

## **JUST SAY NO TO “M” AND “AO”: LIMITING ADS FOR VIOLENT VIDEO GAMES IN DENVER, CO**

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### **I. INTRODUCTION**

In the fall of 2006, Rockstar Games launched a national advertising campaign for its “Mature”-rated video game *Grand Theft Auto: Vice City Stories* in advance of the holiday shopping season. Advertisements ran on mass transit vehicles in cities across the country including Boston, MA, Denver, CO and Portland, OR. In response to the advertising campaign in Boston, the Campaign for a Commercial-Free Childhood (“CCFC”), a Boston-based child advocacy group, successfully orchestrated a campaign to have the Mass Bay Transit Authority (“MBTA”) change its ad policy to prohibit future ads for videogames rated “Mature” or “Adult Only.” Inspired by the policy change in Boston, in early 2007, the Parents Television Council (“PTC”) in conjunction with CCFC sought to have Denver, Colorado’s Regional Transportation District (“RTD”), which had also featured ads for *Grand Theft Auto: Vice City Stories* on rapid transit vehicles, amend its ad policy to prohibit future ads for “Mature” and “Adult Only” rated video games. The RTD initially was receptive to the policy change and

#### **ABOUT THE DEFENSIVE LITIGATION PROJECT**

Funded by the Robert Wood Johnson Foundation’s Public Health Practice & Policy Solutions, the Project uses case study research methodology to investigate threats of litigation made during the proposal and passage of public health laws. The case studies examine this experience across a range of public health issues. Public health officials, attorneys and advocates provide insight into their decision-making and planning process in anticipation of and in response to legal challenges.

referred the policy recommendation to a committee, which voted to recommend the policy. When it came time for the policy to be formally voted on, the Entertainment Software Association (“ESA”), the video game industry association, sent a representative to the RTD Board meeting. At the meeting, the ESA outlined its legal arguments against the policy change. After consulting with legal counsel, the RTD Board voted down the ad policy change.

## **II. MEDIA VIOLENCE AND AGGRESSIVE BEHAVIOR IN CHILDREN**

Whether or not media violence leads to increased aggressive behavior in children is a source of debate. The American Academy of Pediatrics<sup>1</sup> and the American Psychological Association,<sup>2</sup> amongst other national mental health organizations, have issued statements warning that exposing children to media violence may lead to increased aggressive behavior. In his book *Media Violence and Its Effect on Aggression: Assessing the Scientific Evidence*, Jonathan Freedman criticized what he believed to be widespread overstatement of the risk posed by media violence and the failure of national health organizations to conduct comprehensive reviews of the scientific studies about media violence and aggression.<sup>3</sup> After conducting his own review of the scientific evidence, Mr. Freedman found that “regardless of the method used, fewer than half the studies [reviewed] found results that supported the hypothesis [that violent media causes aggression]—sometimes considerably fewer than half.”<sup>4</sup> He concluded that “exposure to media violence does not cause aggression, or if it does, the effects are so weak that they cannot be detected and must therefore be vanishingly small.”<sup>5</sup> Much of the research in this area focuses on television and movie content as opposed to violent

video game play. Child advocates and the medical community continue to warn of the dangers of exposure to media violence, including violent video games.

In 2006, ads for the video game *Grand Theft Auto: Vice City Stories*, produced by Rockstar Games, appeared on mass transit vehicles in a number of U.S. cities. *Grand Theft Auto: Vice City Stories* is an “M” (Mature) -rated game featuring crime and violence. Child advocates were concerned about how public transportation was being used to promote potentially harmful video games to children and sought to amend the advertising policies of transportation authorities to exclude advertisements for games rated “Mature” or “Adult Only.”<sup>6</sup>

### **III. THE CAMPAIGN TO AMEND THE RTD’S ADVERTISING POLICY**

#### **A. The Videogame Industry and Its Rating System**

The Entertainment Software Association (“ESA”) is “the U.S. association exclusively dedicated to serving the business and public affairs needs of companies that publish computer and video games for video game consoles, personal computers, and the Internet.”<sup>7</sup> As the industry association for video game makers, the ESA provides services to its members, including government relations.<sup>8</sup> Take-Two Interactive, the parent company of Rockstar Games, is a member of the ESA.<sup>9</sup> According to its 2005 990 tax form, the ESA is a 23 million dollar trade organization declaring over 3 million dollars in legal fees.<sup>10</sup>

