding the fact that the game had been given a "Mature" rating by the ESRB that was prominently displayed in all advertisements. Cooper Lawrence, a psychologist and author who appeared on the segment, would later recant her statements against the game in a *New York Times* interview. Lawrence was quoted as saying "Before the show I had asked

somebody about what they had heard, and they had said it's like pornography. But it's not like pornography. I've seen episodes of 'Lost' that are more sexually explicit." (Scheisel, 2008).

The fact that this woman was allowed to speak as an expert on a false controversy based on second hand, misinformed rumors shows that much of the news media frequently assumes the worst of video games. The voices arguing for video game censorship seems to come from people who have not given the medium a chance. Many who assert that video games are precursors of violence, perversion, or a corruptible waste of time never have played a video game. It is unacceptable that the news media gives so much credit to self-proclaimed "experts" who openly admit to know little about what they condemn. After the story aired, Electronic Arts sought a public apology from the Fox News Corporation citing the network's recklessness in reporting lies and the disrespect shown to the developers of the game. Although one of the show's guests, Cooper Lawrence, later apologized there was no official recant by Fox News itself.

TARGETED ADVERTISING

The censorship of video games has also extended into commercial advertising. In 2009, the Chicago Transit Authority (CTA) decided to prohibit ads for Mature and Adults Only- rated games from appearing on the side of its' vehicles or facilities. This censorship began when the CTA ordered that ads for Grand Theft Auto IV be removed from the sides of its buses even before the game was released. At the time, the Chicago area was experiencing a number of deadly shootings highly publicized in the local media (Kutner & Olson, 2008). The publisher of the game, Take Two Interactive, sued the CTA for breaking a \$300,000 contract for the ad campaign. The case was settled with the game advertisements to continue for six more weeks.

Afterwards the CTA pushed through a new ordinance to ban such ads completely. This prompted the Electronic Software Association (ESA) to file a federal lawsuit against the Chicago Transit Authority. The ESA stated in a press release that not only was the CTA's ordinance unconstitutional but also unnecessary since the Entertainment Software Rating Board (ESRB) had an Advertising Review Council that regulates video game advertisements that are to be seen by the general public. On May 17, 2010 in the United States District Court for the Northern District of Illinois, Eastern Division, Judge Rebecca Pallmeyer ruled in favor of the ESA to overturn the ordinance and entitled them to recoup attorney's fees and court costs.

(Entertainment Software Association v. Chicago Transit Authority, 2010)

A POLITICAL SEX SCANDAL

Perceived excessive violence is not the only hot button issue for video games. Sexual content has also been at the forefront when it comes to video game censorship, as was illustrated by the notorious "hot coffee" controversy. In 2005 a gamer had discovered that through modifying the programming of Grand Theft Auto: San Andreas it was possible to see a primitive sex based mini-game that had not been properly removed. Copies of the game with the underlying sex sequence had already been on store shelves for months under a Mature rating from the ESRB. The adult content that could only be seen by applying a third party patch included a scenario where the main character of the game is invited by his girlfriend for a cup of coffee. This would lead into the hidden sex oriented mini-game. This content was obviously in its first stages of production when the developers decided to cut it out by improperly coding over it. The video game characters were fully clothed and the animations were crude. Later, user created patches made available online would add nudity to the sex sequence.

The game modification only became widely publicized when Leland Yee, a California assemblyman, issued a public statement about the hidden sexual content. Soon after a “national parental warning” was issued by the National Institute on Media and the Family. Exposure to the video game modification exploded when the media grabbed a hold of the story resulting with downloads of a patch to show the hidden content jumping exponentially from thousands to millions (Kutner & Olson, 2008). The media’s intense coverage of the situation arguably exposed many more children to the sexual content than would have otherwise occurred.

Due to the media exposure the ESRB changed the game’s rating from Mature to Adults Only. In Australia, the Office of Film and Literature Classification banned the game from the country while in the U.S. retailers pulled the game off of shelves. A month later a replacement version without the hidden “hot coffee” content was released with a Mature rating. The publisher of the Grand Theft Auto series, Take-Two Entertainment, reported a \$28.8 million loss that financial quarter mostly due to the cost of recalling and replacing the games (Fisher, 2005).

