



How Hollywood got its groove back : Reimagining the mass audience through the Motion Picture Association of America's rating system.

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Title: How Hollywood Got It's Groove Back: Reimagining the Mass Audience Through the Motion Picture Association of America's Rating System

Degree:

Ph.D

Year:

2001

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**How Hollywood Got Its Groove Back:
Reimagining the Mass Audience Through the
Motion Picture Association of America's
Rating System**

Kevin Scott Sandler

A thesis submitted in partial fulfilment of the requirements of
Sheffield Hallam University
for the degree of Doctor of Philosophy

April 2001



ABSTRACT

This dissertation explores how Hollywood, in the years following the creation of the Classification and Ratings Administration (CARA) in 1968, reimagined the "mass audience" in an age of audience fragmentation. Building on Richard Maltby's suggestion that the rating system did not cause "the majors to alter their fundamental assumptions about the nature of film as a commercial commodity," I will show how the industry successfully continued to portray itself as a producer of universal entertainment for an undifferentiated audience. Guaranteeing that all CARA certified films would be rendered "respectable" for its audiences was the key tactic in this strategy. The abandonment of the X through the cooperation of large, vertically aligned and integrated companies has ensured an unusual industrial stability under the mediating regulatory practices of CARA for almost thirty years. In the process of detailing how the studios successfully anticipated and accommodated CARA's requirements for what I term the "incontestable R"--in theory a "restricted" category, but in fact a category permitting all-ages consumption--I explore the consequences that arranging pictures for an R has for Hollywood production practices. By examining the ill-fated attempts to restore the adult category with the NC-17 rating in 1990 and Showgirls in 1995, I demonstrate how the continuing stigmatization of the NC-17 serves the economic interests of its large member distributors at the expense of small independent or unaffiliated distributors and exhibitors.

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INTRODUCTION

Let me tell you that the linchpin of this rating system was the interlinking of essential ingredients. First, the system must have integrity, must have probity. It must be proof against pressure from all sides, majors and independents, from anyone who has a personal economic stake, or anyone who may assume they have an economic stake, in the outcome of the ratings. . . . Second, we had to have a partnership of everybody involved in films, the retailer, the theaterowner who exhibits the film, the independent director and producer, and the major director and producer. . . . Third, a policy mechanism had to be created so that if someone felt aggrieved by a rating, he had a place to go. You can't have a czar or a dictator saying, "That is it, and no more." Four, and this is the crux of the system, it really had to perform a service for parents. Otherwise, the ratings had no meaning. Those were the four indispensable elements that formed the recipe for the rating system.

Jack Valenti¹

Scholars have never attempted a systematic investigation of the motion picture rating system administered by the Classification and Ratings Administration (CARA), the self-regulatory branch of the Motion Picture Association of America (MPAA). This absence is a result of CARA's methodologies, membership, and missions being shrouded in secrecy since its creation on 1 November 1968. Like Production Code Administration (PCA) director Joe Breen, Jack Valenti--the president of the MPAA and overseer of CARA--rarely discusses the specific details behind rating decisions and never makes available internal documents to the public. When Valenti finally released the PCA case files to the Academy of Motion Picture Arts and Sciences' Margaret Herrick Library in 1986, an array of scholarship followed. Richard Maltby, Lea Jacobs, Gregory D. Black, and Leonard J. Leff and Jerold L. Simmons, among others, filled the noticeable void of earlier research on Hollywood self-regulation by scholars such as Richard S. Randall and Murray Schumach, whose efforts to understand the PCA were left incomplete by the unavailability of primary material.

A similar sequestering of rating documents has led few researchers to attempt to theorize and historicize CARA's impact on the motion picture industry for the last thirty years. Apart from a brief chapter in the less-than-scholarly Censored Hollywood by Frank Miller,² the only study about the inner workings of CARA came in 1972 with The Movie Rating Game, a firsthand account by a six-month intern, Stephen Farber. When Farber indicates in his preface of his "rare opportunity to observe the rating system from the inside"³ little did he know that it would be the first and last time such an inspection would be possible. How then, does one pursue an investigation of CARA if its files remain classified and its procedures are relatively obscured?

* * *

I once paid a visit to the nerve center of the MPAA's ratings office and it left a lasting impression. Upon entering the rather austere building, I was confronted with several banks of typists who were busily pounding out their admonitions to filmmakers who would be hanging on their every word. . . . I couldn't help wondering what they told their husbands over dinner. Such as: "It was a slow day at the office, dear. I typed the word "fuck" only 64 times and "cocksuckers" were down to 12.

Peter Bart⁴

The astounding thing is that this board is supposed to represent all American parents. That's absurd. These are all people who live in the San Fernando Valley. What do they know about how the average American thinks? . . . They're not rating movies for the average American. They're rating movies for a fringe group of potential adversaries who might protest and write letters. That's the fundamental hypocrisy of the ratings board. . . . Frankly I don't want people from the San Fernando Valley rating my movies. I don't like their track record. I don't like that violence is more acceptable than sex. I don't like that a chainsaw is more acceptable than a condom.

James Toback⁵

The following information on CARA is widely available. CARA is a branch of the MPAA, a Hollywood trade organization that engages in collecting royalties, detecting and eliminating film piracy, and negotiating international film treaties for its members. The MPAA is funded almost entirely by fees paid

by these seven members, the major studio releasing companies and their subsidiaries: Metro-Goldwyn-Mayer, Inc. (MGM/UA, Samuel Goldwyn); Paramount Pictures Corp; Sony Pictures Entertainment (Columbia, Tri-Star, Sony Pictures Classics, Screen Gems, and Triumph); Twentieth Century Fox Film Corp. (Fox Searchlight); Universal (October); the Walt Disney Company (Buena Vista, Touchstone, Miramax and Dimension); and Warner Bros. (New Line, Fine Line).⁶ CARA operates under the jurisdiction of the MPAA and consists of three separate arms: a rating board (the "Board"), the Rating Appeals Board (the "RAB") and the Advertising Administration, which oversees all advertisements and press materials.