In the United States, video games are subject to a voluntary rating system administered by the Entertainment Software Ratings Board (“ESRB”). The ESRB is “a non-profit, self-regulatory body established in 1994 by the Entertainment Software

Association.”<sup>11</sup> The “ESRB assigns computer and video game content ratings, enforces industry-adopted advertising guidelines and helps ensure responsible online privacy practices for the interactive entertainment software industry.”<sup>12</sup> The ESRB rates video games as: “EC” (Early Childhood), “E” (Everyone), “E10+” (Everyone 10+), “T” (Teen), “M” (Mature), “AO” (Adults Only) and “RP” (Rating Pending).<sup>13</sup> According to the ESRB, “[t]itles rated M (Mature) have content that may be suitable for persons ages 17 and older. Titles in this category may contain intense violence, blood and gore, sexual content and/or strong language.”<sup>14</sup> Subsequently, “[t]itles rated AO (Adults Only) have content that should only be played by persons 18 years and older. Titles in this category may include prolonged scenes of intense violence and/or graphic sexual content and nudity.”<sup>15</sup>

## **B. Grand Theft Auto**

The *Grand Theft Auto* franchise is produced by Rockstar Games and has been in existence for over ten years. It is hugely popular with consumers, selling sixty-six million copies overall as of March, 2008 and generating over three billion dollars in sales.<sup>16</sup> The games feature graphic violence and allow players to shoot police officers and commit violence against women. Critics say that the games encourage violent behavior.<sup>17</sup>

The franchise has also provoked worldwide controversy. For instance, in Australia, an earlier game in the series called *Grand Theft Auto III* was banned over concerns of “sexualized violence” until Rockstar Games altered the game to remove the option to pick up prostitutes.<sup>18</sup> The Australian government also required Rockstar

Games to censor a later game, *Grand Theft Auto: Vice City*, prior to its Australian release.<sup>19</sup> Germany, which uses a different rating system than the rest of Europe, censors *Grand Theft Auto* games for blood.<sup>20</sup>

In addition to the violent content of these games, there have been controversies over sexual content. In 2005, a hidden sex scene was discovered in the game *Grand Theft Auto: San Andreas*. This scene was not part of the official game but was discovered and unlocked by players. As a result, the ESRB changed the rating of *Grand Theft Auto: San Andreas* from “M” (Mature) to “AO” (Adults Only), causing many retail outlets to pull the game from their shelves.<sup>21</sup> In addition, the ESRB issued a press release stating that in the future, they would require companies to present all content on the disc to be submitted for the rating process, regardless of whether or not that content was an official part of the game.<sup>22</sup>

### **C. The Release of *Grand Theft Auto: Vice City Stories***

*Grand Theft Auto: Vice City Stories* is an “M”-rated game. Rockstar Games launched a national advertising campaign prior to and during the initial release of the game. Part of the company’s marketing campaign included contracts to buy advertising space on mass transit vehicles in Boston, MA and Denver, CO. These ads were scheduled to run on transit vehicles in the fall of 2006, with the ad campaign expiring in November 2006.<sup>23</sup>

### **D. Boston Acts to Amend Its Ad Policy**

Rockstar Games’ Boston-based advertising campaign for *Grand Theft Auto: Vice City Stories* included the purchase of advertising space on Green Line trains from the

MBTA. The ads met considerable public outcry when they first appeared in the transit system. While the ads were still running, Campaign for a Commercial Free Childhood (“CCFC”) sent a letter to the MBTA asking it to amend its advertising policy.<sup>24</sup>