This controversy has shown that video games are subject to a special form of retail censorship. Major store chains like Wal-Mart have policies to never stock Adults Only rated games on their shelves. Even the major video game console manufacturers (Sony, Nintendo, and Microsoft) will not allow Adults Only games released on their platforms. This means that if any violent video game were to receive the AO rating, they are subject to a figurative, commercial kiss of death. Developers are forced to go back and cut content out of their games in order to secure a Mature-rating to ensure their products release. This corporate policy to leave AO titles off the shelves is justified as protecting the public from such offensive content that is deemed too mature for the difference of one year between the suggested age of the player, seventeen years old to purchase a Mature-rated game and eighteen years old for an AO game.

RESPONSE BY THE JUSTICE SYSTEM

When the Court of the San Jose division of the United States for the Northern District of California overturned the state's video game law that would have restricted the sale of Mature-rated titles to minors, it ruled: "Under strict scrutiny, the State has not produced substantial evidence that supports the Legislature's conclusion that violent video games cause psychological or neurological harm to minors." (Video Software Dealers Association and Entertainment Software Association v. Schwarzenegger, 2005). In 2006 there was a similar statute proposed in Louisiana to ban the sale of violent video games to minors. U.S. District Judge James Brady ordered a permanent injunction to block implementation of the statute. The judge also granted the Entertainment Software Association attorneys' fees in the amount of \$91,900. Brady stated, "[t]his Court is dumbfounded that the Attorney General and the State are in the position of having to pay taxpayer money as attorney's fees and costs in this lawsuit. The Court wonders why nobody objected to the enactment of this statute. In this court's view, the taxpayers deserve more from their elected officials." (Entertainment Software Association and Entertainment Merchants Association v. Charles C. Foti and Doug Moreau, 2006). These are far from the only cases where the taxpayer has had to pay the bill for the unnecessary pursuit of a doomed statute. State and local taxpayers have so far repaid the entertainment software industry \$2,158,916 for its legal fees incurred from protecting its industry from censorship (Entertainment Software Association, 2010).

The First Amendment of the Bill of Rights is the first defense against any form of censorship of media, and U.S. District Judge Ronald Whyte overturned California's 2005 violent video game act in the *Entertainment Consumer Association vs. Schwarzenegger* with this in mind: "Serious questions are raised concerning (California's) ability to restrict minors' First

Amendment rights in connection with exposure to violent video games”. This case is not the first case to address restrictions on minors’ access to Mature rated games; however, it has gained the most media attention due to the state’s famous governor. There is an ironic and even hypocritical aspect to the California bill in that Governor Arnold Schwarzenegger, who would have been charged with its enforcement, largely won an election based on his Hollywood career as the lead in some of the most violent movies of the 1980s and 1990s. Schwarzenegger has even lent his voice and likeness to multiple violent video games.

On November 2, 2010 the United States Supreme Court began its review of the lower court's invalidation of the California video game law. In oral argument the Justices already questioned the vague wording of the law; Justice Antonin Scalia: “What’s a deviant violent video games? As opposed to what? A normal violent video game?”. California Deputy Attorney General, Zackery Morazzini, arguing for the law detailed the reasons why the law would not censor violence inflicted on non-human video game characters. However, it was pointed out that the law is so vague it provides its own loopholes to undermine effectiveness; theoretically, video game developers would have license to create the most violent game imaginable as long as in the context of the game the player was hurting robots or aliens who only resembled humans. The purposed California law also would require labeling all Mature-rated violent video games with a large “18” sticker on the front, in the same vein as the Video Game Health Labeling Act of 2009 lobbied for by Congressmen Joe Baca and Frank R. Wolf. Justice Ginsberg also questioned why California would not make a legal distinction in the severity of punishment, based on the age of the customer, should a store sell violent video games to minors; “So it’s eighteen and California doesn’t make any distinctions between seventeen year-olds and four year-olds”.

Justice Scalia also recognized that with every new entertainment medium there were concerns of increasingly more realistic depictions of violence; “That same argument could have been made when movies first came out. They could have said, oh, we’ve had violence in Grimm’s fairy tales, but we’ve never had it live on the screen. I mean, every time there’s a new technology, you can make that argument”. Justice Ginsburg addressed the inequality of having video games singled out over other forms of media such as film as music; “What’s the difference? I mean, if you are supposing a category of violent materials dangerous to children, then how do you cut it off at video games? What about films? What about comic books? Grimm’s fairy tales? Why are video games special?”. While these remarks do not signal the prospective ruling of the issue, they serve to show the seriousness with which the Court views censorship.