According to an MPAA pamphlet, CARA is a completely "voluntary system"⁷ in which no company is forced to participate, although member studios of the MPAA are required to submit their films for certification. CARA does not have the power to ban a film or force its creator to alter it for exhibition--unlike the PCA who could grant or deny a seal by "approving" or "disapproving" the content of its member studios' film.⁸ CARA is not designed to rate films on whether they are "good or bad," but to "give advance cautionary warning about specific films to parents, so that parents could make their own decisions about the movie-going of their children."⁹ Adults are free to view any film they choose; only children can be restricted.

The initial design of the rating system called for four categories:

- G for general audiences, all ages admitted;
- M for mature audiences, parental guidance suggested, but all ages admitted;
- R for restricted, children under 16 would not be admitted without an accompanying parent or adult guardian;
- X for no one under 16 admitted.¹⁰

Five major changes have occurred to the rating system in the past thirty years: 1) the age limit for the X was raised to 17 in 1969; 2) GP replaced the M in 1970¹¹--then became PG in 1972; 3) the upper age limit for R films was raised to 17 in 1970; 4) in 1984, a PG-13 rating was inserted between PG and R to warn

parents that some material may inappropriate for children under 13; and 5) the NC-17 replaced the X rating in 1990.

The Board's regulatory mechanisms from 1968 to the present can be gathered from two pamphlets, over twenty years apart, made available to patrons in movie theaters. The first, "Film Rating Guide for Parents and their Children," came out in 1972:

The rating board, located in Los Angeles, consists of experienced persons from all walks of life. They spend full time on this assignment.

The Board examines each film as a whole, together with all its ingredients that relate to its suitability for children. The elements that the Board takes into consideration run a wide range. They include, just for example, violence, language, sexuality, and theme. These elements are judged, in deciding on the suitability of a film for children, within the context of the picture relative to the degree and shading and subtle nuances of treatment.¹²

This can be compared to a similar pamphlet issued by the National Association of Theater Owners (NATO), a co-member of the rating system, in 1996:

Parents give the movies their ratings--men and women just like you. They are part of a specially designed committee called the film rating board of the Classification and Rating Administration. As a group, they view each film and, after a group discussion, vote on its rating, making an educated estimate as to which rating most American parents will consider the most appropriate.

The rating board uses the criteria you as a parent use when deciding what is suitable viewing for your child. Theme, language, violence, nudity, sex, and drug use are among those content areas considered in the decision-making process. Also assessed is how each of these elements is employed in the context of each individual film. The rating board places no special emphasis on any of these elements; all are considered and examined before a rating is given.¹³

What these pamphlets make clear is that the rating of films is a secretive, subjective, and labile process.

Additional information of CARA's operations can mainly be extracted from speeches, government records, and media remarks by Valenti and CARA chairpersons Eugene Dougherty, Aaron Stern, Richard Heffner, Richard Mosk, and Joan Graves. CARA is

located in Los Angeles (first Hollywood then Sherman Oaks in the 1990s).¹⁴ The Board is now composed of eight to thirteen full-time and part-time salaried people hired to serve one to three year terms,¹⁵ and headed by a chairperson who is selected by Valenti. This Board works for CARA, whose funding comes from fees charged to producers and distributors for the rating of their films. These fees, as of 1999, range from \$2000 to \$10,000 depending on the acquisition cost of the film, the gross revenue of the submitter for the previous fiscal year, and whether the submitter was involved in the film's financing.¹⁶ The identity of the board members is secret, except for the fact that they come from the Los Angeles area, have mature judgment and a love for movies, and must be parents themselves.¹⁷ In only a few instances and not since 1981, have their identities been revealed to the public.¹⁸

The Board assembles in Sherman Oaks to watch two to three films each day. Although there is no official quorum, Heffner says no ruling on a film has been carried by less than five or six people.¹⁹ After each film viewing, the members complete a "green" ballot spelling out his or her reason for the rating in what, as of 1996, appear to be six criteria: theme, language, violence, nudity, sex, and drug use (In 1975, there were four criteria: theme, violence, language, and nudity and sex.) The viewers ask themselves one question: "Is the rating I am about to apply one that most parents in America would find accurate?"²⁰ The Board then gives the film an overall rating based on these assessments. Each rating is decided by a majority vote. The producer or distributor has the right to inquire about the reasons for the rating and can choose to try for a less severe rating by editing the film. The re-edited film goes back to the Board and the process begins again. Valenti takes no part in rating decisions and does not overrule or dissuade the Board from decisions it makes.

If a producer or distributor is displeased with the rating given by the Board, he or she can appeal the decision to the Rating Appeals Board (RAB) based in New York. The RAB currently is comprised of 14-18 members from the industry organizations that govern the rating system.²¹ As of 1995, this

comprises members of the MPAA and NATO, as well as representatives from independent distribution companies.²² After screening the film, the producer explains why he or she believes the rating was wrongly assigned and suggests a less restrictive one; this person may have also submitted a written or video presentation to the RAB beforehand. CARA's chairperson then states the reasons for the film's rating to which the producer has an opportunity to rebut. After excusing the two opposing representatives from the room, the RAB discusses the appeal and in a secret ballot, votes to uphold or overturn the rating; a two-thirds vote of those present is required to overturn the rating. The RAB's decision is final although they have the authority to grant a rehearing at the producer's request.