Headquartered at the Judge Baker Children’s Center in Boston, MA, CCFC is “a national coalition of health care professionals, educators, advocacy groups, parents, and individuals who care about children . . . CCFC works for the rights of children to grow up—and the freedom for parents to raise them—without being undermined by commercial interests.”<sup>25</sup> CCFC’s letter was signed by child advocacy groups, the mayors of Boston and Cambridge and by police unions.<sup>26</sup> Shortly after the letter was sent, it was leaked to the *Boston Herald* newspaper.<sup>27</sup> Consequently, the MBTA came under immense pressure to remove the ads. At one point, the President of the Hub Patrolmen’s Association said, “These games threaten and risk the lives of police officers [. . .] To use a public conveyance in our city to sell a product that condones murdering police officers is complete lunacy.”<sup>28</sup>

Although the MBTA initially protested that they did not have the legal authority to regulate the content of ads,<sup>29</sup> within a few days of the press leak, the MBTA publicly announced its intention to exclude “M” and “AO”-rated games as part of its ad policy.<sup>30</sup> The decision to amend the ad policy coincided with CCFC’s letter—the MBTA received CCFC’s letter on November 20, 2006<sup>31</sup> and announced the change in its ad policy on November 23, 2006.<sup>32</sup> The policy change was prospective, which meant that the MBTA honored its contract with Rockstar Games. The *Grand Theft Auto: Vice City Stories* ads remained in place until the end of the contract on November 30, 2006.<sup>33</sup>

### **E. The Denver PTC Chapter's Campaign**

The Parents Television Council's ("PTC") national office used CCFC's successful Boston campaign as an example of something local chapters could pursue in their own cities.<sup>34</sup> PTC is a national child advocacy group that works to protect children from violence, profanity and sexual content in media.<sup>35</sup> PTC was founded in 1995 and, according to its website, has over 1.3 million members.<sup>36</sup> PTC has a national program office and local chapters across the country. The Denver PTC chapter worked on the campaign in conjunction with PTC's national grassroots coordinator and CCFC.

When *Grand Theft Auto: Vice City Stories* video game ads appeared on Denver, CO's mass transit vehicles in the fall of 2006, the Denver PTC chapter, led by George Robison, expressed interest in coordinating a campaign to amend the Denver Regional Transportation District's ("RTD") advertising policy.<sup>37</sup> PTC contacted CCFC, and the two groups collaborated on the campaign.<sup>38</sup>

PTC and CCFC began the Denver campaign in February of 2007,<sup>39</sup> several months after the *Grand Theft Auto: Vice City Stories* ads had stopped appearing in public transportation.<sup>40</sup> PTC and CCFC modeled their strategy on CCFC's Boston campaign, hoping to replicate its success.<sup>41</sup> The two groups sent a letter to the RTD requesting that the transportation authority's Board change its ad policy to exclude advertisements for video games rated "M" and "AO."<sup>42</sup> In the letter, PTC and CCFC argued that violent video games can increase violent behavior in children and that "[b]y advertising *Vice City Stories*, . . . the RTD enabled Rockstar Games to reach countless children . . . with advertising for a game in which players can kill rival gang members,

law enforcement, and innocent bystanders[.]”<sup>43</sup> More than 50 researchers, clergy and child advocacy groups signed onto the letter.<sup>44</sup> Unlike the Boston campaign, PTC and CCFC did not get the same level of support in the form of signatures from key local politicians.<sup>45</sup>

On February 20, 2007, PTC presented its proposal to amend the RTD ad policy at an RTD Board meeting.<sup>46</sup> The existing RTD ad policy stated that the RTD could not accept ads for tobacco products and could also reject ads that are deceptive, obscene or not “of a reputable character.”<sup>47</sup> A ban on alcohol ads had been lifted in 2002 to increase ad revenue.<sup>48</sup> At the February 20 meeting, PTC Denver Chapter leader Mr. Robison told the RTD Board members they could “take a step toward being a better steward of the public good . . . by no longer accepting advertising from violent video games that can have long-term harmful effects on the youth in our community.”<sup>49</sup> In an editorial Mr. Robison wrote during the campaign, he made a similar argument that “[b]y not accepting ads and money from those who would influence children by advertising adult video games in the public square, we will move to the front of the pack in protecting our children.”<sup>50</sup> While the RTD Board did express some concern about the loss of ad revenue if the policy was changed,<sup>51</sup> they decided to send the issue to committee.

