

2008

ANNUAL REPORT



**entertainment
software
association**

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A Message from Michael D. Gallagher

Dear Friends:

I am proud to submit to you Entertainment Software Association's (ESA) Annual Report for Fiscal Year 2008, our 13th year as the association representing the entertainment software industry's business and public affairs needs. After undergoing an intensive listening tour of ESA's members and key stakeholders, I can confidently say that we are on a new path – one which has ESA mirroring the same respect and dominance the industry itself is enjoying. This was a year of both challenge and accomplishment. The report provides a detailed review of how we have represented your interests across a wide range of fields and how we were careful, responsible stewards of your resources. I'd like to share a few highlights with you here.

- ESA fielded a ground-breaking study on the specific economic contributions of the entertainment software industry to the U.S. economy. A key finding of the report found that the U.S. computer and video game industry's annual growth rate from 2003 to 2006 exceeded 17 percent. This rate far outpaces the U.S. economy as a whole, which only grew at an average of 2 percent per year during this same period.
- At the Federal level, we prevented enactment of any harmful copyright legislation, and positive progress was made as policymakers became better informed about the ESRB rating system and the industry's self-regulatory practices. Federal Government Relations (FGA) staff increased education and outreach efforts of the video game industry to the House Commerce Committee in advance of a hearing on "Violence in the Media," focusing mostly on TV violence and recent Federal Communications Commission report findings. In addition, ESA's presence on Capitol Hill through one-on-one meetings, as well as special events where we showcased member products further raised the visibility and understanding of the entertainment software industry among key policymakers and staff in Washington.
- At the state level, not a single bill regulating the sale of violent games was enacted.
- On August 6, 2007, Judge Ronald Whyte ruled in favor of an ESA Motion for Summary Judgment, permanently enjoining enforcement of the California violent video game law that was filed back in December 2005. The court ruled that video games are protected by the First Amendment and found that there was no evidence that playing violent games resulted in real world violence. Judge Whyte found that "the state has not shown that the Act will accomplish the goal of protecting children more effectively than existing, narrower industry standards." With respect to scientific evidence, Judge Whyte found that there is no showing that violent games, in the absence of other violent media, cause injury to children. In addition, evidence presented did not demonstrate that video games – even though interactive – are more harmful than movies, television or other speech related exposures. Governor Arnold Schwarzenegger has appealed the decision but oral arguments have not yet been scheduled.
- The anti-piracy enforcement programs in Brazil, Hong Kong, Mexico, and Singapore continued to show significant positive results. Our Canadian program persuaded and obtained actions against game pirates distributing and selling infringing products. Meanwhile, our online monitoring and takedown efforts continued to address online infringements of member companies' IP rights in over 100 countries

across the world. ESA's outside monitoring service detected a monthly average of more than 700,000 infringements of the 200 member titles that ESA monitors, ESA sent out more than six million takedown notices to ISPs in response to these violations.

- ESA's ongoing media relations program garnered association and industry prominence through the proactive pitching of new and engaging story angles to gaming press and mainstream media outlets. Outreach efforts also focused on educating reporters, journalists, and editors about the issues facing our industry – helping to ensure balanced coverage and more positive and objective looks at the computer and video game industry. With the landmark legal rulings, the evolution of the E3 Media & Business Summit, and a new study showcasing how our industry drives many sectors of the U.S. economy, the ESA's media relations department had an unparalleled year in promoting the industry and expanding awareness of key issues and facts.
- The Video Game Voters Network (VGVN), the grassroots organization created for voting-aged

gamers to organize and take action on important issues affecting the industry, grew to well over 100,000 members. To date, VGVN activists have sent over 44,000 letters to Capitol Hill and state legislators across the country.

- The inaugural E3 Media & Business Summit with its more intimate feel with targeted, personalized meetings and activities was well-received both among the press and key industry constituencies. The second show with the new format will be held in Los Angeles, July 15-17, 2008.

Credit for our success goes to the record breaking year we had by our member companies, broadening, innovating, and delivering great content to the video game market place. In addition, I thank our dedicated board members who generously give of their time and leadership to guide ESA's efforts. Finally, I thank the timeless efforts of the committed individuals who make up the ESA staff and the Entertainment Software Rating Board (ESRB). With all of the continued support, I believe ESA is well-positioned to advance the issues of the computer and video game industry.

Federal Government Affairs

IN FY 08, ESA ADVANCED the industry's objectives on Capitol Hill by increasing its involvement in discussions on legislation impacting ESA members and hosting numerous events and briefings highlighting the computer and video game industry. ESA's Federal Government Affairs (FGA) staff focused its work on two priority issue areas identified by ESA's Public Policy Committee (PPC): content regulation and copyright/intellectual property protection. In addition, FGA staff took significant steps toward increasing the visibility and understanding of the entertainment software industry among key policymakers and staff on Capitol Hill.

Priority Issues

CONTENT REGULATION

In FY 08, congressional attention on the entertainment software industry focused at times on video game content and regulation. The following is a summary of key FY 08 developments:

- ▶ Sen. Sam Brownback (R-Kan.) introduced a bill calling for full-game review by the Entertainment Software Rating Board (ESRB) and for government studies on ESRB's accuracy and the effectiveness of an independent system;
- ▶ Reps. Bobby Rush (D-Ill.) and Fred Upton (R-Mich.) introduced a bill penalizing game companies that knowingly withhold pertinent ratings information from ESRB;
- ▶ Sens. Joseph Lieberman (I-Conn.), Hillary Clinton (D-N.Y.) and Brownback introduced a bill seeking research into the possible effects of violent media on children's behavior;
- ▶ National Institute on Media and the Family (NIMF) held its annual "Report Card" press event;
- ▶ Former Presidential candidate Mitt Romney's (R) campaign released a television ad targeting violent media and video games; and
- ▶ Representative Joe Baca (D-Calif.) introduced a bill calling for the Federal Trade Commission to study ESRB's effectiveness and the General Accounting Office to study the effects of games on children.

However, considerable positive progress was made this year as policymakers became better informed about the ESRB rating system and the industry's self-regulatory practices. FGA staff increased education and outreach efforts of the video game industry to the Senate Commerce Committee in advance of a hearing on "Violence in the Media."

In the House of Representatives, FGA staff lobbied extensively against harmful content regulation legislation and at the close of FY 08, no action had been taken on content legislation affecting ESA members or the ESRB. Furthermore, ESA continued congressional education efforts by arranging a staff briefing by ESRB President Pat Vance on its rating system. Two important House members circulated a letter to all House offices commending the ESRB and asking staff to attend the briefing. Also in FY 08, Rep. Rush held a hearing to investigate negative stereotypes in entertainment. The hearing mostly focused on music, and included testimony by an industry executive. Through FGA's work with House Commerce Committee members, the executive's testimony, and overall contribution to the hearing, committee members made numerous positive statements about the industry.

Additionally in FY 08, the Federal Trade Commission (FTC) released its latest "Report to Congress on the Marketing and Advertising Practices of the Movie, Music, and Video Game Industries." The report included several favorable findings related to the industry and the ESRB's rating system.

INTELLECTUAL PROPERTY PROTECTION

ESA's other priority area of focus in Congress is maintaining strong intellectual property protection in the United States and abroad. FGA staff monitored several copyright-related initiatives that could have a significant impact on the entertainment software industry. These initiatives include a bill aimed at weakening the anti-circumvention protections in the Digital Millennium Copyright Act (DMCA), patent reform, and intellectual property enforcement legislation.

Legislation was again introduced in FY 08 to overturn key protections of the DMCA vital to the entertainment software industry and other copyright-based industries. The bill allows for legal and widespread circumvention of copy protection measures and would pave the way for uncontrollable and massive piracy. ESA and others strongly opposed the bill, and it stalled in Congress.

ESA closely monitored and reported on developments related to patent reform legislation, which passed the House in FY 08. Senate action on patent legislation is expected in early FY 09. Late in FY 08, the House Judiciary Committee Chairman and several other members introduced a package of intellectual property enforcement provisions. The House measure was a counterpart to the Senate intellectual property enforcement legislation introduced early in FY 08 by Senate Judiciary Committee Chairman. FGA and ESA's IP Policy Team are monitoring the progress of each legislative package and working closely with House and Senate Judiciary Committee staff to ensure the industries views are included as the legislation is considered.

Additionally, FGA's Intellectual Property objectives include obtaining congressional support for strong intellectual property provisions in free trade agreements. In FY 08, Congress passed a free trade agreement with Peru, and in early FY 09, will likely consider a free trade agreement with Colombia.

PRIORITY INDUSTRY EVENTS

In FY 08, FGA increased the visibility of its member companies and their products with audiences including congressional staff. FGA accomplished this goal by: holding numerous events in ESA's offices highlighting various games for congressional staff; hosting its annual industry technology event on Capitol Hill, which attracted 40 legislators and over 400 congressional staff; and participating in issue briefings. Each of these events generated positive dialogue about the industry and were well-attended by key audiences.

In addition, ESA hosted a briefing for congressional staff with Sen. Ted Stevens (D-Ark.) of the Senate Commerce Committee and Federal Communications Commissioner Deborah Tate highlighting the importance of Internet safety programs. Web Wise Kids was prominently featured at the Senate briefing.

FGA staff organized meetings with Members of Congress for the ESA CEO, ESA member companies visiting Washington, D.C., and others relevant to the industry to further increase the visibility of the video game industry.

State Government Affairs

THE ESA'S STATE AND LOCAL government affairs program has four primary goals:

- ▶ Stop bills seeking to regulate the sale of video games, including the imposition of taxes based on game content;
- ▶ Develop positive relationships with legislative leaders, governors, and state attorneys general, to enhance the industry's access, influence, and credibility;
- ▶ Secure tax incentives benefiting the video game industry; and
- ▶ Identify, defeat or amend legislation that increases legal liability and/or costs including, but not limited to piracy, intellectual property, product warnings packaging, signage, privacy or the Internet.

To accomplish these goals, ESA established a network of legislative advocates and allies across the country to help monitor and respond to legislation that affects the entertainment software industry.

In FY 08, ESA continued to face state government challenges, including attempts to regulate the sale or distribution of video games. A total of 75 bills were pending in 27 states as well as the District of Columbia and Puerto Rico.