In addition to submitting a film for a rating, all written and visual materials for rated motion pictures must be submitted to the Advertising Administration. This includes theatrical and home video trailers, print ads, radio and TV spots, pressbooks, and videocassette packaging. In order to assure parents that children will not be seeing a trailer with R or NC-17 material in it, most trailers are approved for "all audiences," meaning that no scenes in it would be rated higher than a G. These "all audiences" trailers carry a leader with a green background, describing the rating of the film advertised, and a green band encircling the trailer reel. Other trailers are approved for "restricted audiences" due to their content. Their use is limited to films rated R or NC-17. The leader for "restricted" trailers has a red background and the reel has a red band to alert projectionists from showing the wrong trailer with the wrong picture. Most trailers, says Bethlyn Hand, the director of advertising, are disapproved by her staff of four mothers "nine out of ten times" the first time around.²³

In accomplishing these duties, CARA adamantly denies they are censors. Instead, as Valenti and Heffner oftentimes state, CARA is a "voluntary film classification" service that acts as a barrier to state and federal film censorship.²⁴ No one is obligated to accept the rating and CARA does not have the power to enforce it. Producers can release a movie unrated if they

choose, or assign an X or their own non-CARA rating to a film. CARA has one sole mission says Valenti: to give advanced cautionary warnings to parents so they can make responsible decisions about the moviegoing of their children²⁵ "We serve parents of America. We do not serve producers, distributors, or film critics."²⁶ To serve parents, the Board, states Valenti, does not rate the quality of a film like the previous Production Code. "There are no dos and don'ts. It doesn't place values, good or bad, on the picture."²⁷ Neither does CARA vet scripts or get involved in any stage of the production like the old system.²⁸ As such, CARA resists disclosing the specific details behind their rating decisions. The filmmakers can only edit what they think to be the offending scene and resubmit it, they can appeal the rating, or simply release the film unrated. After all, it is "voluntary film classification."

* * *

A little judicious censorship is like a little syphilis.

Sam Peckinpah

CARA's methods of assigning its ratings have continually baffled and angered critics and filmmakers. Many people feel that CARA's decisions are hypocritical, arbitrary, and unfair. The following debates are oftentimes raised: Why is sexuality rated more severely than violence? Is there a double standard involved with male and female nudity? Do MPAA members get preferential treatment over independent and foreign distributors? Can there be a new rating to differentiate serious adults-only films from pornography?

Instances of horror, profanity, nudity, lovemaking, drug use, and the treatment of provocative social themes always come into play when examiners apply a certain rating for a film. Indeed, studios do attempt to earn a higher or lower rating within these categories after receiving the initial designation from CARA. For example, Robert Simonds, the producer of the 1998 MGM film Dirty Work, explains how the cumulative use of foul language, nudity, and an objectionable tone occurring in a

jail first earned the film an R rating. In need of a PG-13 in order to reach a larger, unrestricted audience, MGM cut the film, including a scene where star Norm Macdonald comically berates a group of hulking tattooed bikers as he exits a jail. The line, "You fellows have a lot of growing up to do," can only be assumed by the audience to imply off-screen sodomy. "That was non-negotiable," says Simonds. "If we kept it, we would've had an R rating. You just can't have the star of your movie reprimanding his tormentors for being violated and still get an R rating."²⁹

Yet, as this Los Angeles Times article suggests, the categorization of Dirty Work was a "rare inside peek" into the ratings process since Simonds allowed the newspaper to view both R and PG-13 versions of the film. This "backstage" account of Dirty Work is an exception to what I believe is an unspoken agreement among the MPAA companies that their deliberations with CARA should always remain private. Thus, to research the rating system is a daunting task; the lack of information outside of industry trade magazines (Variety and the Hollywood Reporter), the absence of practically any theoretical or historical work on CARA, and the limited availability of differently-rated versions of the same film on video makes little primary material available to the scholar.

For this reason I have chosen to narrow my focus to one division--the division between the R and the NC-17 ratings. The details of CARA's decision-making process in the G, PG, PG-13, and R categories will not be discussed in this dissertation. Certainly, the increasing stigmatization of the G rating or the events leading up to the creation of the PG-13 in 1984 are as complex and multi-leveled as the R/NC-17 boundary. I acknowledge that the other categories deserve equally close examination and scrutiny. However, analyses of the Production Code's thirty-eight year tenure have spanned over twenty books; the rating system celebrated its thirty-two year anniversary in 2000 with only one published account of its activities (and that was The Movie Rating Game in 1972). With little groundwork covered on the self-regulatory machine of New Hollywood, this dissertation carves out a significant, but not an all-inclusive

treatise on the subject, which itself is a much larger body of American film history ripe for investigation.

A second reason for my decision to concentrate on the R/NC-17 boundary is that this boundary is by far the most directly tied to the focus of this dissertation: Hollywood's image of itself as "respectable" entertainment. While it is true that the media, parents, and reform groups do regularly criticize CARA for what they see as haphazard and inconsistent determinations made between the G, PG, PG-13, and R categories, these attacks are usually censures against CARA's examination process rather than Hollywood's production practices. Furthermore, there are cases when conservative film critics like Michael Medved speak of Hollywood entertainment abandoning and no longer reflecting the values of most American families (Hollywood vs. America)³⁰ without singling out the R/NC-17 boundary. Yet these attacks are much rarer. When they do occur--for example, when Senator Bob Dole identified Natural Born Killers (1994) as proof of Hollywood's amorality--these figures usually take aim at films occupying the outermost edge of the R category.³¹

There are also special cases, dutifully covered by Charles Lyons in The New Censors: Movies and the Culture Wars,³² when certain Hollywood films like Year of the Dragon (1985) and The Last Temptation of Christ (1988) draw public criticism for their treatment of minorities and religion. But these events are totally unrelated to CARA; they are not rating disputes but social disputes over Hollywood representation. Therefore, CARA is not necessarily involved in every dispute over Hollywood's occasional failure to provide "respectable" entertainment.

