

Update: Court strikes down state's ban on sale of violent video games

WASHINGTON – We use our TVs for more than watching TV. There are DVDs (and, for the hardy holdouts, VHS tapes), and time-shifting and on-demand options in the new digital age.

TVs also are used to play video games. And the Supreme Court has opened the floodgates for the most violent of video games to be purchased by minors, striking down a California law that had banned their sale to youngsters, imposing a \$1,000 fine for any store that sold violent video games to anyone under 18.

The vote wasn't close – 7-2 – and the two dissenters represented one each from what is generally regarded as the court's liberal and conservative wings.

Leland Yee, the California state senator who wrote the law, was clearly unhappy with the high court's decision. "Unfortunately, the majority of the Supreme Court once again put the interests of corporate America before the interests of our children," he said in a statement posted on his website June 27, the date of the court's ruling. "It is simply wrong that the video game industry can be allowed to put their profit margins over the rights of parents and the well-being of children." Such profits come "at the expense of our kids' mental health and the safety of our community," he said.

The video game industry's annual sales total \$10 billion.

U.S. Rep. Joe Baca, D-Calif., said June 27 he would reintroduce a bill that would require the makers of any video game rated T (for teen) or higher to post a health warning, in the manner of those found on cigarette packs: "WARNING: Excessive exposure to violent video games and other violent media has been linked to aggressive behavior." He sponsored such a bill in 2009, but it went nowhere.

"Research continues to show a proven link between playing violent games and increased aggression in young people," Baca said in 2009. "American families deserve to know the truth about these potentially dangerous products."

In his dissent, Justice Stephen Breyer said, “I would find sufficient grounds in these studies and expert opinions for this court to defer to an elected legislature’s conclusion that the video games in question are particularly likely to harm children,” adding his view that the California law passed constitutional muster.

Breyer added, “What sense does it make to forbid selling to a 13-year-old boy a magazine with an image of a nude woman, while protecting the sale to that 13-year-old of an interactive video game in which he actively, but virtually, binds and gags the woman, then tortures and kills her?”

In a separate dissent, Justice Clarence Thomas – considered an “originalist,” meaning that he backs the intent of the Constitution’s original framers – said: “‘The freedom of speech,’ as originally understood, does not include a right to speak to minors – or a right of minors to access speech – without going through the minors’ parents or guardians.”

The justices in the majority considered video games a protected form of speech under the First Amendment. It was the first time the court gave a blanket protection to a communications medium since 1952, when movies got that nod. TV doesn’t qualify for full protection since it uses the airwaves, which are owned by the public and managed in the public’s stead by the government, to transmit content.

The California law “abridges the First Amendment rights of young people whose parents (and aunts and uncles) think violent video games are a harmless pastime,” said the majority opinion, written by Justice Antonin Scalia and joined by four other justices.

Justice Samuel Alito wrote a separate concurring opinion, joined by Chief Justice John Roberts, but he added his belief that a more narrowly tailored law could work, noting the disturbing imagery of some of the games.

“The objective of one game is to rape a mother and her daughters,” Alito said. In another, “players attempt to fire a rifle shot into the head of President Kennedy as his motorcade passes by the Texas School Book Depository.”

The Parents Television Council was none too pleased with the ruling. “When an

industry trade group files a federal lawsuit to defend a child's constitutional rights, the alarm bells should be deafening," said the group's president, Tim Winter, in a June 27 statement.

Results of a Rasmussen telephone survey released July 5 show that 67 percent of U.S. adults said states should be able to prohibit the sale or rental of violent games to minors. At the same time 79 percent said parents, not government, have the responsibility to limit children's access to such games.

Most TVs now carry a V-chip to allow parents to block programs that carry a TV Parental Guideline they don't want. And while TVs themselves don't have such a blocking device for objectionable games, what may not be as well known is that the technology exists on video game consoles. In addition, an organization called the Entertainment Software Rating Board offers a rating guide on games for parents.

Pattison is media editor for Catholic News Service. When you keep your eye on TV, what do you see? What are your likes or dislikes? What are your concerns and criticisms? Be as general or as specific as you wish. Send your comments to: Mark Pattison, Media Editor, Catholic News Service, 3211 Fourth St. NE, Washington, DC 20017.