The Supreme Court is expected to make a decision on the case before going into its summer recess in June 2011. A decision in the favor of the video game industry would end the pursuit of such censorships and leave the regulation of violent content in video games to the Entertainment Software Ratings Board. If the Court sides with California then video games would become the only form of media content that can be illegal to sell to children based on the severity of its violent content. It would affirm that video games are not given the same First Amendment protections as other entertainment. Such a decision could also have a major effect on the distribution structure of the industry and on consumer accessibility to adult content, particularly under-age consumers.

SELLING AND STEALING THROUGH THE INTERNET

Any legislation that restricts the sale or censors content could be side stepped by the video game industry's push towards digital distribution becoming the accepted and preferred way gamers buy products. The push is necessitated by the large amounts of revenue that publishers and developers lose when video games are sold secondhand at stores like GameStop. Digital distribution would also cut costs in manufacturing and transportation of the disks video games are encoded onto. There are implications to consider before this form of consumer transaction becomes the norm. Many games that are currently sold online only today are usually those that would be rated Adults Only by the ESRB and could not be successfully sold at brick and mortar stores. These games are typically not even submitted to the ESRB to receive a rating. When all video games eventually are sold online there may be little incentive for publishers or developers to continue using this rating system. Purposed laws that make it criminal to sell Mature-rated video games to minors have not addressed how they could be enforced over the internet.

Digital distribution is only the commercialized concept of something video game players have been doing for years by pirating games illegally. Content that has been rated Adults Only is currently available online and can be illegally downloaded by anyone, of any age. Governments all over the world are fighting losing battles against piracy. As was mentioned before ninety-four percent of the games played in Brazil were downloaded illegally. Each countries individual law cannot be enforced over the world wide reach of the internet. Nintendo has claimed that sales of DS games have fallen over fifty percent in Europe due to the R4 flash cartridges that are capable of holding multiple pirated games (Alexander, 2010).

One possible solution has come from the video game publishers in the form of digital rights management (DRM). Some games require a continuous connection to the internet in order to play; this allows the publishers to verify if the copy of the game is legitimate every time the game is played. Other games may have a limited number of installs before essentially self-destructing. However, internet pirates have repeatedly found ways to circumvent these measurements. Some members of the video game industry speculate that this will continue to be a problem until the industry as a whole moves over to the micro-transaction system that is wildly popular in Asian countries. Games using this system are free to play for all users but then charge small amounts for in-game items and perks.

CONCLUSION

Ivory and Kalyanaraman's 2009 study found that viewing video game violence as a whole, instead of focusing on one game in particular, lead to participants reporting higher levels of perceived harmful effects. The legal legislation pushed to censor video games in countries all over the world gains momentum and validity from this reported effect. Public opinion has always seen shifts when the next generation replaces the last in positions of power. This upcoming generation will be much more familiar with video games and will use their own personal experiences to influence their attitudes and any legal regulations. As video games continue to rise in popularity and as familiarity with them grows, fewer people should make broad assumptions and generalize harmful affects towards all video games.

One ideal of our modern, democratic society is that no art should ever be censored. Art is an expression of the artist and to censor him or her is to ignore his or her Constitutional rights. Yet, many people do not believe video games have left the realm of toys to become worthy of

the moniker “art”. There are even those who are more than willing to buy into the news media’s scare tactics to believe the medium to be dangerous. Every video game that is commercially released requires the efforts of concept artists, animators, musicians, and directors. For the ignorant to deride video games disrespects the talent and hard work of these artists.

The push to censor video games in the United States is not only unconstitutional but based on unsubstantiated erroneous conclusions about youth violence and ties to school shootings. Purposed laws fail to consider that video games already have an avenue to circumvent any restrictions through illegal online piracy. The legal resistance that video game industry has encountered was predictable given the earlier criticisms of other entertainment mediums, but people who regularly play video games are fast becoming the majority. It is only a matter of time before video games gain the same cultural significance and constitutional protections as film or television. However, the ongoing legislation to censor video games remains a needless waste of tax funds and a threat to the creative integrity of the industry.

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