Nevertheless, CARA's maintenance of the R/NC-17 boundary is crucial, and I will argue, paramount in performing this task. While negotiations with, disputes between, and modifications to the lower ratings mainly serve as guidelines for parents and their children, CARA's integrity is predicated on the "incontestability" of Hollywood films as a site of mass entertainment. The question, "Should Hollywood be excluded from distributing certain images and themes, and where should this threshold lie?" is of much greater import to the industry than

"At what age should certain images and themes be made available to children, and where should these thresholds lie?" Marketing categories are one thing, but Hollywood's image is another. Parental approval, while significant, pales in comparison to the approval Hollywood seeks for validation of its products from other sources, such as reform groups or government officials. Many studio executives may call the PG-13 "the Good Housekeeping seal for parents,"³³ but I will show that Hollywood's abandonment of the X/NC-17 enables such seals to exist in the first place.

This dissertation explores how, in the years following its introduction of a rating system in 1968, Hollywood reimagined the "mass audience" for its products in an age of audience fragmentation. Building on Richard Maltby's suggestion that the rating system did not cause "the majors to alter their fundamental assumptions about the nature of film as a commercial commodity,"³⁴ I will show how the industry continued successfully to portray itself as a producer of universal entertainment for an undifferentiated audience. Guaranteeing that all CARA certified films would be rendered "respectable" for its audiences was the key tactic in this strategy. The abandonment of the X through the cooperation of large, vertically aligned and integrated companies has ensured an unusual industrial stability under the mediating regulatory practices of CARA for almost thirty years. In the process of detailing how the studios successfully anticipated and accommodated CARA's requirements for what I term the "incontestable R"--in theory a "restricted" category, but in fact a category permitting all-ages consumption--I will explore the consequences that arranging pictures for an R has for Hollywood production practices. By examining the ill-fated attempts to restore the adult category with the NC-17 rating in 1990 and Showgirls in 1995, I will demonstrate how the continuing stigmatization of the NC-17 serves the economic interests of its large member distributors at the expense of small independent or unaffiliated distributors and exhibitors.

[T]he American cinema should be understood for what it is: primarily a commercial institution, engaged in manufacturing and selling a specific product in a capitalist market-place, and only incidentally a species of art, a political statement, a sociological document, a cultural product or an object of theoretical speculation.

Richard Maltby³⁵

People have this mistaken notion that the Hollywood system has principles, morals, or values. It doesn't. It is simply a banking entity.

Paul Schrader³⁶

In beginning to understand how Hollywood reconstructed the suitability of classified products for broad-based consumption, we need to recognize that the Motion Picture Association of America, since 1922, serves, first and foremost, to protect the economic interests of member companies. It is commonly accepted that Hollywood self-regulation reached its peak of maximum efficiency between the years of 1934-1948, from the creation of the Production Code Administration up to the Paramount Decree. In the course of this alliance--what Douglas Gomery calls a "tight-knit oligopoly"³⁷--the PCA succeeded in maximizing the profit of its member studios by managing their product; they curbed offensiveness and controversy from films so they could play for a wide audience.

Richard Maltby argues that to maximize profit for the studios, the PCA, the MPAA's self-regulatory body, was committed to the appearance of "harmless entertainment"--movies detached from political significance, that were inoffensive as possible, and appealing to the lowest common denominator of public taste.³⁸ As a result, Maltby suggests, "Movies were thus endowed with an affirmative cultural function that was dramatically at odds with a view of art as a vehicle of social criticism or negation."³⁹ According to Ruth Vasey in The World According to Hollywood, 1918-1939, Hollywood movies were governed by a set of narrative and representational conventions that ossified their status as a medium of mass entertainment.

In Hollywood's fictional kingdom, the desires that viewers project onto characters are fulfilled and regulated by a narrative resolution that reasserts and reestablishes a deterministic moral order, by which the guilty are punished, the sympathetic are discovered to be innocent, and audiences "exhausted with the realities of life" are "improved" by what one of the authors of the regulatory Production Code called "correct entertainment."⁴⁰

According to Maltby, the business of "harmless" and "correct" entertainment in Hollywood has always consisted of "producing the maximum pleasure for the maximum number for the maximum profit."⁴¹ The mass production, distribution, and exhibition of films ultimately leads to certain formal and aesthetic properties, and hence only by comprehending Hollywood as a commercial enterprise in a capitalist economy can we properly understand "what Hollywood is, and what Hollywood movies are."⁴²

Richard Dyer would concur with Maltby and Vasey's definitions of Hollywood entertainment but would extend it to all forms of professional entertainment. "Entertainment is a type of performance," Dyer suggests, "produced for profit, performed before a generalized audience (the 'public'), by a trained, paid group who do nothing else but produce performances which have the sole (conscious) aim of providing pleasure."⁴³ However, Dyer also realizes that entertainment created for the masses, while being largely determined by the profession, does not simply reproduce and express corporate ideology and interests. Labor--directors, actors, producers--also has a voice. Because entertainment is a form, not a concrete thing, it gives creative personnel greater control in assembling the final product.⁴⁴ As Vasey observes, the physical separation of the heads of finance in New York and the heads of production in Hollywood during the studio system created an unavoidable tension between profit maximization and creativity.⁴⁵

Nevertheless, the ongoing struggle between capital and labor in shaping Hollywood entertainment has always been arbitrated by a third force in cinema: self-regulation. Ever since the 1915 Supreme Court Mutual decision ruled that the motion picture industry was not deserving of free speech

protection because it was a "business, pure and simple,"⁴⁶ the movies had to prove acceptable not only to the state, but also to moral watchdogs, competing censorship boards and other institutions who sought to govern the public sphere. Film's status as a commodity with public responsibility forced the industry into a position to regulate itself. If the studios, wrote Maltby, "could be made to appear respectable in the public eye, their products would be less liable to hostile scrutiny, and hence more profitable."⁴⁷ The PCA seal of approval accomplished this, guaranteeing the entertainment value of motion pictures to consumers and the moral value of motion pictures to reformers. The standards and practices of its centralized system of self-regulation endowed Hollywood entertainment with an affirmative cultural function that maximized profit. As Vasey explains, this arrangement ensured that Hollywood's products "could be distributed domestically and abroad with a minimum of disruption through censorship action or consumer resistance."⁴⁸ In the industry's mind, says Maltby, "the loss of creative freedom was a small price to pay for the enormous advantage of monopoly profit."⁴⁹ Liberating the screen would only jeopardize Hollywood's mechanisms for overseeing content and generating profits.