Mr. Tayer is the RTD Board Member representing Boulder, CO. The ad policy issue came up during his first few weeks of serving on the RTD Board. He recalled that the issue really came down to “a balancing of free speech and revenue versus the RTD Board’s interest of not promoting violence.”<sup>52</sup> The RTD Board also had a number of



issues to address at the time of the controversy, and there was a general feeling that “taking this fight on [was] not going to be productive for [the RTD Board].”<sup>53</sup>

The RTD’s Operations, Customer Service and Marketing Committee, however, voted to offer the following recommendation to their Board:<sup>54</sup>

J. Recommendation for Change in RTD Advertising Policy (from Executive Session)

It is recommended by the Operations Service/Marketing Committee that the RTD Board of Directors modify its advertising policy by the addition of the following:

The RTD will not display advertising copy promoting the sale and/or use of unrated video games or video games rated M or AO.

The purpose of such a policy is to limit the promotion of adult-content video games to minors.<sup>55</sup>

The recommendation was then set to be voted on by the full RTD Board.

In general, the PTC and CCFC Denver campaign did not receive the same amount of attention from the public and the press as the Boston campaign.<sup>56</sup> This was mostly a result of timing, as the Boston campaign took place while the *Grand Theft Auto: Vice City Stories* ads were running.<sup>57</sup> As Mr. Tayer noted, “By the time we were ready to act, [the ads] had already been taken off.”<sup>58</sup>

At a March 27, 2007 meeting, the RTD Board formally considered whether or not to accept the proposed changes.<sup>59</sup> While no member of PTC or CCFC spoke at the meeting,<sup>60</sup> the ESA sent a representative, Peggi O’Keefe, to make public comments to the RTD Board on the proposed ad policy change. According to news reports, Ms. O’Keefe called the proposed changes “both unnecessary and unconstitutional.”<sup>61</sup> She also stated that the ads were protected speech, and that the proposal “would restrict

fully protected expression on the basis of content” and that such restrictions were “constitutionally impermissible.”<sup>62</sup> As said by one observer, Ms. O’Keefe cited nine cases where the federal courts had overturned laws designed to “regulate access to games.”<sup>63</sup>

After hearing from Ms. O’Keefe, the RTD Board members consulted with legal counsel and were told that if they went forward, they might not have a winnable case.<sup>64</sup> According to Mr. Tayer, “[o]ur attorney basically said-if you go down this route...you become a target for [a lawsuit] . . . to say this is not a fair constraint on speech.”<sup>65</sup> Concerns raised by a potential lawsuit included the cost of defending the lawsuit and loss of staff resources via the amount of time that would have to be dedicated to defending a suit.<sup>66</sup> The RTD Board voted 12-3 to reject the changes to the transportation authority’s ad policy.<sup>67</sup>

By sending a representative to address the RTD Board in person, the ESA conveyed a clear message that they were committed to vigorously opposing the proposed ad policy change. When asked about the ESA sending a representative to address the RTD Board, Mr. Tayer said, “All of the sudden we became ground zero for this debate . . . [the ESA] were bringing out some big guns.”<sup>68</sup>

#### **IV. LEGAL CHALLENGES MADE**

The ESA lobbies the government on behalf of video game manufacturers and actively opposes laws to restrict video game access.<sup>69</sup> Naturally, the ESA opposed the ban on adult video game advertising. On March 27, 2007, the ESA sent a representative to the meeting of the RTD Board where the vote on the ad changes was to take place. This representative voiced the ESA’s opposition to the ad policy changes as well as

explained why the ESA believed the changes were unconstitutional.<sup>70</sup> At the same meeting, the RTD Board voted down the advertising policy change.