Thirty-six bills sought to regulate content and/or access to video games. In general, most of the bills attempted to limit a minor's access to violent or M-rated games.

Of the 75 bills pending at the state and local level in 2007, 22 content bills and 27 tax incentive bills carried over to the 2008 legislative session. Seven bills providing tax incentives for game development were

enacted; however, no bills to regulate the sale of video games were enacted.

ESA developed and enhanced relationships with retailers and national and state retail organizations, encouraging them to support the ESRB rating system and ESA at legislative hearings. SGA also worked with key legislative leaders, state attorneys general and opinion leaders across the country to educate them on our positive industry efforts.

The following are highlights of state and local level efforts.

Colorado

In Denver, ESA defeated an ordinance prohibiting ads for M-rated games on public transportation.

Connecticut

Legislation improving tax credits for qualified and eligible Connecticut productions, including video games, was enacted.

Delaware

Legislation regulating the sale or rental of M- or AO-rated games was introduced. The bill also required proof of age prior to sale or rental of a video game, prohibited a person from selling or renting a video game, if rated, unless the official rating is clearly displayed, and required unrated games to be so marked. As a result of ESA efforts, legislators agreed to cancel the bill hearing and instead meet with the ESA and ESRB to learn more about the rating system.

Florida

ESA supported legislation providing an economic incentive to encourage interactive entertainment projects in the state. The legislation was enacted and became effective in July 2007.

Indiana

Bipartisan legislation, which regulated the sale of M- and AO-rated games was introduced. The bill was originally assigned to the Corrections and Criminal and Civil Matters Committee. At the sponsor's request, the bill was reassigned to the Economic Development and Technology Committee, which he chaired, and he conducted a hearing in which the ESA, Entertainment Merchants Association (EMA) and Indiana Retailers testified in opposition. Given constitutional concerns with the bill, the bill sponsor agreed to have it become a resolution calling for the issue to be sent to a summer study committee. The bill was not considered by a legislative study committee.

Massachusetts

At the request of Boston Mayor Thomas Menino (D), Rep. Linda Forry (D) introduced a bill amending the Massachusetts Harmful to Minors law to require that material depicting violence in a manner that is patently offensive to prevailing standards in the adult community, so as to appeal predominately to the morbid interest in violence of minors. The bill was debated at a mandated hearing on March 18, 2008 with testimony presented in opposition by ESA, EMA, representatives from the development and retail community as well as Motion Picture Association of America (MPAA). The bill was sent to a study committee.

Mississippi

As in prior years, a bill was introduced that regulates the sale or rental of M- or AO- rated games. This bill was not acted on by the legislature prior to adjournment.

Missouri

Legislation regulating the sale or rental of M- or AO-rated games was held in committee.

New Jersey

ESA successfully opposed three bills that regulated game sales. None of the bills were acted on and died as a result of the adjournment of the two-year session. To date, during the 2008 session, one of the bills was reintroduced, but was withdrawn by the bill's sponsor.

New York

ESA opposed 14 bills that negatively impact the video game industry in New York during FY 08.

The former governor strongly pushed for adoption of his bill to make it a felony to sell a video game to a minor that is violent and "harmful to minors" (obscene for a minor). The bill requires all video game consoles to include technology designed to restrict content based on ratings by September 2009, and establish a state advisory commission on interactive media and youth violence.

The Assembly overwhelmingly adopted the bill and the Senate passed its version, which resulted in a conference committee between the two chambers – a rarely used procedure to resolve the bills' differences.

The compromise bill passed the Assembly and was sent to the Senate, which did not act on it before the end of the 2007 session. At the start of the 2008 session, the legislation was sent back to its respective committees in both houses.

New Mexico

The "No Child Left Inside Act," was introduced on January 30, 2008. The bill, pushed by the Sierra Club of New Mexico, would impose a 1 percent "sin tax" on video games and televisions to fund an outdoor learning

program for New Mexico children. The bill was tabled by a vote of 9 to 0 and is dead for the session. The Video Game Voters Network (VGVN) New Mexico members who weighed in with their elected officials were instrumental in this effort.

North Carolina

Legislation was introduced that would add violent video games to the state's harmful to minors statute thereby prohibiting the sale of a "violent" game to anyone unless the game has a warning label on the front of the packaging regarding the violent content contained. Twenty-nine out of 50 senators signed on as co-sponsors, and the Senate leadership endorsed the bill. In the previous session, this bill unanimously passed the Senate, but was not considered by the House prior to adjournment. The bill has been carried over to the 2008 session, convening in May.

Rep. Pryor Gibson (D), Chairman of the Finance Committee, reintroduced a bill, which provides tax incentives to encourage video game production.

Oklahoma

Legislation was introduced requiring retailers to distribute to customers purchasing or renting video games a written notification that the video game may contain violent content, and that the content may be "harmful" to minors. No action was taken on this bill so it has been carried over to the 2008 session.

Oregon

Legislation regulating the sale of "violent" games was held in committee.

Puerto Rico

Legislation, which sought to prohibit the sale or rental of "violent" or "sexually explicit" video games or movies, carried over from 2007. The proposal was not acted upon.

Legislation was introduced that would impose a tax on video games to fund youth recreational programs remains pending in the Finance Committee. Due to lack of support, the bill has not received further action.

Tennessee

A resolution was introduced in 2008 that creates a special joint committee to study the adverse societal impact of violence portrayed in electronic media.

Texas

The Texas film incentive program was restructured to increase funding and to include incentives for video game development.

Utah

Legislation regulating the sale and distribution of "violent" video games was introduced and was the subject of several hearings. The ESA and Utah retailers testified in opposition. Utah Attorney General Mark Shurtleff (R) testified on the likely constitutional infirmities of the proposal based on legal precedent. As a result of constitutional concerns, the bill was held in committee. Ultimately, the bill's sponsor introduced a nonbinding resolution urging the state attorney general to intervene as a friend of the court on existing litigation on the issue and urge other state attorneys general to do so as well. While this resolution was reported out of committee, it did not pass. Both bills died.

Wisconsin

Legislation was introduced on January 18, 2008. The bill proposed a special 1 percent tax on the sale of video games and consoles in order to fund a juvenile delinquency prevention program. ESA activated the VGVN and developed an opposition coalition that is educating legislative leaders and the Attorney General's office.

RATINGS AWARENESS PROJECTS

ESA developed partnerships with state officials to launch ratings education programs that include television and radio public service announcements, co-branded ratings information with the ESRB, and billboards. In FY 08, ESA developed programs with the following leaders at the state and local level:

- Washington Gov. Chris Gregoire (D);
- Pennsylvania Gov. Ed Rendell (D);
- Texas Attorney General Greg Abbott (R);
- Rhode Island Attorney General Patrick Lynch (D);
- Idaho Attorney General Lawrence Wasden (R);
- Delaware Rep. Keeley, who sponsored video game bills in 2006 and 2007 and Delaware Lt. Gov. Carney;
- Oklahoma Co-Senate President, Senator Glenn Coffee (R), who sponsored the Oklahoma Video Game law in 2005;
- Puerto Rico Secretary of the Department of Consumer Affairs, Victor Suarez; and
- Indianapolis County Prosecutor Carl Brizzi.

YOUTH INTERNET SAFETY PROJECTS

In conjunction with the ESA Foundation, ESA partnered with state officials to bring Web Wise Kids (WWK) programs that teach kids how to stay safe online, to communities across the country.

In FY 08 ESA stood with the following officials in rolling out these proposals:

- Virginia Attorney General Bob McDonnell (R);
- Massachusetts Attorney General Martha Coakley (D);
- New York Senate Majority Leader Joe Bruno (R) in Rensselaer County; and
- Utah Attorney General Shurtleff, Senate President John Valentine (R), and Speaker of the House Greg Curtis (R).

STATE CAPITOL DAYS

ESA held state lobbying days followed by a reception in Sacramento, Calif., on June 13, 2007, Boston, Mass., on October 16, 2007, and Olympia, Wash., on February 19, 2007. These receptions included game demonstrations by member companies including Microsoft, Activision, EA, Sony Online, Sony, Konami, Disney, and Capcom. In addition, ESA organized a tour of Epic Studios in North Carolina with local legislators.

The ESA and the ESRB participated in a Florida Digital Media Interactive Entertainment Capitol Day in Tallahassee, Fla., spearheaded by Electronic Arts. The event showcased the economic, educational and technological benefits and contributions of the computer and video game industry to legislators, members of the executive branch, including the lieutenant governor, and their staffs.

ESA hosted a breakfast for Utah legislators to educate them about the industry's economic contributions to the state that included a demonstration of locally-created games by EA Salt Lake and Disney Interactive.

ESA continued working with California member companies to conduct tours of their facilities. These tours educate legislators about the positive contributions of the video game industry.

LITIGATION STATUS REPORT

In FY 08, there was activity in ESA's lawsuits – brought in Minnesota, Louisiana, Oklahoma, and California – to overturn laws banning violent video games. Courts granted permanent injunctions in these four remaining cases. In two of those cases, attorneys' fees were either paid out or agreed to. As such, in the last six years, 12 courts have reviewed this issue and found similar laws unconstitutional.

Minnesota

The ESA and EMA filed their constitutional challenge to SF 785 on June 6, 2006. On July 31, 2006, the Minnesota

District Court issued a permanent injunction against SF 785. In addition, the state appealed the court's decision and the oral argument was held before the Eighth Circuit on February 12, 2007. ESA's application for attorneys' fees was stayed pending the decision of the Eighth Circuit Court. On March 17, 2008, the Eight Circuit affirmed the District Court ruling. The Court recognized the law's presumptive unconstitutionality, yet expressed disapproval of violent video games and urged the state to seek "En Banc" review of the decision to the Eight Circuit Court. On March 28, 2008, the state filed a Petition for Hearing "En Banc."

Louisiana

In Louisiana, HB 1381, which criminalized the sale of "violent" video games to minors, was signed into law by the governor on June 15, 2006. The ESA and EMA filed their complaint on June 16, 2006, and a temporary restraining order was granted on June 16, 2006. On August 24, 2006, the district court granted a preliminary injunction barring enforcement of the Act. At the summary judgment hearing on November 29, 2006, the judge then ruled from the bench in our favor, granting ESA a permanent injunction against the Louisiana law.