In this period of vertical integration, providing for and maintaining a mass audience was a much easier task for the industry as the majors maximized profits and audiences through a complex set of monopolistic practices. The Big Five, Gomery wrote in his history of United States exhibition, Shared Pleasures, "were able to reduce risk, ensure continuity of operation, and almost guarantee regular profits" with block booking, blind bidding, and a run-zone-clearance system of distribution and exhibition.⁵⁰ By owning and controlling the most sought after products and the best theaters, the majors effectively dictated the terms of what could play and where it could play, privileging studio-owned sites over independent unaffiliated houses. Cinemagoing at this time became a regular social activity and one that immensely benefited the MPAA studios, with almost eighty percent of all money spent on spectator amusement going to Hollywood.⁵¹

Such stability and affluence ended in the 1950s and 1960s. The divestiture of exhibition with the Paramount Decree, the penetration of television, and the 1952 Miracle case awarding cinema free speech protection, among other events, created industrial, economic, and aesthetic changes in American cinema. Hollywood searched for a new cultural and social identity apart from television (and the family medium it became) and distinct from the rise of exploitation film and foreign film competition (with their provocativeness). Insecurity replaced solvency, commercial opportunism replaced corporate unity, and sex replaced virtue as filmmakers and exhibitors unveiled previously taboo themes, behaviors, and images to general audiences.

As a result, the PCA could no longer guarantee the "harmless" and "correct" entertainment that Hollywood proffered. The success of Otto Preminger's The Moon is Blue (1953) and The Man with the Golden Arm (1955)--both released without Code seals by MPAA signatories who set up non-affiliated distribution companies to handle them--demonstrated that a movie could be successful without a Code seal.⁵² To counter audience decline, the PCA began to pass salaciously exploitable "adult" elements in films distributed by its member companies. Amendments were shortly made to the Production Code to accommodate and regulate these elements, but instead, these revisions further diluted the Code's effectiveness in producing harmless entertainment. By the mid-1960s, Hollywood's system of self-regulation became non-functional and anachronistic, unable to adapt to changing audience compositions and tastes. Because of these developments, wrote censorship historian Richard S. Randall in 1968:

. . . the movies have never been freer in law nor more provocative in content. The new liberties and economic imperatives have made possible films of quality and maturity that were all too uncommon before, but they have also produced unprecedented excesses in the detailing of erotica, nudity, and violence.⁵³

When the MPAA took action to restore the integrity of Hollywood pictures by adding a Suggested for Mature Audiences (SMA) designation in 1966, then replacing the PCA with CARA in

November 1968, the trade organization effectively acknowledged that its motion pictures were no longer suitable for every audience.

The rating system was designed do away with the prohibitions of the old Code and give filmmakers unprecedented creative freedom in Hollywood with the introduction of the X rating. Yet, as Stephen Farber explains in The Movie Rating Game, CARA "can best be understood if it is seen as the latest stage in the continuing history of censorship--euphemistically called 'self-regulation'--within the movie industry, rather than as a radical innovation."⁵⁴ While this dissertation seeks to defend this argument, Farber's theoretical model of censorship/self-regulation, unfortunately, comes across as naive and myopic.⁵⁵ His attempts to view classification in black-and-white terms severely compromise the work.⁵⁶ For Farber, a rating system simply is censorship; it limits "what film-makers can produce and what adult audiences--as well as children--can see."⁵⁷

Farber's approach to classification characterizes a substantial body of writing on self-regulation and the cinema that constructs film censorship as an act of interference. This understanding--what Annette Kuhn in Cinema, Censorship and Sexuality calls the "prohibition/institutions" model--views censorship as an approach guided by practices of exclusion, and locates those practices in bodies holding claim to prohibitive power such as the state or film censor boards.⁵⁸ This model isolates censorship practices from their wider social, cultural, and historical conditions of existence, and assumes an overly static and deterministic relationship between an institution and a text.

If one applies the prohibition/institutions model to the Hollywood film industry, the PCA imposes controls on films, excluding from them certain themes, content, topics, and images it finds unacceptable for a Code seal. One of the model's early defenders, Raymond Moley, writing in 1945, argued that the Code's prohibitions and constraints could only be enforced after 1934, with the creation of the PCA.⁵⁹ Years later, Gregory D. Black, frames his study of the PCA in terms of the

censorship system thwarting the wishes of the Hollywood studios, preventing them from making "more realistic and honest films."⁶⁰ Gerald Gardner prefaces his book on assorted PCA files by stating that American film censorship was a process of "elimination" that was used to "mold and manacle the most famous films of this century."⁶¹ Even Edward de Grazia's and Roger K. Newman's historical survey of American censorship history views regulation as a series of battles between one industry or governmental practice interfering with another: filmmakers intent on free expression and governmental censor board trying to thwart them.⁶²

While film censorship can and does operate in this way, this dissertation is constructed as a movement beyond the prohibition/institutions model. Instead, my methodological approach to censorship emulates much of the scholarly work being performed at this time on film regulation. Two anthologies (of mainly reprinted articles) published in the second half of the 1990s have invariably rejected the prohibition/institution model in favor of one that fully acknowledges the context within which censorship battles are fought and products are consumed. In Movie Censorship and American Culture, Francis G. Couvares prefaces his collection by stating that "Hollywood's influence has always been contingent on broader and deeper forces within a society, and therefore, telling its story requires a history that goes beyond that of celebration and demonization." In Controlling Hollywood: Censorship and Regulation in the Studio Era, Matthew Bernstein argues that an examination of movie censorship and self-regulation clarifies the "dynamic relationships among Hollywood production, audience demand, political ideologies, psychical processes (such as pleasure and repression), and aesthetic traditions (the conventions of movie genres)."⁶³ These recent essays on American film censorship, as Bernstein has noted, draw from the assumptions, perspectives, and methodologies of American, cultural, and reception studies rather than the more deterministic and legalistic framework of Moley, Black, Gardner, and De Grazia and Newman.