The ESA argued that the advertisements were protected speech and that any attempt to restrict their appearance on public transportation would be a violation of the First Amendment.<sup>71</sup> The ESA has consistently taken this position in legal matters. According to its webpage on legal issues, “[c]ourts have consistently ruled that computer and video games are protected speech. Efforts by legislative bodies to ban or limit access to, or sale of, games they find objectionable have inevitably run afoul of the First Amendment of the United States Constitution.”<sup>72</sup> In the case of Denver’s proposed ad policy change, the ESA argued that video game ads are already regulated by the Entertainment Software Board, which sets guidelines for marketing games to minors. Thus, any regulation by the RTD would be unnecessary as well as unconstitutional.<sup>73</sup>

When asked about the sincerity of the ESA’s legal rhetoric, Mr. Golin (of CCFC), who has worked on other campaigns involving the gaming industry, believed the threat to file suit was sincere.<sup>74</sup> Mr. Golin also noted that the ESA had aggressively pursued attorney’s fees when it was successful in court.<sup>75</sup> The ESA features a series of press releases on its website, making the public and lawmakers aware of the attorney’s fees awards it has received. For instance, in a press release about a Minnesota ruling, CEO of the ESA Michael D. Gallagher said in reference to the legal fees awarded to the ESA, “Minnesota’s citizens should be outraged at paying the bill for this flawed plan. Minnesota’s public officials ignored legal precedent and instead pursued a political agenda that ultimately cost taxpayers money[.]”<sup>76</sup> In that case, the ESA received

\$65,000 in legal fees.<sup>77</sup> A California court ordered the state to pay the ESA over \$280,000 in legal fees after the ESA successfully challenged a law to restrict video game access under the First Amendment. According to the ESA press release, “[t]he monies were received after the state attempted to defend an unconstitutional law restricting the constitutional rights of video game publishers, developers and consumers.”<sup>78</sup>

Confronted with the question of whether ad policies that exclude adult video game ads are a violation of the First Amendment, public transit authorities have arrived at different decisions. At the time of the Denver campaign, Denver’s ad policy banned ads for tobacco products but allowed the RTD to reject ads that are deceptive, obscene or not “of a reputable character.”<sup>79</sup> In the past, the RTD also banned alcohol ads but lifted the ban in 2002 to increase revenue.<sup>80</sup> Yet, faced with possible legal action, the RTD Board decided that it would not ban ads for mature video games.

On the other hand, both the Boston MBTA and the TriMet in Portland, Oregon altered their ad policies to exclude ads for adult video games without facing legal action. In Boston, the MBTA honored its original contract for the *Grand Theft Auto: Vice City Stories* ads but altered its policy to exclude ads for “M” or “AO”-rated games in the future.<sup>81</sup> In Portland, the TriMet canceled their ad contract with Rockstar Games, losing an estimated \$71,000 in ad revenue, and banned ads for mature games.<sup>82</sup> Neither city has faced legal action as a result of the changes to their ad policies.

In Chicago in 2002, the Chicago Transit Authority (“CTA”) stated that ads for an earlier game in the same franchise, *Grand Theft Auto: Vice City*, could not be banned without infringing on First Amendment rights.<sup>83</sup> In 2008, however, when the debate

around *Grand Theft Auto* ads reignited, the CTA pulled ads for *Grand Theft Auto IV*. Take-Two Interactive, the parent company of Rockstar Games, sued the CTA for the violation of its contractual and constitutional rights.<sup>84</sup> As part of the lawsuit settlement, the ads returned to city buses for six weeks in the fall of 2008. The CTA Board subsequently voted to alter the CTA’s ad policy to exclude future ads for “M”-rated games.<sup>85</sup>

## V. IMPACT OF THE ESA’S LEGAL RHETHORIC

Before the ESA became involved, the RTD Board seriously considered the community’s concerns about violent video game advertisements and referred the issue to a committee that would decide whether to recommend a ban on ads for “M” and “AO”-rated video games.<sup>86</sup> Despite significant concerns about loss of ad revenue, the committee voted to recommend the changes.<sup>87</sup> After the ESA stepped in, however, the RTD Board was faced with the cost of possible legal action and ultimately voted against passing the changes.<sup>88</sup> After the RTD Board voted against the ban, PTC and CCFC took no further action to change the ad policy of the RTD. PTC felt that more public outcry would be needed to overcome the threat of legal action. Because the ads that started the campaign were no longer running, the Denver campaign did not receive the same level of public attention as the Boston campaign.<sup>89</sup> The ESA successfully defeated any formal policy that would have restricted video game advertising on Denver public transportation. The bans in Boston and Portland, however, remain in place. In addition, the Chicago Transit Authority enacted a similar ban in 2008.<sup>90</sup>