ESA moved for attorneys' fees, which was granted in the amount of \$97,092. In his order granting, Judge 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 Act which this Court found to be unconstitutional passed through committees in both the State House and Senate, then through the full House and Senate, and to be promptly signed by the Governor. There are lawyers at each stage of this process. Some of the members of these committees are themselves lawyers. Presumably, they have staff members who are attorneys as well. The State House and Senate certainly have staff members who are attorneys. The Governor has additional attorneys – the executive counsel. Prior to the passage of the Act, there were a number of reported cases from a number of jurisdictions which held similar

statutes to be unconstitutional (and in which the defendant was ordered to pay substantial attorney's fees). 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."

Oklahoma

Oklahoma HB 3004 was signed into law on June 9, 2006, and became effective on November 1, 2006. HB 3004 would prohibit the sale or rental of games with inappropriate violence to minors.

On September 17, 2007, Judge Robin J. Cauthron issued a permanent injunction, ruling that video games are a form of creative expression entitled to protection under the First Amendment. In her decision, Judge Cauthron found that there is no support or "substantial evidence" that video games are harmful to minors. "[T]here is a complete dearth of legislative findings, scientific studies, or other rationale to support passage of the Act," Judge Cauthron wrote. "The court also ruled that the law was under inclusive because a minor prevented from buying a video game with 'inappropriate violence' may still legally buy or rent the book or movie on which the game was based."

ESA negotiated with the Oklahoma Attorney General's office for a Stipulated Order, settling an attorneys' fees claim for \$56,367. ESA is waiting for court approval of the Stipulated Order.

California

ESA challenged California AB 1179, which would ban the sale of violent video games to minors. The bill's definition of violence tracked the federal sentencing guidelines in death penalty cases and could include a wide array of content. The California legislation also required violent video games to be labeled with a solid white "18" outlined in black, with dimensions of no less than 2 inches by 2 inches. A Preliminary Injunction was granted by Judge Ronald Whyte on December 21, 2005.

On August 6, 2007, Judge Whyte ruled in favor of VSDA and ESA's Motion for Summary Judgment, permanently joining enforcement of the California violent video game law. The court acknowledged that video games are protected by the First Amendment and found that there was no evidence that playing violent games results in real world violence. Judge Whyte found that "the state has not shown that the Act will accomplish the goal of protecting children more effectively than existing, narrower industry standards." With respect to scientific evidence, Judge Whyte found that there is no showing that violent games, in the absence of other violent media, cause injury to children. Nor does it establish

that video games because of their interactive nature are more harmful than movies, television or other speech related exposures.

On September 5, 2007, Gov. Arnold Schwarzenegger (R) announced that California filed its appeal of Judge Whyte's decision during his address to the State Republican Convention. Both parties have filed their appeals briefs with the court. Oral argument has not been scheduled. The California Attorney General's Office agreed to pay ESA \$276,000 in attorney's fees related to the district court proceeding no later than November 2008.

Intellectual Property Policy

THE INTELLECTUAL PROPERTY POLICY Department (IP Policy) furthers the interests of ESA members in areas of intellectual property rights protection, enforcement, trade, and technology policy. During FY 08, IP Policy accomplished key objectives through engagement with the United States and foreign governments, association outreach, coalition activity, and involvement in multinational organizations.

IP POLICY – INTERNATIONAL

FOCUSING ON KEY INDUSTRY MARKETS

In FY 08, the IP Policy Department worked with members to identify countries and issues of paramount concern from an anti-piracy perspective. ESA's FY 08 member priority countries include Brazil, Canada, China, Hong Kong, India, Malaysia, Mexico, Paraguay, Russia, Saudi Arabia, South Korea, Sweden, Thailand, and the United States. Last year's engagement include:

- Filing submissions with the Hong Kong government for its review and amendment of the territory's copyright ordinance;
- Participating in private sector-government meetings under the Security and Property Partnership (SPP) initiative among the NAFTA governments;
- Providing the industry's perspective on the renewal of the U.S.-Paraguay Memorandum of Understanding on Intellectual Property;
- Briefing U.S. government officials prior to visits to Brazil, China, Paraguay, Russia, and South Korea, to address intellectual property issues;
- Meeting with foreign government representatives to discuss specific industry issues, including meetings

with officials from Mexico, Thailand, and Sweden, among others; and

- Providing industry briefing papers to congressional delegations traveling to member priority countries.

Tariff 22 Proceedings in Canada

In FY 08 ESA Canada (ESAC) continued participation as Objectors in the Tariff 22 Proceedings before the Copyright Board of Canada, providing both written and oral testimony on the tariff proposed by the Society of Composers, Authors and Music Publishers of Canada (SOCAN). SOCAN seeks, through Tariff 22, to impose a royalty on game sites and other sites that communicate music. The industry argued that the proposed tariff should not apply to game sites, as they do not communicate music as part of games. In cases where a transmission of music from a game site was involved, authors and composers were compensated and their rights cleared.

In November 2007, the Copyright Board issued a partial decision approving a tariff for online music sites in an opinion that does not bode well for its final ruling with respect to game sites. ESA and ESAC, along with a broad range of Canadian online business interests, will exercise all available options for an appeal of these and related decisions, including the music tariff leveled on downloaded ring tones (Tariff 24).

IIPA Membership

Last year, the ESA continued full participation in the International Intellectual Property Alliance (IIPA) – forging common positions with other industries concerned with the protection of copyrighted works,

including representatives of the film, music, book publishing, and business software industries. During FY 08, IIPA monitored and engaged in reform efforts in more than 50 countries. Together, industry representatives made known to U.S. and foreign officials collective concerns on thematic priorities including:

- ▶ Adopting effective laws and remedies against Internet-based piracy;
- ▶ Combating organized criminal involvement in piracy; and
- ▶ Controlling optical media overproduction through effective licensing and regulation of production facilities.

In FY 09 ESA expects IIPA to more directly address online piracy and place renewed emphasis on the importance of maintaining broad market access for legitimate products as a part of any comprehensive approach to combating piracy in export markets.

“Special 301” Filing

ESA and its members again provided specific information on computer and video game piracy for inclusion in the IIPA’s annual “Special 301 Report on Global Copyright Protection and Enforcement.” The report is the U.S. copyright industry’s comprehensive account of legal and enforcement deficiencies noted in some 50 to 60 countries per year. The report is filed with the U.S. Trade Representative, is furnished to other U.S. officials and lawmakers, and is published on the Web (www.iipa.com/special301.html) to aid countries in the formulation of copyright laws and enforcement policies. The report also helps to define the U.S. government’s agenda for engagement on intellectual property issues for the coming year. In 2008, ESA estimated there to be more than \$2.6 billion worth of pirated entertainment software present in 10 major export markets. The global impact of entertainment software piracy is likely to be even higher.

WIPO Treaties Implementation

Accession to and the effective implementation of obligations arising out of the World Intellectual Property Organization (WIPO) Copyright Treaty (WCT) remains a priority for the IP Policy Program. The treaty, now in force in over 50 countries, provides the necessary legal baseline for the protection of copyrighted works distributed via the Internet and the safe and healthy growth of e-commerce.

ESA continues to impress upon countries through coalition activities and individual opportunities the importance of effective implementation and enforcement of these treaty obligations. Importantly, the treaties require signatories to develop and enforce laws prohibiting circumvention of effective technological measures (TPMs) used in connection with authors’ rights – that is, to create effective prohibitions on manufacturing, trafficking in and using circumvention devices such as “mod chips” and “game enhancers.”

ESA also uses the opportunity to impress upon foreign governments the importance of clarifying ISP responsibilities particularly in light of the dramatic increase in the nature of online piracy on Peer-to-Peer [P-2-P] protocols such as BitTorrent.

Optical Media Regulation

ESA continues to highlight problems with factory-style optical media piracy throughout Asia and Eastern Europe, emphasizing the need for problem countries to adopt, implement and enforce optical media production regulations. The Association has continued to provide guidance to the U.S. government, international organizations, and key countries on the elements that must be made part of effective licensing regimes, such as licensing of production facilities and equipment, requiring accurate record keeping, mandating rigorous and truly random inspections, and imposing deterrent penalties for non-compliance.

The IP Policy Department also noted for U.S. and foreign governments the shift being made to commercial scale “burning” operations, whereby CD-R and DVD-R towers are banked together to produce thousands of pirated products for local sale – all without the hefty investment and risk associated with costly and conspicuous factory replication machines. In many countries, locally burned pirated video games are becoming the predominant form of optical disc piracy for PC and console games.

FOREIGN GOVERNMENT INTERACTION

ESA’s offices are regular stops for foreign copyright policy and enforcement officials visiting Washington, D.C., including those attending training opportunities sponsored by the U.S. Patent & Trademark Office’s Global IP Academy (GIPA). These programs go beyond basic IPR to a higher-level message – that all countries can share in the computer and video game industry’s economic success through policies that foster industry growth. IP Policy staff also participated in a number of roundtable dialogues with foreign officials under the International Visitor Programs sponsored by the U.S. Department of State.

IP POLICY – DOMESTIC

U.S. GOVERNMENT INTERACTION

ESA continued to raise awareness within the U.S. government of the unique piracy-related challenges faced by entertainment software publishers. During FY 08, ESA IP Policy staff maintained industry-focused dialogue with U.S. Executive Branch officials through meetings and briefings with the Departments of Justice, State, Commerce, and Homeland Security, USTR, the U.S. Patent and Trademark Office (USPTO), and the U.S. Copyright Office. ESA IP Policy staff also provided training to U.S. government trade and IP officials through various programs, providing specific industry perspectives on the issues and concerns faced by the industry.

During FY 09, ESA will again turn attention to the Copyright Office’s triennial Section 1201 Rulemaking.

Every three years, the Copyright Office receives proposals for specific exceptions to Section 1201’s prohibitions on the circumvention of TPMs, including those employed in industry products. In each of these proceedings, ESA offered submissions on its own and in conjunction with representatives of other industries to rebut and narrow these proposals.