Like Couvares and Bernstein, I adopt what is called a "eventualization/diagnosis" model, a methodological approach theorized by Annette Kuhn and labeled and refined by Janet Staiger.⁶⁴ According to Kuhn, censorship is "an activity embedded within an ensemble of power relations, whose operation can be unpicked through attention to particular events and instances."⁶⁵ Staiger puts it this way:

This model stresses an account of "the conditions of operation and effectivity of film censorship," of "processes and practices" (the eventualization). Instead of seeing a law or a shot edited out of a final product as a static object, this model considers the activity of censoring to be determined and causal (the diagnosis). The model promotes the recognition of censorship as operating within broader social contexts than the specific institutions most obviously involved in prohibition. The object of inquiry consequently is not any specific board of censorship (such as the National Board of Censorship in the 1910s or the Breen Office of the 1930s) but the wider social and cultural ideologies determining those groups' activities.⁶⁶

Kuhn and Staiger suggest that censorship, rather than a practice just confined to a censoring organization like the PCA or CARA, is an activity of negotiation, rivalries, and alliances between contending powers, institutions, and knowledges that seek to define and control the boundaries that surround the public sphere of cinema.

In appropriating Kuhn's model, I follow the approach embraced by Lea Jacobs, Richard Maltby, Thomas Doherty, Justin Wyatt, and other recent scholars of American film censorship.⁶⁷ They view film censorship as a historically specific series of interactions between the censor boards, the film trade, reform movements, religious groups, government regulatory agencies, and other various forces. Censorship, thus, will be articulated in this dissertation as a process and not a prohibition, an inquiry rather than an interference. As an activity, censorship will also be seen as producing "truths" in the process of regulating them, constituting objects from and for its own discursive practices. In other words, productivity is an effect of an institution's prohibition strategies; censorship creates censorable films. This approach allows for a conceptualization of censorship as something that is not only

done to texts, but something that also creates texts, ideologies, and meanings. As Kuhn has stated, "prohibition and productivity may be regarded not as opposites, nor as mutually exclusive, but as two sides of the same coin."⁶⁸ My decision to hereby refer to an institution's practices as "regulation" rather than "censorship" in this dissertation codifies Kuhn's theorization. The term "regulation" essentially captures the understanding of the practice as an ongoing activity of definition and boundary maintenance between various entities rather than the excision and containment of certain images and narrations by one specific industrial group.

In shifting the understanding of regulation from texts to texts and contexts, to observing "not so much what censorship is," as Kuhn suggests, but "how it works,"⁶⁹ I can better address the contradictions, inconsistencies, and adaptability of Hollywood self-regulatory practices. However, one thing that scholars of the prohibition/institutions and eventualization/diagnosis models do agree on is that both posit 1968--the year of the dawn of the rating system--as the moment when the institutional activity of self-regulation became dramatically altered. It was the year, said Leff and Simmons, that Old Hollywood became New Hollywood.⁷⁰ For Doherty, it was in 1968 that the "Code edifice finally came crumbling down."⁷¹ To these critics, 1968 is the dividing point between two different strategies of regulating film content: a universal seal vs. variable classification.

The assumption here is that censorship effectively came to a close in 1968 as a rating system replaced an intractable Code. But such an understanding endorses the prohibition/institutions model of censorship suggesting that once the Production Code and all of its prohibitions were abolished and replaced with a classification scheme, censorship ceased to exist in American cinema. While the mechanisms of self-regulation may have changed in 1968, the processual and provisional nature of self-regulation did not; the power relations involved in institutional practices remained the same. Therefore, if the introduction of a rating system, as Maltby suggested, did not cause "the majors to alter their

fundamental assumptions about the nature of film as a commercial commodity," the same various social forces that posed some threat to the industry's economic and political interests remained. This understanding not only recognizes regulation as a constructive force that continues to help shape film form and narrative despite the introduction of a classification system, but also the "unavoidableness" of censorship. As Sue Curry Jansen explains in Censorship: The Knot that Binds Power and Knowledge, censorship is a necessary, normal, and constitutive component of free expression in a capitalist system and not a force that inhibits democracy or restrains filmmakers. It is, says Jansen, a very condition of free expression.⁷² Then, indeed, I would add, it must be a very condition of Hollywood praxis.

* * *

We do not censor. No one over 17 years of age is affected by our activities. We do not judge films on artistic merit. We are not industry spokesmen. We were set up to classify films, to provide parents about the contents of films, so that in our absence parents would not clamor for censorship.

Richard Heffner, ex-chairperson of
the Classification and Rating
Administration⁷³

What precisely is the purpose of the rating system and who is it designed to protect? Is the public being misled? Who are the real beneficiaries of industry policies? Who guards the guards? What is the role of self-enforcement in the movie industry?

independent producer Jonathan Dana⁷⁴

In conceptualizing self-regulation as having a dynamic impact on film form and narrative in "New Hollywood," we need to first recognize that such attempts are anything but "new." Both Richard Maltby and Ruth Vasey observed a similar phenomenon occurring in the early days of the Production Code before the creation of the Production Code Administration in 1934 led to a revision of the movies' codes of representation.⁷⁵ At that time, the PCA devised mechanisms of self-regulation

that helped to balance the movie's simultaneous operation as a commodity and a form. These commercial aesthetics, as Maltby pointed out, "extended the principles of standardization, interchangeability, [and] minor variation . . . into the cultural form of entertainment fiction." In order to deliver "correct and harmless entertainment" for the maximum number of people to ensure the maximum amount of profit, these aesthetics primarily depended on what Steve Neale calls "regulated difference" (contained variety, pre-sold expectations, and the re-use of resources in labor and materials) a moral absolutism (the Catholic foundations of Production Code itself), and what Ruth Vasey describes as the "ambiguous text" ("levels of ambiguity . . . deliberately introduced into motion pictures to allow multiple interpretations by multiple audiences").⁷⁶