## VI. LESSONS LEARNED

PTC and CCFC based their Denver campaign on CCFC's successful actions in Boston.<sup>91</sup> In retrospect, there were several key differences that may have caused success in Boston and failure in Denver. The Boston campaign came first, and the ESA did not get involved. The ESA received some criticism for its failure to prevent the Boston ban and stepped in to prevent the ban from spreading to other cities.<sup>92</sup> While PTC had dealt with the ESA in the past, PTC did not expect ESA involvement in Denver's particular case.<sup>93</sup>

The timing in Boston also may have been a critical factor. The Boston campaign occurred while the *Grand Theft Auto: Vice City Stories* ads were still running, which may have led to greater public and media interest. By the time the Denver campaign began, the ads had already finished running and there was less public attention.<sup>94</sup> PTC felt that more public outcry would have been needed to overcome the threat of legal action.<sup>95</sup> Also in Boston, several local politicians and police unions signed the letter requesting the ad policy changes. CCFC and PTC did not elicit the same support from locally known groups in Denver.<sup>96</sup>

In any future attempts to limit minors' exposure to advertising for adult video games by banning ads on public transportation, groups should assume that the ESA will become involved. Attempts to amend ad policies should, if possible, be timed to raise maximum public interest and outcry to encourage regulatory bodies to stand up to legal threats. Influential local figures and groups should also be encouraged to support the

campaign. Members of the regulatory body that has the authority to pass the ban should also be made aware of the bans in Boston and Portland, which have not been challenged.

#### **RESEARCH METHODOLOGY**

The Project utilized descriptive case study methodology to examine instances of state and local public health legislation that was opposed with legal rhetoric or faced a direct legal challenge. Descriptive case study methodology is designed to present a complete description of a case within its context. The descriptive case study technique was selected because of the lack of prior research on the issue of defensive public health litigation and the resulting lack of established theory in the area. The primary unit of analysis for each study was the proponent of the public health initiative. Background research for each case study included local and national media coverage, legislative and/or administrative documents, documents generated by the opposition, scholarly articles, legal filings and judicial opinions. A minimum of two in-depth telephone interviews were conducted for each case. Where possible, one interview was of a public health official, and one interview was with an attorney affiliated with the public health official. Given the resources available to conduct the studies interviews with opponents were not conducted.

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<sup>1</sup> American Academy of Pediatrics, *Policy Statement—Media Violence 2009*, <http://aappolicy.aappublications.org/cgi/reprint/pediatrics;124/5/1495.pdf> (replacing 2001 Policy Statement).

<sup>2</sup> American Psychological Association, *Policy Statement on Television Violence and Children*, <http://www.apa.org/about/division/cpmubint5.html#33>.