ENFORCEMENT LEGISLATION

Federal lawmakers introduced several IP enforcement bills in Congress in the closing months of 2007. Some proposed sweeping changes in the way that the U.S. government coordinates IP enforcement among various agencies. These bills aim to enhance how the U.S. government combats piracy through a mix of increased funding, bureaucratic restructuring, and targeted adjustments to remedy provisions. ESA IP Policy coordinated with ESA’s Federal Government Affairs Department to analyze these bills, brief members on developments, and act upon member-identified priorities.

In mid-2007, the IP Policy staff teamed with the ESA Anti-Piracy Department to advocate for enhanced sentencing guidelines for certain DMCA violations before the U.S. Sentencing Commission. ESA’s efforts succeeded, as the Commission recommended to Congress an enhanced sentencing level for criminals convicted of trafficking in circumvention devices.

TRADE POLICY

ESA’s Trade Policy Reform agenda sets forth long-term objectives aimed at strengthening the trading environment for industry products. These include ensuring favorable treatment for software acquired by download, reducing tariffs on industry software and hardware, and ensuring broad market access for online game services. Advancing these objectives demands backing from industry and governments in major game-producing countries, and action from governments in bilateral and multilateral contexts.

ESA IP Policy staff is committed to educating the industry about the benefits of trade policy reform, and to exploring joint advocacy opportunities with other industry representatives. ESA made great strides during FY 08 to engage in expanded policy dialogue on trade and other common policy issues with Europe, Japan, Canada, and Australia.

INTERNATIONAL LIAISON

As relevant IP, trade, and technology policy issues arise with increasing frequency in key markets, ESA member committee representatives placed greater emphasis on promoting consistency through intra-association communications. In January 2008, IP Policy staff initiated a series of quarterly conference calls with CESA and CESA member companies on issues that include copyright, enforcement and trade policy. In February 2008, ESA held a multi-day working session with the Interactive Software Federation of Europe (ISFE) Secretariat on immediate and long-term action, to jointly advocate for trade policy reform.

Also during FY 08, ESA expanded its overseas advocacy efforts to deliver important messages on trade and intellectual property policy. During 2007, IP Policy staff traveled to Leipzig, Tokyo, and Dublin as part of the association's efforts to increase cooperation and share views on the state of intellectual property and trade policy issues of importance to the industry. IP Policy staff also coordinated meetings in Brussels, with trade and economic officials at the U.S. Mission to the European Union. The meetings were the first time ESA could provide U.S. government officials responsible for EU relations with the industry's perspectives on leading intellectual property concerns, our trade reform agenda and concerns over how European cultural policies could obstruct free trade in industry products.

WORLD TRADE ORGANIZATION LOBBYING

In FY 08, IP Policy staff sharpened and refined ESA's trade policy strategy in light of evolving industry priorities and the shifting dynamics of the Doha Round of global trade talks.

While efforts in FY 07 focused predominantly on how entertainment software products can be most favorably classified under the WTO framework to promote trade and market access for industry products and related services, ESA's trade agenda was expanded to address in greater depth other business interests of entertainment software publishers. These include:

- ▶ Advocating extension of the WTO moratorium on customs duties for electronically transmitted products;
- ▶ Promoting the inclusion of entertainment software products as "software" within the WTO E-Commerce Framework; and
- ▶ Reducing or eliminating tariffs for entertainment software products and peripherals in key markets.

FREE TRADE AGREEMENTS

During FY 08, the ESA engaged trade officials on significant bilateral and multilateral developments relating to intellectual property rights protection, enforcement, and trade in entertainment software industry products. Chief among these are efforts by the U.S. government to include rigorous and mutually beneficial intellectual property obligations and market-opening features in newly-initiated bilateral Free Trade Agreements (FTA).

Efforts over the past years resulted in highly beneficial provisions appearing in agreements with Singapore, Chile, Australia, Jordan, Morocco, Central America (CAFTA), the Dominican Republic, and Bahrain. More recently, the U.S.-South Korea Free Trade Agreement (KORUS FTA) concluded, and ESA continues its efforts, both through association and coalition activity, to highlight the benefits of the KORUS FTA and urge its ratification by Congress.

TECHNOLOGY POLICY

With greater migration of industry products to online game play and online modes of delivery, technology

policy issues have taken on greater economic significance to the industry. ESA responded through the recruitment of a new IP & Technology Policy Counsel, which continues to explore with members, the best issues for ESA engagement.

During FY 08, focus has been on three principal areas:

- ▶ Preserving public access to the Internet's directory of domain name owners;
- ▶ Analyzing emerging legal issues related to virtual property; and
- ▶ Resisting calls to weaken Digital Rights Management (DRM) protections.

ONLINE ACCOUNTABILITY

Continued access to the Internet's databases of domain name owners (i.e., the "Whois" service) remains a key policy priority for ESA. The Whois service plays a vital role in supporting members' enforcement efforts by helping IP owners identify those responsible for infringing content. That concern prompted ESA to rejoin the Coalition for Online Accountability (COA), an advocacy group representing IP and business interests in dealings with Internet Corporation for Assigned Names and Numbers (ICANN).

During FY 08, ESA participated in an ICANN working group examining a proposal to replace the current "open access" Whois model with a more restrictive proxy-based system. ESA, COA and other business interests evaluated these models and urged defeat of the proxy proposal – which ICANN's advisory council eventually dropped. It will, however, commission further studies on the privacy impacts of the Whois service, and we will continue to remain engaged in the debate going forward.

During FY 07 ESA submitted a filing urging the National Telecommunications and Information Administration not to grant ICANN early release from its governance contract with the Department of Commerce. ESA's filing questioned the efficacy of the contemplated

"working group" model and Generic Names Supporting Organization (GNSO) Council restructuring to adequately represent commercial interests, as well as ICANN's willingness to use contractual tools to enforce compliance with Whois obligations.

VIRTUAL PROPERTY

The growing popularity of MMOs and MMORPGs brought with it media and academic attention to virtual property – the digital objects and in-game currency avatars collect in the course of playing the game. Some scholars argue for policies that vest players with quasi-property rights. Others call for a "bill of rights" for avatars. The first lawsuits to test these novel theories are appearing in U.S. courts. Meanwhile, tax authorities in Korea, the United Kingdom, and the United States are examining the tax implications of real money trade (RMT) of virtual property. ESA monitored these developments and will explore with members potential industry positions on the ownership, taxation, and RMT of virtual property.

INTERPLAY BETWEEN FAIR USE AND DIGITAL RIGHTS MANAGEMENT

User generated content (UGC) is a high-profile policy issue in the copyright community, sparked by the phenomenal success of social networking sites like YouTube. Influential policy papers from the U.K. IP Office and the Organisation for Economic Co-operation and Development (OECD) cite UGC as a tremendous social benefit of the Internet and call upon policymakers to tweak current legal regimes to better accommodate UGC. This issue has captured the imagination of critics of the current U.S. copyright system, who argue that Digital Rights Management restrictions confound legitimate fair use.

ESA IP Policy staff is bolstering its ability to push back against this assertion. In discussions with domestic and foreign IP officials and the OECD, ESA emphasized the rich and varied UGC-features currently incorporated into DRM-protected games.

Anti-Piracy Program

ESA'S ANTI-PIRACY DEPARTMENT is responsible for the following core areas of activity aimed at maximizing the protection of the ESA members' software products from piracy, counterfeiting and other forms of unauthorized use. This department accomplishes these goals by: monitoring and taking down infringing Internet sites or user accounts; conducting investigations and obtaining actions by law enforcement authorities against game piracy in the United States, Canada and a number of overseas markets; supporting criminal prosecutions resulting from such actions; pursuing civil remedies against individuals or enterprises involved in different kinds of game piracy; training of U.S. and foreign law enforcement officials to enable them to detect and identify illegal game product; targeting education initiatives at younger age groups to promote their awareness of, and respect for, creators' and innovators' intellectual property rights.

ESA's anti-piracy program focused its efforts on the dual priorities of online pirates operating in warez groups involved in the creation and dissemination of downloadable pirate game files via the Internet, and criminal enterprises involved in the production and distribution of pirated ESA member games, as these displace legitimate game sales.

ESA made progress in a number of areas to address different facets of the global game piracy problem afflicting ESA members and the distribution of their game products. The following is a summary review of some of the year's highlights.

U.S. Enforcement

CRIMINAL INVESTIGATIONS AND PROSECUTIONS

In FY 08, ESA succeeded in obtaining and supporting law enforcement investigations, raids, and prosecutions against many game piracy targets in the United States. The most notable was Operation Tangled Web, an August 2007 enforcement action by the Department of Homeland Security Immigration and Customs Enforcement (ICE) division against mod-chip dealers across the country, involving the simultaneous execution of search warrants on 32 target locations in 16 states. The action required the participation of over 100 ICE agents and field support by the entire ESA anti-piracy staff resulting in the seizure of thousands of mod-chips, modified consoles and pirated game discs. Other actions included: the raid, arrest, conviction and sentencing of a California man who sold pirated games through Internet listings; the federal conviction and sentencing of a New York man who sold pirated games and modified consoles via a Web site; and the federal conviction and sentencing to two years in prison of an Illinois man who operated a Web site offering pirated games for sale.

In addition, ESA has several ongoing investigations of pirate targets in New York, New Jersey, Los Angeles and the San Francisco Bay area, with criminal enforcement actions against some of these anticipated in the next few months.

ONLINE MONITORING AND ENFORCEMENT

ESA's monitoring of pirate activity on the Internet during FY 08 has continued to reveal high levels of illegal activity involving the copying and transmission of pirated game files through peer-to-peer networks

like eDonkey and Bit Torrent, particularly in major Western European markets. While the first pirate versions of games cracked and released by “warez” groups continue to appear on IRC channels and FTP sites, the files are found almost instantaneously in peer-to-peer environments, with large volumes of copying and transmissions by growing numbers of users across the world. The steady growth of broadband access to the Internet accelerated the scope and scale of the downloading of pirate game files, with the highest levels of infringing activity in countries with high household penetration of broadband connectivity, particularly Spain, France, and Italy.

ESA’s online monitoring and takedown efforts in FY 08 continued to address online infringements of member companies’ IP rights in over 100 countries across the world. ESA’s outside monitoring service detected a monthly average of more than 700,000 infringements of the 200 member titles that the ESA monitored, with ESA sending out more than six million takedown notices to ISPs in response to these violations. Pursuant to member requests, towards the end of FY 08, the ESA began a monitoring program using a specialized service for Korea to take advantage of a favorable environment for online IP enforcement.