For example, Vasey describes how a character's self-abuse in Dr. Monica (1934) could be read by both sophisticated and unsophisticated audience members: on one hand, sophisticated viewers could choose to interpret a woman's behavior as signifying pregnancy and possibly abortion; on the other hand, unsophisticated viewers could choose to interpret the behavior as unhappiness or a suicidal tendency.⁷⁷ By allowing for two stories or more to be told at once, the film could satisfy and maximize audiences of both sexes and of vastly different ages, experiences, and classes. The ambiguity of these texts also enabled Hollywood to "disavow" the presence of objectionable content, especially with representations of sexuality, in order to minimize offense to an unpredictable and heterogeneous audience, both domestic and global. Along with other narrative strategies, argues Vasey, the mechanisms of self-regulation met the demands of wide-scale distribution and exhibition. While many movies did not receive uniform distribution in the United States or abroad, the results of a standardized formula for all Hollywood products rendered these films easily presentable as "harmless" entertainment, free from government and reformist interference.

The industry's entertainment imperatives remained unchanged with the introduction of a rating system, but the particular commercial aesthetic of the Production Code era had

to be abandoned. The loss of control of exhibition, competition from independent distributors, the existence of a younger and more fragmented audience, and the legal protection of cinematic free expression required Hollywood to reconceptualize its products and audiences. Films could no longer be governed by an intractable, ideological, and all-inclusive code of regulation. Instead, the industry shaped its movies around audience age categories. Unlike the PCA, who actively solved "problems" on the script level to ensure mass distribution of Hollywood's products, CARA would only regulate films after their completion, its examiners assigning ratings based not on Code doctrine but on national community standards. In other words, CARA standardized films on a contextual level, determined by the age categories of their audience, rather than on the textual level at which the Production Code had operated. Tightly regulated difference now became the various rating categories of G, M, R, and X (later the G, PG, PG-13, R, and NC-17).

With the emergence of rating categories, multiple audiences, once presupposed by the "ambiguous text" within a single film, were now divided among films. Classification permitted the free expression of content and themes previously forbidden by the PCA. In the absence of the moral absolutism that underpinned the Production Code, CARA operated in a world of moral relativism. While the PCA accepted ultimate responsibility for their decisions, CARA denied having responsibility--and deflected accusations of censorship--by basing its decisions on a contemporary community consensus. Furthermore, this consensus refers not to morality itself, but to what children should see. In other words, CARA does not claim to judge what a rating for a film should be, but rather what American parents believe the rating should be.

It would appear then, that the absence of a universal moral code and the process of segmenting and restricting audiences in a classification system violated the commercial assumptions of classical Hollywood and its aim of presenting harmless entertainment for the maximum number of people for the maximum profit. However, I will show that this is not the case.

By eliminating the production and exhibition of X/NC-17 pictures and in effect creating an "incontestable R" category, the industry once again created a product that could reach a mass audience. At the same time, CARA enforced a code of self-regulation that would eliminate unacceptable content that could inadvertently stir up controversy. Doing so achieved what Vasey called the industry's "two most devout ambitions" in the classical era: "to please all of the people, everywhere, all--or at least most--of the time, and to displease as few people--or at least as few people who mattered--as possible."⁷⁸

These "few people" are not the naive or impressionable children the rating system purportedly is to protect; they are adults likely to condemn Hollywood's products as unrepresentative or inappropriately representative of American society and culture. The press, state and national legislatures, as well as religious, educational, and civic groups, have all expressed their opinions and exercised their authority over what is harmful and incorrect in entertainment throughout Hollywood's history. During the Production Code, the Catholic Legion of Decency and the House Committee on Un-American Activities (HUAC) were two institutions that made known its positions on which depictions of morality and nation they considered "harmful" and "incorrect." To retain the ability to regulate its own films and reap the advantages of monopoly profit, said Maltby, the industry always responded to concerns from such pressure groups and the PCA carried out these demands.

The strength of the entire system of prior censorship was that it operated on the basis of a series of undefined relationships, rooted in the producers' acknowledgment that the P.C.A. was a necessary intermediary to give them protection from the undesirable assaults of organizations more morally scrupulous than they themselves might care to be. The P.C.A. in practice operated as a mechanism for the maintenance of a necessary predictability in the subject matter of movies and the manner of its handling . . .⁷⁹

Since the PCA served the economic interests of the major studios, the standards of "harmless" and "correct" entertainment, it was thought, secured the highest audiences and the maximum profit.

Clearly, the "harmless" and "correct" tag that marked the imaginary landscape of classical Hollywood films does not accurately describe contemporary filmmaking practice. After the Production Code was abandoned in 1968, CARA quickly had to develop new representational codes within a rating system for dealing with attacks from outside cultural and political forces. CARA was no longer able to deny a "seal" outright for a film that violated certain standards; it could only further "restrict" an audience because of a film's presentation of certain "adult" elements (i.e. place the film in a higher age category).

The treatment of marriage, crime, and religion (as well as sex, violence, drug use, and language) still play a role in determining a film's categorization (G, PG, PG-13, R, or X) just like a Code seal. The rating thresholds of the lower categories determine what is proper entertainment for children of various ages. However, it is CARA's R/NC-17 boundary that alerts the industry to what could be considered harmless entertainment for those adults most likely to attack Hollywood's products as antithetical to appropriate American values. The American Family Association, the Religious Right, and government officials are today some of the most influential crusaders against "disrespectful" Hollywood entertainment.