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- <sup>3</sup> Jonathan L. Freedman, *Media violence and its effect on aggression: assessing the scientific evidence* (University of Toronto Press 2002).
- <sup>4</sup> Freedman at 200.
- <sup>5</sup> Freedman at 201.
- <sup>6</sup> See e.g. Press Release, PTC and CCFC, PTC and CCFC to Denver RTD: Stop Advertising M-Rated Video Games (February 21, 2007) (on file with author).
- <sup>7</sup> ESA, About the Entertainment Software Association, <http://www.theesa.com/about/index.asp>.
- <sup>8</sup> *Id.*
- <sup>9</sup> ESA, ESA Members, <http://www.theesa.com/about/members.asp>.
- <sup>10</sup> ESA 2005 990 tax filing (on file with author).
- <sup>11</sup> ESRB, About ESRB, <http://www.esrb.org/about/index.jsp>.
- <sup>12</sup> *Id.*
- <sup>13</sup> ESRB, Game Rating and Descriptor Guide, [http://www.esrb.org/ratings/ratings\\_guide.jsp](http://www.esrb.org/ratings/ratings_guide.jsp).
- <sup>14</sup> *Id.*
- <sup>15</sup> *Id.*
- <sup>16</sup> Alex Pharm, *Take-Two expects a U-turn: The video game maker says a "Grand Theft Auto" update should help it steer out of a first-quarter spinout*, LA TIMES, March 12, 2008, available at 2008 WLNR 4809818.
- <sup>17</sup> *RTD May Ban Ads For Violent Video Games After Parents' Complaints*, Associated Press, March, 19, 2007, available at: <http://media.www.collegian.com/media/storage/paper864/news/2007/03/19/News/Rtd-May.Ban.Ads.For.Violent.Video.Games.After.Parents.Complaints-2780343.shtml>
- <sup>18</sup> Mark Finn, *Political Interface: The Banning of GTA3 in Australia*, in *The Meaning and Culture of Grand Theft Auto* 35 37-38 (Nate Garrelts ed., 2006).
- <sup>19</sup> Aphra Kerr, *Spilling Hot Coffee? Grand Theft Auto as Contested Cultural Product*, in *The Meaning and Culture of Grand Theft Auto* 17, 32.
- <sup>20</sup> *Id.*
- <sup>21</sup> *Id.* at 29.
- <sup>22</sup> *Id.* at 30.
- <sup>23</sup> Joel Warner, *Bus-ted: Could an RTD ad for Grand Theft Auto drive kids crazy?*, Westword, March 8, 2007, available at <http://www.westword.com/2007-03-08/news/bus-ted/>.
- <sup>24</sup> Telephone Interview with Josh Golin, Campaign for a Commercial Free Childhood (Jan. 22, 2009).
- <sup>25</sup> CCFC, About CCFC, <http://www.commercialexploitation.org/aboutus.htm>.
- <sup>26</sup> Michele McPhee, *T, Under Pressure From Cops, Eyes Way to Kill Vile Ad*, Boston Herald, November 22, 2006 at 14.
- <sup>27</sup> Interview with Josh Golin, *supra* note 24.
- <sup>28</sup> Michele McPhee, *supra* note 26.
- <sup>29</sup> Michele McPhee, *supra* note 26.
- <sup>30</sup> Michele McPhee, *MBTA Chief Fires Back at Critics of Violent Videogame Ads*, November 23, 2006 at 29.
- <sup>31</sup> Michele McPhee, *supra* note 26.
- <sup>32</sup> Michele McPhee, *supra* note 30.
- <sup>33</sup> *Id.*
- <sup>34</sup> Telephone Interview by Cara Wilking with Gavin McKiernan, National Grassroots Director for the Parents Television Council (Feb. 13, 2009).
- <sup>35</sup> *Id.*
- <sup>36</sup> <http://www.parentstv.org/PTC/aboutus/main.asp>.
- <sup>37</sup> *Id.*
- <sup>38</sup> Interview with Josh Golin, *supra* note 24.
- <sup>39</sup> Press Release, PTC and CCFC, PTC and CCFC to Denver RTD: Stop Advertising M-Rated Video Games, *supra* note 6.
- <sup>40</sup> Joel Warner, *supra* note 23.