In FY 08, the ESA pursued investigative efforts against a number of warez groups specializing in cracking new games’ protection measures and releasing pirated versions on the Internet within days of, if not before, legitimate release. Where possible, the ESA used the intelligence developed and evidence collected through these investigations for referrals of these cases to law enforcement in the relevant jurisdictions. Because of the extended duration of these investigations, the law enforcement investigation and targeting of the targets, enforcement actions against these “warez” groups are unlikely to occur before the end of 2008.

International Enforcement

CANADA

Despite an unfavorable environment for enforcement of IP laws, ESA continued to be active during FY 08 pursuing and obtaining actions against game pirates, who distribute and sell illegal products in Canada. Because most offices of the Royal Canadian Mounted Police (RCMP) claimed a shortage of manpower and resources to take on piracy cases in FY 08, ESA has turned to working with local police departments for criminal enforcement actions, and using self-help civil remedies, such as delivering cease-and-desist notices along with requests for the surrender of infringing products. Local police departments were involved in criminal actions against game pirates in Vancouver and Calgary.

In addition, ESA delivered more than a dozen cease-and-desist notices and seized infringing game product from targets in Vancouver, Toronto and Calgary. Further, ESA was also active in supporting the criminal investigation and prosecution of two game pirates who had been the subject of RCMP actions the year before. The first of these, a Toronto game pirate, Ka Man Chan, received a sentence of two years of house arrest, a \$40,000 fine and forfeiture of the \$37,000 in cash and the computer equipment seized by RCMP. The other, a Vancouver pirate named Terry Wong, was sentenced to pay a fine of \$25,000 and to forfeit all seized merchandise.

ESA worked with ESA of Canada to address the enforcement challenges in Canada by lobbying the government to assign more resources to RCMP for enforcement and make criminal prosecutions of game pirates a higher priority resulting in jail time and heavier fines. ESA of Canada continued to press for legislative changes to prohibit the manufacture and distribution of circumvention devices, such as modification chips, that are found easily throughout Canada. These chips cause a materially higher rate of local console piracy than in the United States.

BRAZIL

In FY 08, ESA's joint anti-piracy program with ABES, the Brazilian software association, increased its enforcement activity levels against retail hot spots in Sao Paulo and Rio de Janeiro, as well as local burning labs and warehouses supplying sellers in these locations. The first nine months of FY 08 saw the program generate 11 actions against upstream targets and 64 enforcement actions against pirate sellers in major retail centers. These actions, combined with continuous seizure actions against street sellers in Sao Paulo and Rio, resulted in the seizure of over 447,000 illegal game copies. In addition, the Brazilian authorities stepped up efforts to control the inflow of counterfeit products from Paraguay, seizing over 517,000 pirated and counterfeit game software products in the border region. While program activity levels and seizure results were higher than the previous year, ESA's funding of the program was undermined by the declining value of the dollar against the Brazilian currency.

Finally, ESA/ABES representatives were invited to join as members of the National Council Against Piracy, a public-private sector body that the Brazilian government created in 2004 to help guide and prioritize the government's anti-piracy efforts.

MEXICO

In FY 08, responding to the Mexican program's low levels of enforcement activity during the prior year, ESA changed its local representation to a new law firm which elevated the productivity and visibility of ESA and its members, establishing a stronger enforcement presence for the game software industry in Mexico. With four different raid actions against pirate game sellers at the Pericoapa shopping center in Mexico City, an action against street sellers, two raids against pirate vendors and warehouses in Plaza Meave, and seizures at the border and at the Mexico City airport, the ESA program has seized over 175,000 copies of pirated games. This is a dramatically higher level of seizures than the prior

year. Key to this success was the new law firm's strong and effective working relationship with PGR, the key enforcement body covering IP crime in Mexico. The firm also procured over seven trainings thus far in FY 08, helping increase the visibility of ESA and the game software industry with law enforcement. In October 2007, ESA promoted its anti-piracy message at the Electronic Game Show in Mexico City through a booth where it provided attendees with materials on piracy and the harm it causes the game software industry.

HONG KONG

In the first nine months of FY 08, the ESA was asked to provide examinations of seized game product in more than 90 Hong Kong Customs cases, a significant jump over the prior year. The Hong Kong authorities are also more active in addressing locally-based Internet piracy, including auction sites and peer-to-peer networks. Working through an arrangement established by the Hong Kong Customs, ESA can now get local online auctions taken down almost immediately. Fortunately, ESA and its members benefit from the hospitable environment for IP enforcement that prevails in Hong Kong. This environment improved this past year with the adoption of copyright amendments that subject the trafficking of circumvention devices such as mod-chips to criminal sanctions. Hong Kong Customs confirmed they intend to enforce these anti-circumvention provisions. ESA will work actively with Hong Kong Customs as they roll out their efforts against individuals and entities trafficking in game product circumvention devices.

SINGAPORE

With lower game piracy levels in Singapore in recent years, ESA operated its enforcement program at a reduced "maintenance" level of funding. Most of this funding derived from private criminal actions that ESA's local counsel files against outlets offering pirate Nintendo games. This helps fund the investigative and legal support that ESA provides to police for their enforcement actions against individuals or enterprises engaged in game piracy. In the first nine months of

FY 08, the police undertook 10 actions against targets engaged in game piracy, with ESA supplementing this effort by filing seven private actions. Four of these private actions were filed late in the year against local dealers of R4 devices that circumvent Nintendo DS security technology. These actions are important test cases as they are among the first based on Singapore's provision criminalizing the traffic in circumvention devices. While local game piracy in Singapore is likely to persist due to its proximity to the large pirate production facilities in Malaysia and Indonesia – particularly with the anticipated growth in Wii piracy – ESA expects to continue benefiting from the strong relationship it has with the Singapore police to maintain lower levels of game piracy in the local market.

PARAGUAY-MALAYSIA

Last year, the ESA Board authorized an anti-piracy program to undertake enforcement efforts in Paraguay and Malaysia, aimed at disrupting the pirate production and distribution axis between the two countries. The ESA began enforcement work in Paraguay at the beginning of FY 08. Through the first nine months of FY 08, ESA's local representatives obtained enforcement actions covering 74 locations, including 28 retail outlets and 32 warehouses, resulting in the seizure of 157,000 pirate game discs and 8,600 Nintendo cartridges. The most significant of these actions was an August action against the Galeria Page in Ciudad del Este, a notorious seller of pirated games to people exporting this product to Brazil.

In late October 2007, the ESA launched its enforcement efforts in Malaysia, in partnership with MFACT, the local enforcement group of the Motion Picture Association. Working closely with enforcement agents of the Ministry of Domestic Trade and Consumer Affairs (MDTCA), MFACT supported an MDTCA enforcement initiative called Operation Games Attack. This initiative focused its efforts on local game pirates and, in the first three months, produced outstanding results through a series of actions resulting in the seizure of almost 37,000 pirated game discs and the arrests of 36 people. Among

these actions were raids on burning labs and optical disc factories, as well as local retail outlets.

Training and IP Education

TRAINING

By the conclusion of FY 08, the ESA training program will have conducted or participated in more than 55 training sessions with more than 1,000 law enforcement officials in attendance. The ESA was very active in both the United States and Canada, and expanded its training in Canada to new areas. In the United States, the ESA training program worked closely with the U.S. Department of Homeland Security's Immigration and Customs Enforcement (ICE), and the New Jersey office of the Federal Bureau of Investigation, in its initiative to train local law enforcement officials in cyber crime and IP crime throughout the state. ESA also traveled to Malaysia to train local law enforcement officials in connection with the launch of its new enforcement program in that country.

IP EDUCATION

In FY 08, ESA undertook a focused marketing effort with respect to the "Join the © Team" curriculum materials that it designed to promote awareness of intellectual property among elementary school students. The curriculum materials are available for free via download from the ESA's curriculum Web site. ESA worked with Classmates Marketing to obtain commitments from 7,500 teachers, school librarians and media specialists in elementary schools across the country to download and use the materials in their classes. The number of materials downloaded from the Web site tripled in the month following this marketing effort. To date, there have been more than 35,000 downloads of materials from the Web site in FY 08. ESA supplemented the elementary school curriculum program with its in-school IP education workshop initiative aimed at middle school students and high school students and reached more than 400 students in schools in Princeton, N.J., Kansas City, Mo., and Fairfax, Va.

Media Relations

THE FY 08 ESA MEDIA RELATIONS program was able to communicate key industry messages through the media to both critical targeted audiences and the public. With the announcement of ESA's new CEO, landmark legal rulings, the evolution of the E3 Media & Business Summit, new consumer research, and a new study showcasing how the industry drives many sectors of the U.S. economy, ESA's media relations department had an unparalleled year in promoting the industry and expanding awareness of key issues and facts.

Through hundreds of interviews and media contacts during the course of the year, ESA added its voice to coverage of a broad range of important issues, including First Amendment protections; and proposed regulation of games, global piracy, myths about games and youth violence, self-regulation, the current game market, and the cultural and economic significance of games. The media relations department garnered ESA and industry placement in articles, pitched engaging story angles and educated reporters about the issues facing our industry. These combined efforts helped balance coverage and produce more positive and objective looks at the computer and video game industry.

Following are some highlights of the media relations program from FY 08:

Media Initiatives

- Announced the appointment of Michael D. Gallagher as the new President and CEO of ESA. Results from the announcement, which was coordinated with key members, include profile articles in the *Wall Street Journal*, *New York Times*, *MSNBC.com*, *Kotaku.com*, and other influential media outlets;
- Generated media interest in its latest industry report, "Video Games in the 21st Century: Economic Contributions of the U.S. Entertainment Software Industry." Media outlets covering the report included the Associated Press, Reuters, *Boston Globe*, *Seattle Times*, *Seattle Post Intelligencer*, *San Francisco Chronicle*, *Austin American Statesman*, *Denver Post*, among others;
- Recruited and announced three new members: MTV Games, Epic Games, and Codemasters;
- Worked with Immigration and Customs Enforcement officials to garner significant press coverage of nationwide piracy raids. In addition to wide trade and industry press coverage, mainstream consumer press reported on the raids, too. For example, ESA worked with CNN to air an on-point piece highlighting key information and correct data;
- Developed press coverage around the 2007 NTU Honoree, Ken Kutaragi; a Capitol Hill briefing on Internet safety for children; filing for attorneys' fee in California; and, the industry's Oklahoma legal win. Top-tier coverage included articles in the Associated Press, Reuters, *Los Angeles Times*, *San Francisco Chronicle* and *Washington Post*, among others;
- Created and launched a multi-state holiday ratings awareness program that resulted in local elected officials publicly supporting the use of the ESRB rating system when parents and caregivers are purchasing games for holiday gifts. In total, 27 elected officials in 24 states participated in the press push, including Gov. Chris Gregoire (Wash.), Gov. Jennifer Granholm (Mich.), Lt. Gov. Jari Askins (Okla.), and numerous state attorneys general; and
- Promoted ESA's grassroots political initiative, the "Video Game Voters Network," which, through earned

media coverage and other tactics, attracted more than 100,000 members.

Public Information Initiatives

An important component of ESA's media relations department is providing journalists a full and accurate understanding of the computer and video game industry. To do so, ESA distributed thousands of key information pamphlets and brochures to press and third-party influencers. Among the collaterals provided to these journalists and third parties this year were: "Essential Facts About Games and Youth Violence," and "Essential Facts About Games and Court Rulings." All of these documents provide readers with an understanding of complex issues in a simple, easy-to-understand, and balanced manner.

The "Essential Facts About Games and Youth Violence" includes overviews of the objective scientific research done on games, provides statistics about who is purchasing and playing games, and presents the industry's core positions on youth violence.

"Essential Facts About Games and Court Rulings" summarizes all of the relevant court rulings, allowing the press to include key, positive portions of judicial rulings in their stories without having to read entire decisions.

ESA also educated producers, reporters, and analysts on the state of industry-relevant academic research by updating them on positive studies through Research Update summary documents.

E3 Media & Business Summit

FY 08 WAS A TRANSFORMATIVE YEAR for the E3 Media & Business Summit. Following a decision by the ESA Board of Directors to better address the needs of today's global computer and video game industry, E3 evolved into a more intimate event focused on targeted, personalized meetings and activities.

The new event, the E3 Media & Business Summit, took place in Santa Monica, Calif., July 11-13, 2007. The three-day summit was by invitation only, and provided ESA members and non-members the opportunity to stage major press events, and have one-on-one meetings with media, retailers, developer partners, and other key audiences. In addition, Santa Monica's

Barker Hangar was converted into a software showcase where attendees previewed featured video games planned for the coming holiday season and beyond. Other elements of the summit included a Serious Games Showcase, an Indie Games Showcase, and an exhibition of winning art from the "Into The Pixel" video game art competition.

The summit was well received, and ESA's Board decided to continue with this new format. The 2008 E3 Media & Business Summit will return to the Los Angeles Convention Center, meeting the desire for the event to be more centralized in nature, and be held from July 15-17, 2008.

Video Game Voters Network

IN FY 08, ESA CONTINUED BUILDING and more importantly activating the Video Game Voters Network (VGVN), a grassroots political network created as a means for voting-age American gamers to organize and take action on important policy issues affecting the computer and video game industry.

In its first year, over 100,000 activists joined the VGVN. Through its Web site, www.videogamevoters.org, gamers have the ability to register to vote; learn about issues that could affect their rights to play computer and video games; reach out to federal, state, and local officials; and download VGVN banners and IM buddy icons.

Highlights of the VGVN program from FY 08 include the following:

- ▶ VGVN members have sent over 44,000 letters to members of Congress and state legislative offices in response to Action Alerts about possible federal and state legislation;
- ▶ VGVN members wrote letters to their representatives in 17 states;
- ▶ VGVN MySpace page now has over 2,869 friends;
- ▶ VGVN launched its “Wall of Protest”, where activists from across the country and around the world, can help make a powerful statement to politicians and video game critics by taking a picture of themselves holding a sign expressing their frustration with politicians view of the game industry. To date, 310 pictures have been assembled on the wall and continues to grow everyday; and
- ▶ Asked VGVN members to write their personal testimony about why self-regulation and parental education are better than government interference. Over 1,500 testimonies were submitted and are highlighted on the VGVN site.

Research

ANNUAL CONSUMER SURVEY

In FY 08, ESA's consumer survey provided some of the most widely quoted data about the computer and video game industry available, thus generating news coverage around the country, while also providing ESA members with a unique and thorough look at consumer buying and playing habits. The research is also an ongoing source of crucial information used in the ESA's public policy and media relations programs to support our key messages and rebut many of the most persistent myths about the industry.

The FY 08 Entertainment Hardware and Software Attitude and Usage Study, conducted for the ESA by Ipsos-Insight, looked at a broad range of critical topics including information about system ownership, system usage, system location, user demographics, system satisfaction, system purchase patterns, and parental involvement. Data was gathered from over 1,200 nationally representative households that were identified as owning a video game console or a personal computer, or both, that were used to run entertainment software. The survey provides first-hand information on key trends and changes in the industry as it allows us to compare data from year to year.

All ESA members were provided an in-depth chart deck, and cross-tabbed data remains available upon request.

A few of the highlights of the FY 08 survey are:

- ▶ **Console Player Demographics:** Seventy-two percent of console game players are male and 28 percent are female. Thirty-seven percent are under 18 years old, 40 percent are 18 to 35, 23 percent are over 36 years old;
- ▶ **Computer Player Demographics:** Sixty percent of computer game players are male, while 40 percent are female. Twenty-seven percent are under 18 years old, 29 percent are 18 to 35, 44 percent are over 36 years old;
- ▶ **Buyer Demographics:** The average age of a game buyer is 38;
- ▶ **Growth in Online Games:** Fifty-four percent of male game players and 46 percent of female game players say they play games online one or more hours per week;
- ▶ **Types of Online Games Played Most Often:** Game players say that the one type of online game played most often is: puzzle/board/trivia/card games (50 percent); action/sports/strategy/role-play games (15 percent); and shockwave/flash games (10 percent);
- ▶ **Paying to Play Online Games:** Of most frequent users who play games online 19.2 percent say they currently pay to play games online, almost four times more than the amount from 2003 (5.2 percent);
- ▶ **Parents' Opinions of Games:** Fifty-five percent of parents believe games are a positive part of their children's lives;
- ▶ **Parental Involvement:** Parents are present 91 percent of the time that games are purchased or rented, and 90 percent of parents say they monitor the content of the games their children are playing; and
- ▶ **Impact of Games on Use of Other Forms of Entertainment:** Gamers say they are choosing to watch less television and fewer movies as a result of playing games more often. Specifically, 50 percent

of gamers who are spending more time playing games report watching less television as a result, 42 percent go to movies less often.

VIDEO GAMES IN THE 21ST CENTURY

In FY 08, ESA also fielded a ground-breaking study on the specific economic contributions of the entertainment software industry to the U.S. economy.

Conducted by Economists Incorporated on behalf of the ESA, the report, *Video Games in the 21st Century: Economic Contributions of the U.S. Entertainment Software Industry*, showed the U.S. computer and video game industry's annual growth rate from 2003 to 2006 exceeded 17 percent which far outpaces the U.S. economy as a whole which only grew at 4 percent during this same period. According to the study, the U.S. entertainment software industry directly employs more than 24,000 individuals, with an average salary of \$92,300 in 2006.

Other highlights from the report are:

- ▶ The computer and video game industry's value added to U.S. Gross Domestic Product (GDP) in 2006 was \$3.8 billion;
- ▶ In 2003-04 and 2005-06, the industry's contribution to real growth exceeded its share of GDP by more than four to one;
- ▶ The entertainment software industry directly and indirectly employs more than 80,000 people in 31 states;
- ▶ U.S. industry employees received total compensation of \$2.2 billion;
- ▶ California is the largest employer of computer and video game personnel in the nation, accounting for approximately 40 percent of total industry employment nationwide. These companies provided over \$1.8 billion in direct and indirect compensation to Californians last year. California's computer and video game industry grew by 12.3 percent last year, nearly three times faster than the state's overall growth, and added \$1.7 billion to the state economy;
- ▶ Virginia's computer and video game industry grew by 552 percent in 2006, more than 172 times as fast as the commonwealth's overall growth;
- ▶ Washington state ranked second nationally in computer and video game personnel in 2006, with 9,284 direct and indirect employees at more than 59 facilities across the state; and
- ▶ New York's entertainment software companies directly and indirectly employ 4,415 individuals at more than 25 facilities across the state.

Entertainment Software Rating Board (ESRB)

THE INDUSTRY'S SELF-REGULATORY BODY continues to earn the praise and confidence of regulators, industry members, retailers and consumers alike. This past year, ESRB was recognized by the Federal Trade Commission in its Report to Congress on the Marketing of Violent Entertainment to Children, issued in April 2007 (FTC Report) for setting a "high standard" for other entertainment industries. The FTC Report called the ratings "a useful and important tool that parents increasingly use to help them make informed decisions about games for their children." The report also confirmed that game retailers have significantly increased the level of enforcement of their store policies not to sell M-rated games, matching the level of enforcement of R-rated movies at theatres nationwide.

In FY 08, ESRB significantly boosted its ratings education efforts, specifically with the launch of several statewide PSA campaigns with elected leaders in Rhode Island, Idaho, Washington, Delaware, Texas and Oklahoma as well as a national in-store PSA campaign implemented with Wal-Mart. These efforts contributed to some of the highest levels of parental awareness of the ratings achieved to date – 87percent as reported by the FTC.

ESRB Ratings: Total Ratings Assigned and Trends

ESRB assigned 1,563 ratings in 2007, an increase of 22 percent over the 1,281 ratings assigned in 2006. Nearly six in ten ratings assigned in 2007 were E (Everyone 6+), and another 15 percent were E10+ (Everyone 10

and up). The T (Teen 13+) category represented 20 percent of rating assignments, while M (Mature 17+) accounted for 6 percent. Neither the EC (Early Childhood 3+) nor AO (Adults Only 18+) rating categories were statistically significant in 2007.

TRENDS AND ANALYSIS

Over the last three years (2005-2007), the E-rating category is the only category to grow consistently, both as a percentage of total ratings assigned, as well as by overall volume. Conversely, the M-rated category is the only one to continuously decline when analyzed by either measure.