- <sup>41</sup> Interview with Gavin McKiernan, *supra* note 34.
- <sup>42</sup> Interview with Josh Golin, *supra* note 24.
- <sup>43</sup> Letter from PTC and CCFC to RTD (on file with author).
- <sup>44</sup> Press Release, PTC and CCFC, Denver RTD Sides with Lobbyist over Children, (March 28, 2007) (on file with author).
- <sup>45</sup> Interview with Josh Golin, *supra* note 24.
- <sup>46</sup> *Id.*
- <sup>47</sup> Editorial, *The Freedom to Say 'No'*, Rocky Mountain News, Sunday, April 1, 2007, available at <http://www.rockymountainnews.com/news/2007/apr/01/the-freedom-to-say-no/>.
- <sup>48</sup> Jeffrey Leib, *RTD Directors OK Alcohol Ads on Buses*, The Denver Post, August 21, 2002, at B-02.
- <sup>49</sup> Eric Schmidt, *RTD Won't Ditch Video-Game Ads*, Rocky Mountain News, March 28, 2007, available at <http://www.rockymountainnews.com/news/2007/mar/28/rtd-wont-ditch-video-game-ads/>.
- <sup>50</sup> Editorial, George Robinson, *No More Violent Video Game Ads, RTD*, Rocky Mountain News, March 7, 2007, available at [http://blogs.rockymountainnews.com/speakout/2007/03/no\\_more\\_violent\\_video\\_game\\_ads.html](http://blogs.rockymountainnews.com/speakout/2007/03/no_more_violent_video_game_ads.html)
- <sup>51</sup> Interview with Gavin McKiernan, *supra* note 34.
- <sup>52</sup> Telephone Interview with John Tayer, Board Member, RTD (July 1, 2009).
- <sup>53</sup> *Id.*
- <sup>54</sup> Eric Schmidt, *supra* note 49.
- <sup>55</sup> Meeting Minutes, Regional Transportation District, Board of Directors Meeting, March 27, 2007, <http://www.rtd-denver.com/TheBoard/BoardMeeting/2007/agenda03.pdf>.
- <sup>56</sup> Interview with Gavin McKiernan, *supra* note 34.
- <sup>57</sup> *Id.*
- <sup>58</sup> Interview with John Tayer, *supra* note 52.
- <sup>59</sup> Eric Schmidt, *supra* note 49.
- <sup>60</sup> *Id.*
- <sup>61</sup> *Id.*
- <sup>62</sup> *Id.*
- <sup>63</sup> Editorial, *The Freedom to Say 'No'*, *supra* note 47.
- <sup>64</sup> Eric Schmidt, *supra* note 49.
- <sup>65</sup> Interview with John Tayer, *supra* note 52.
- <sup>66</sup> *Id.*
- <sup>67</sup> *Id.*
- <sup>68</sup> *Id.*
- <sup>69</sup> Interview with Gavin McKiernan, *supra* note 34.
- <sup>70</sup> *Id.*
- <sup>71</sup> *Id.*
- <sup>72</sup> <http://www.theesa.com/policy/legalissues.asp>
- <sup>73</sup> Eric Schmidt, *supra* note 49.
- <sup>74</sup> Interview with Josh Golin, *supra* note 24.
- <sup>75</sup> *Id.*
- <sup>76</sup> Press Release, Minnesota Pays \$65,000 in Legal Fees to the Video Game Industry (June 30, 2008) ([http://www.theesa.com/newsroom/release\\_archives\\_detail.asp?releaseID=25](http://www.theesa.com/newsroom/release_archives_detail.asp?releaseID=25))
- <sup>77</sup> *Id.*
- <sup>78</sup> Press Release, California Reimburses Trade Group Over \$280,000 For Attorney's Fees (August 5, 2008) ([http://www.theesa.com/newsroom/release\\_archives\\_detail.asp?releaseID=28](http://www.theesa.com/newsroom/release_archives_detail.asp?releaseID=28))
- <sup>79</sup> Editorial, *The Freedom to Say 'No'*, *supra* note 47.
- <sup>80</sup> Jeffrey Leib, *supra* note 48.
- <sup>81</sup> Michele McPhee, *supra* note 30.
- <sup>82</sup> *TriMet Pulls Grand Theft Auto Ads*, <http://www.kptv.com/news/10316072/detail.html>.
- <sup>83</sup> Stephanie Zimmermann, *CTA Says It Can't Reject "Vice City" Ads on Buses*, Chicago Sun-Times, December 21, 2002 at 8.

<sup>84</sup> Matt Bartosik, “*Grand Theft Auto*” Ads Return Just in Time for Holidays: Ads for Violent Video Game Reappear as Part of Lawsuit Settlement, NBC Chicago, <http://www.nbcchicago.com/news/local/Grand-Theft-Auto-IV-Ads-Return-to-CTA-Buses.html>

<sup>85</sup> *Id.*

<sup>86</sup> Interview with Gavin McKiernan, *supra* note 34.

<sup>87</sup> *Id.*

<sup>88</sup> Interview with Josh Golin, *supra* note 24.

<sup>89</sup> Interview with Gavin McKiernan, *supra* note 34.

<sup>90</sup> Matt Bartosik, *supra* note 85.

<sup>91</sup> Interview with Gavin McKiernan, *supra* note 34.

<sup>92</sup> Interview with Josh Golin, *supra* note 24.

<sup>93</sup> Interview with Gavin McKiernan, *supra* note 34.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> Interview with Josh Golin, *supra* note 24.