The growth of the E-rating category is due in large part to the recent influx of casual games for the PC, handheld devices and online arcades, many of which games tend to be E-rated. This transition is most evident in 2007, where volume in the E-rating category grew by 36 percent, far greater than the year-over-year growth in any other category.

The Teen-rating category, although having declined as a share of total ratings assigned, has grown modestly but steadily in overall volume. Although the M-rated category garners a large amount of media coverage, it continues to decrease as a percentage of ratings assigned, and also continues to account for a smaller number of actual ratings assigned. The share of all rating assignments that the M-rated category represents has been halved between 2005 and 2007, and has also declined 40 percent in terms of volume over that same period.

ESRB Enforcement

- The ESRB enforcement system continues to hold game publishers accountable for full disclosure of pertinent content during the rating process, as well as responsible marketing and advertising of their products.
- In the FTC Report, the Commission commended what it termed ESRB's "active" enforcement system.
- ESRB was selected by the FTC and the U.S. Council for International Business (USCIB) to be used as a case study for effective industry self-regulation in the United States in a report that is to be shared with international participants in Organization for Economic Cooperation and Development (OECD). ESRB provided information about the video game industry's self-regulatory efforts to the FTC, which will ultimately be part of a report reflecting four case studies of industry-led regulation in the United States. It is a good reflection on the industry that ESRB was chosen by these organizations as an example of successful self-regulation to be shared with the rest of the world.

Advertising Review Council

- ESRB's monitoring and enforcement of its marketing guidelines continues to ensure that game packaging and advertisements are correctly labeled with the appropriate rating information; products are marketed to audiences for whom they are appropriate; and advertisements are truthful and responsible.
- The FTC Report, which looked at the motion picture, music recording and electronic game industries, found that the ESRB "leads all three industries in providing clear and prominent disclosure of rating information in TV, print and online advertising." The commission also found no evidence of inappropriate target marketing of M-rated games in the game publishers' marketing plans reviewed by the FTC.

ESRB and Retailers

Over 20 national retail chains in the United States and Canada and many local independent retailers continue to display ESRB ratings education and store policy enforcement signage in their stores. Many of those retailers provide additional support of the ratings on their Web sites, in circulars, and on in-store television networks, generating well over 1 billion impressions on an annual basis.

Nine retailers in the United States including Best Buy, Blockbuster, Circuit City, Game Stop, Movie Gallery (Hollywood Video / Game Crazy), Sears, Kmart, Target, Toys R Us and Wal-Mart currently serve on the ESRB Retail Council (ERC). One of the priorities of the ERC is to continue to improve the level of store compliance in the display of ratings education signage and the enforcement of store policy with respect to the sale of M-rated games, both of which are measured through mystery shopper audits. The most recent audit conducted in November 2007 indicates that ERC retailers displayed ratings signage in 77 percent of their locations and enforced their store policy regarding M-rated games 76 percent of the time. This reflects an improvement of 11 percentage points in both categories when compared to audit results from October 2006.

In addition to the activities mentioned above, ESRB launched new ratings awareness initiatives this past year which include the following:

- Wal-Mart showing PSAs on its in-store network, generating 245 million consumer impressions over the course of a year-long run;
- GameStop hosting satellite and radio media tour leading up to the holiday shopping season; and
- Ingram Entertainment, the largest wholesaler of games in the United States, distributing in-store signage about ESRB ratings to 10,000 independent retailers around the country.

Consumer Education

PSA CAMPAIGNS

The ESRB PSA campaign, launched in December 2006, generated 711 million impressions from nearly 8,000 airings on seven cable networks, three in-store networks, and local stations in 53 markets. Radio spots have generated nearly 40 million impressions from 7,500 airings on English and Spanish language networks and stations. The USA Radio Network has been particularly supportive of the campaign and ran spots on “Black Friday” (November 23) and again on December 7, 2007, generating over six million impressions on key holiday shopping days.

ESRB also continued its work with elected officials, launching a series of statewide ratings education campaigns with elected officials, including:

- In August 2007, Rhode Island Attorney General Patrick Lynch;
- In October 2007, Washington Gov. Chris Gregoire and Idaho Attorney General Lawrence Wasden;
- In November 2007, Marion County, Indiana Prosecutor Carl Brizzi;
- In December 2007, Oklahoma State Sen. Glenn Coffee, Texas Attorney General Greg Abbott, and Delaware Lt. Gov. John Carney and State Representative Helene Keeley; and
- In January 2008, Pennsylvania Gov. Edward Rendell.

The campaigns typically include PSA featuring the elected officials encouraging parents to check the ratings and to use parental controls. ESRB produces the PSAs and secures placement on local TV and radio stations, and in some cases, billboards, mall kiosks and online media rich banner ads. ESRB has implemented 10 state ratings education campaigns since 2006, generating nearly 96 million impressions.

The *Ok To Play?* PSA campaign appeared in seven consumer print publications (including a Hispanic

magazine), generating nearly six million impressions from 11 ad placements. ESRB also secured placement of the gamer-focused PSA campaign in six game and youth-oriented magazines, generating over 4 million impressions.

WWW.ESRB.ORG

Traffic to the ESRB Web site continues to increase each year. In 2007, 7.1 million people visited www.esrb.org, an increase of 22 percent over to the prior year, conducting nearly four million rating searches.

Partnerships

Among the most significant of new consumer education initiatives in FY 08, ESRB launched a partnership with GoodHousekeeping.com, one of the most prominent and trusted consumer brands in America, to educate its audience about ESRB ratings, parental controls and playing games online. The partnership includes a series of articles by ESRB President Patricia Vance and a monthly “Top Ten” games list provided by the NPD Group with complete rating information and a summary of the content in each title listed. This content continues to be among the most popular on the GoodHousekeeping.com web site.

Consumer Research

According to consumer research commissioned by the ESRB and conducted by Peter D. Hart Research Associates in April 2007, awareness of the ratings among parents of game-playing children under the age of 17 is at an all-time high of 89 percent, with regular use of the ratings at 85 percent. Moreover, awareness of the content descriptors is at 64 percent with regular use increasing to 54 percent.

Ninety percent of parents believe the ratings are “somewhat” to “very helpful” in selecting appropriate games for their children and the same percentage are confident that the ratings accurately describe game content.

The findings from the Hart Research are generally consistent with the FTC Report, which found that:

- ▶ 87 percent of parents are aware of the ratings;
- ▶ 73 percent use the ratings “all,” “nearly all,” or “most” of the time;
- ▶ 87 percent are “very” or “somewhat” satisfied with ESRB ratings; and
- ▶ 94 percent say the ratings are “moderately” to “very” easy to understand.

ESRB Privacy Online

- ▶ The ESRB Privacy Online program remains one of only four privacy programs in the United States

approved by the Federal Trade Commission (FTC) as an authorized COPPA Safe Harbor. It currently has 34 member companies enrolled in the program, and actively monitors over 1,500 member Web sites.

- ▶ To better serve the global needs of members, Privacy Online has expanded its reach outside the U.S. by creating an European Union Seal program based on the privacy standards in the E.U. Privacy Directive. Members will be guided on how best to make their sites compliant under the E.U. Directive, and will receive a newly-designed E.U. seal to alert consumers that the company Web site meets E.U. standards.
- ▶ Privacy Online continues to work on several third-party initiatives with companies in the Internet safety, child protection and privacy sectors.

ESA Canada

IN FY 08, ESA CANADA (ESAC) introduced a new French brand, ALD Canada (*L'Association canadienne de logiciel de divertissement*) and added two new staff members to focus on key areas of policy and public relations.

ESAC continued to be the voice of the entertainment software industry in Canada and worked on increasing its brand awareness and messaging.

Video Game Ratings

- ESAC met with the Quebec Minister of Culture and Communications, and affirmed the Quebec government's commitment not to legislate on video game ratings during their current mandate.
 - ESAC continued positive relations with Film Board representatives from all jurisdictions in Canada through participation in the ESAC/ESRB-led Canadian Advisory Committee.
 - To increase compliance with the national voluntary Commitment to Parents program, ESAC worked with retailers and the ESRB to improve signage audit accuracy, undertook audits of in-store CTP signage, and conducted national research on awareness of video game ratings.
 - ESAC continued to work on ensuring ratings-related legislation is consistent across the board. ESAC also continued to work with Saskatchewan, British Columbia, and New Brunswick on implementing their existing legislation.
- ## Intellectual Property Policy and Anti-Piracy
- ESAC provided video game industry information and developed relationships with officials and Parliamentarians related to copyright reform, IP enforcement and international trade. Such officials include Members of Parliament, the Ministers of Industry, Canadian Heritage and International Trade, the Parliamentary Committee chairs of Industry and Heritage, and the Chair of the Interdepartmental Working Group on IP Policy.
 - ESAC made submissions to the federal government on issues including copyright reform, privacy concerns related to provisions in the Copyright Act, proceeds of crime, border enforcement, legislative reform related to intellectual property rights, and trade policy for video game products and related services.
 - ESAC presented before the Standing Committee on Industry, Science and Technology on counterfeiting and piracy of Intellectual Property.
 - ESAC continued to work closely with all Canadian copyright industry associations and participated regularly in "ad hoc copyright coalition" meetings with Canadian Recording Industry Association (CRIA), Canadian Motion Picture Distributors Association (CMPDA), Business Software Alliance (BSA)/ Canadian Alliance Against Software Theft (CAAST), book publishers, movie and television publishers, and music publishers associations.
 - ESAC continued its involvement with the Canadian Anti-Counterfeiting Network (CACN), and participated on the Government and Legislative Affairs Committee.

- ESAC worked with the CACN to develop a draft omnibus bill on counterfeiting and piracy enforcement – this was endorsed by the Canadian Chamber of Commerce and the Retail Council of Canada – and delivered to the Ministers of Industry, Public Safety and Security, International Trade and the Prime Minister’s Office.
- ESAC attended the OECD conference called “The Participative Web: Strategies and Policies for the Future.” ESAC raised the issue of the right of creators to control access to their IP and highlighted some of the entertainment software industry’s unique uses of DRM. Outcomes from the conference established the policy direction and agenda for the upcoming OECD Ministerial Meetings in Seoul, Korea in June.
- ESAC met with the chair of the OECD Information, Computer and Communications Policy Committee and the Director General of Electronic Commerce at Industry Canada to provide input on Canada’s position in preparation for the Ministerial.
- ESAC continued to work with ESA and the RCMP on supporting Canadian anti-piracy enforcement activities.
- ESAC held the industry’s second annual Ottawa Day event for Parliamentarians, officials and staff to build awareness of industry issues and ESAC. The event drew a large crowd, including several Members of Parliament and Senators, and most notably the Minister of Finance who spoke at the event regarding the importance of the industry to the Canadian economy.
- Produced the third-annual Canadian Essential Facts, in French and English;
- Produced the first ever white paper on the entertainment software industry in Canada;
- Joined other CACN members to contribute to a special section on anti-counterfeiting and piracy in the *Toronto Star*;
- Participated on Ontario Ministry of Economic Development and Trade committee regarding the development and growth of Ontario’s video game industry;
- Built media relationships and continued to establish a presence for ESAC among key English and French media, including coverage on local and national outlets including CTV, *National Post*, *Financial Post*, *Globe and Mail*, *Musique-Plus*, CBC and CFRB radio, *Le Devoir* and *canada.com*, and increased coverage of anti-piracy raids in mainstream publications such as the *Vancouver Sun* and the *Toronto Star*;
- Had extensive media coverage of Quebec language announcement on French and English radio, in print and online media; and
- Continued to represent the video game industry on the board of the Kids Internet Safety Alliance to promote the safety of children online.

Public Relations and Issues Management

- On behalf of the industry, ESAC signed an agreement to provide French language games in Quebec. This was announced at a joint news conference with the Québec Minister of Culture and the *Office québécois de la langue française* (OQLF). The agreement was also endorsed by the retail council of Quebec (CQCD). As part of the agreement, the OQLF agreed to drop all outstanding language complaints against companies covered by the agreement.

The ESA Foundation

THE ESA FOUNDATION (ESAF) is dedicated to supporting positive programs and opportunities that will make a difference in the quality of life, health and welfare of America's youth. The Foundation seeks to harness the collective power of the industry to create positive social impact in our communities and supports geographically diverse projects and programs that benefit American youth of all races, denominations and genders.

Nite to Unite – for Kids

The 10th annual Nite to Unite (NTU) was held at the Westin St. Francis in San Francisco on October 17, 2007, and raised over \$900,000 thanks to generous contributions by members of the industry.

The industry honored Ken Kutaragi, Sony Computer Entertainment, Inc., with the ESA Champion Award in recognition for his outstanding service and contributions to the industry. Event co-Chairs included Robert Bach, president, Entertainment & Devices Division, Microsoft Corporation; Reggie Fils-Aime, president and chief operating officer, Nintendo of America, Inc.; and, Jack Tretton, president and chief executive officer, Sony Computer Entertainment America, who were joined by 15 distinguished members of the industry serving as vice chairs.

In keeping with the foundation's mission to support positive programs and opportunities that make a difference in the lives of America's youth and teens, the following organizations were chosen to receive grants in FY 08.

HopeLab

HopeLab is a nonprofit organization that combines rigorous research with innovative solutions to improve

the health and quality of life of young people with chronic illness. HopeLab's first innovation is *Re-Mission*, a PC game developed for teens with cancer. *Re-Mission* allows the player to kill cancer as the player pilots Roxxi, the nanobot through the body of fictional cancer patients. *Re-Mission* was engineered and tested with the assistance of oncologists, nurses, cell biologists and behavioral psychologists and is the first game shown to help teens and young adults with cancer improve their quality of life, their sense of control and knowledge about cancer, and maintain adherence to their prescribed treatment regimen. It is rated "T" (for Teen).

Re-Mission.net also serves as an interactive, online community for teens and young adults, who are often isolated as a result of their disease. The Web site is designed to allow teens with cancer to connect with each other and share information. The game, available in English, French and Spanish, is free of charge to teens and young people living with cancer.

The game was extensively researched for reliability and validity prior to release. HopeLab conducted a randomized, controlled, multi-center trial to test the effect of *Re-Mission* on adolescents and young adults with cancer. The conclusion of the research showed that a theory-based, data-driven intervention delivered in an appealing interactive game context can produce significant increases in cancer-related knowledge and self-efficacy.

In FY 08, the foundation sponsored a project between HopeLab and Starlight Starbright Foundation (SLSB) to distribute the game on SLSB's PC Pals program. PC Pals provide pediatric patients with a variety of entertaining and educational software such as disease management tools. The Foundation also sponsored the production

and distribution of 6,000 disks to approximately 100 cancer camps in 41 states through SLSB's network. The game was made available for age-appropriate campers; approximately 40 percent of total campers are above the age of 12.

Federation of American Scientists (FAS)

FAS is an organization formed by atomic scientists from the Manhattan Project. In recent years, the mission of FAS has expanded to include our country's critical challenges in housing, energy and education. The Information Technologies Project works on strategies to intensify and focus research and development to harness the potential of emerging information technologies to improve how we teach and learn. Under this branch, FAS along with Brown University and the National Science Foundation have developed a game called *Immune Attack* to teach students about immunology and infection.

Immune Attack is a game that can be used to teach high school students and college freshman about immunology in a multimedia environment supported by instructional content. The goal of the game is to educate players about the human immune system, increase interest in biology and science, and demonstrate that computer games can be used to teach complicated subjects.

The foundation awarded FAS a grant to assist in building additional environment levels for the game, add new functionality, distribute and test the games in schools, and develop curriculum.

PAX

PAX is a nonprofit organization working to end the crisis of gun violence in America. Its creative and yet common-sense programs are based on simple, focused and empowering public health insights. PAX currently has two programs: the *ASK Campaign* urges parents to ask whether there are accessible guns where their children play; and the *SPEAK UP* campaign empowers

students with the resources to prevent violence in their schools and communities by providing a hotline where they can report weapon threats anonymously. The hotline was created because in over 80 percent of school shootings, the attackers tell other students of their plans in advance.

The Foundation awarded a grant to PAX to expand its network of new schools in Los Angeles, San Diego, Chicago and North Carolina. Over 3 million audience impressions were created in these markets in FY 08.

Web Wise Kids (WWK)

Web Wise Kids (WWK) is a nonprofit organization working to promote Internet safety by using *Missing*, a computer game developed by Live Wires Designs in Canada that teaches Internet safety.

Thanks largely to the support extended by the foundation, WWK has been able to produce a three-year Internet safety curriculum for middle schools using the games *Missing* and *CyberCops*, a follow up series to reinforce the safety messages learned in *Missing*. *Missing*, *AirDogs*, and *Mirror Image* are designed to be played individually, with parents or in a classroom environment. Extensive training and support is provided by WWK staff to educators and other community leaders on how to use these games and the curriculum effectively in a classroom environment. In addition to the games, WWK has developed *Wired with Wisdom*, a program specifically targeted to educating parents on online safety. WWK programming has been successfully used by teachers, law enforcement, and other community leaders.

WWK was founded in 2000 and has been an ESAF supporter since 2001. During this time WWK has experienced growth and recognition by Members of Congress and safety organizations, and now is one of the most recognized and effective organizations on Internet safety. WWK regularly appears before congressional committees on Internet safety issues in Washington,

D.C., as well as state legislative committees including California. It was recognized by former U.S. Attorney General Alberto Gonzales as one of the top three Internet Safety organizations when he launched "Project Safe Childhood."

Notable achievements in FY 08 include:

- WWK, the foundation and the ESA state legislation department worked collaboratively to offer internet safety programs through WWK to attorney generals (AG) in Massachusetts, Virginia, New York, Louisiana, Washington and Florida. This new approach allowed the State Legislative Department to proactively make positive connections with AG's in specific states; and
- WWK Launched "Wired with Wisdom" with the California PTA.

Work, Achievement, Values & Education, Inc. (WAVE)

WAVE's mission is to motivate youth to complete school, lead productive lives and make a valuable contribution to their communities. The focus of WAVE is to curtail dropout rates and the problems associated with the failure to graduate. A young person enters a WAVE program as a school dropout, delinquent, truant, or student otherwise labeled at-risk of school failure. That young person completes WAVE as a young adult equipped with new assets and a fresh sense of self-worth and their role in the community.

WAVE was founded in 1969 by business and government leaders including former Delaware Governor and U.S. Congressman Pete DuPont. WAVE is proud to have maintained a well-respected profile among Washington, D.C., leaders.

In 2004, the Foundation and WAVE established the ESA/WAVE Incentive Grant Program. These Incentive Grants

enabled community-based organizations, schools and WAVE to help more at-risk youth and build professional capacity of local teachers and youth development staff working directly with these youth. WAVE and its local programs partners have made significant strides in its work with school dropouts and at-risk youth in Texas, Tennessee, New York and Virginia.

The foundation was pleased to support WAVE's continued work with these partners in FY 08 to reduce the number of students who drop out of school. Support from the foundation enabled WAVE to work with students in some of the nation's neediest communities providing professional training, consultation and ongoing support to educators and staff from schools and community organizations.

ESA Foundation Scholarships

The ESAF scholarship program is designed to provide financial assistance to women and minority students pursuing degrees in game design arts. To be eligible applicants must be a woman or minority student enrolled in a full-time undergraduate course of study at an accredited four-year college or university pursuing a degree in Video Game Development or Design, Graphic Design and Multimedia, Computer Animation, Computer Programming, Simulation or Digital Entertainment, Software Engineering, Computer Science, 3D Animation or another related degree program, and have a grade point average of 2.75 or above on a 4.0 scale (or equivalent).

In the first year of implementation, six students majoring in Computer Animation, Illustration, Interdisciplinary Arts, Game Design, and Sound Engineering were chosen to receive scholarships. The awardees attend the following schools: Arizona State University, California College of the Arts, Collins College, Full Sail Real World Education, and Parsons New School for Design.

The background of the page is a gradient of blue, transitioning from a deep blue on the left to a light blue on the right. Overlaid on this gradient are numerous thin, white, curved lines that flow from the top left towards the bottom right, creating a sense of movement and depth. The lines vary in thickness and opacity, some appearing as solid white lines while others are more faint and ethereal.

WWW.THEESA.COM