Because the industry's self-regulatory machine now places the burden of a film's harmfulness on parental choice and does not arrange all products to fit a proscribed model of correct entertainment, I believe the term "respectable" entertainment, rather than "harmless" and "correct" entertainment, best describes the appearance of Hollywood films that CARA is committed to categorize. The term "respectable" lies at the heart of this dissertation's central argument--that the MPAA did not alter their fundamental assumptions about the nature of film as a commercial commodity with the introduction of a rating system--and does so with an understanding that maximizing audiences and profit remain the prime directive in Hollywood film production. I will argue that abandoning the X/NC-17 is a economic decision: it excludes children under the age of 18 from attending a film. More importantly, abandoning

the X/NC-17 is a political decision: CARA can be seen by moral watchdogs as enforcing a respectable code of production for Hollywood films. Determining the boundary between the R and NC-17 categories, or more specifically, targeting for excision those representations that cross the line between "tastefulness" and "offensiveness," between "art" and "pornography," is exactly the task once performed by the PCA. The goal: find the line that enables the industry to conduct its business profitably and unheeded, and never cross it. Keeping Hollywood's adult detractors at bay has always been a major key to self-regulation. Curbing free expression is a small price to pay in order for such reformers to classify Hollywood's products as "respectable" entertainment for them and their supporters.

That such a boundary line exists within a self-regulatory system committed to the free expression of filmmakers suggests that CARA does indeed abide by a "production code." Certain images and representations at specific historical junctures must be taboo in Hollywood cinema if the X/NC-17 has been abandoned, and this dissertation defines what these restrictions might be in the 1990s. Conversely, the term "incontestable R" can best describe the category brought into being by Hollywood's avoidance of the X/NC-17, and acutely embodies the industry's commercial strategy for "respectable" mass entertainment at a given point in time. The "incontestable R," by virtue of the abandoned X/NC-17, is the key mechanism that upholds the public image of respectability that the Hollywood studios seek to preserve. Even though the R label restricts children from attending a film without an adult or legal guardian, parents need feel no remorse in taking their children to an R picture, moral watchdogs can feel confident that Hollywood is serving their needs, and even exhibitors may feel comfortable to ignore the R policy and let in underage kids. As a result, the R's "incontestability" serves a double function for the industry: 1) it increases audience expectations as to what constitutes "respectable" entertainment for the mass audience--which in turn maximizes profit for a given film; and 2) it standardizes content as to what

constitutes "respectable" entertainment for reformers--which in turn. eliminates potential controversy.

I will show that CARA, contrary to popular myth, in fact does not discriminate against non-MPAA companies. However, an unfortunate byproduct of the process of fulfilling Hollywood's commitment to broad-based "respectable" entertainment and profit maximization, is that CARA inadvertently stigmatizes films adopting the X/NC-17 or released without a CARA rating--an "unrating." While not consciously responsible for wrapping such films in a cloak of disrepute, Hollywood has allowed such a relationship to permeate the consciousness of the American moviegoing audience. This dissertation will reveal that independent and foreign productions that fail to embrace Hollywood's "incontestable R" codes of representation find, as a result, many economic barriers in the marketplace in the United States. These larger ramifications of negotiating the boundaries between the R and X/NC-17 seem to resemble the regulatory practices of the PCA more than is generally acknowledged.

* * *

Chapter One will provide a history of CARA and the X rating from the breakdown of the PCA in the mid-1950s up to calls for a new category to replace the stigmatized category in 1990. The chapter will detail how CARA, in a matter of a few years, began to perform the same regulatory duties as the PCA. I will show that after a brief period of exploiting the notoriety provided by the X rating, the MPAA studios and NATO exhibitors quickly realized that their economic interests were not efficiently served by this newfound creative freedom. Because of poor box office performance, inadequate policing by exhibitors, and outside pressure from civic leaders, reform groups, media outlets, and government officials, the Hollywood studios and theater owners modified their business practices and abandoned the X rating, instead opting for the arrangement of films to fit the R category. Via the containment of expression and the joint cooperation of the MPAA and NATO, the

X rating practically disappeared from Hollywood films in 1971, stigmatizing the category as the domain of pornography, and reestablishing Hollywood's claim to "respectable" film production. After 1975, the major studios did not release any adults-only pictures; as a result, the abandonment of the X category likely contributed to the economic upswing of the industry and the ossification of the "incontestable R." The chapter ends with a discussion of William Friedkin's Cruising (1980), Brian De Palma's Scarface (1983), and Alan Parker's Angel Heart (1987). These three directors' failure and/or reluctance to construct a "respectable" Hollywood film threatened to expose the one element CARA was unable to control in a classification system committed to R-rated-and-under entertainment: the willful and obedient participation among the production, distribution, and exhibition sectors de-integrated by the Paramount Decree.

The legitimacy of the X category was called into question in 1990 when various industry types accused CARA of de facto limiting advertising and exhibition opportunities for serious, non-pornographic films in the American marketplace (few theaters would show films that carried an X or an "unrating"). Chapter Two provides the history of events that led to the replacement of the X with the NC-17 that year, explaining how the MPAA, NATO, and CARA intentionally developed the category for the purpose of inheriting the same functions and connotations as its earlier occupant. I detail how the revision of the category was necessary to stave off media criticism and legal action, all fueled by an onslaught of X ratings given to independent films in 1990, Miramax's Tie Me Up! Tie Me Down! lawsuit, the establishment of a new rating service, a petition from Hollywood filmmakers for a new "A" rating, and the X rating given to an MPAA distributed film--Universal's Henry and June (1990). The chapter demonstrates how the NC-17 preserved the illusion of Hollywood's "respectable" entertainment status as the MPAA studios and NATO exhibitors simply translated their no-X-rated policies into no-NC-17 policies. Politicians, religious groups, some newspapers, and most notably, Blockbuster Video's refusal to

endorse the new rating ensured the NC-17's fate. The chapter ends with a case study of MGM/UA's Showgirls (1995), the only attempt by an MPAA member to date to embrace the NC-17 rating for a wide release. Even though Showgirls encountered little controversy during its theatrical run and was edited to an R for rental at video stores such as Blockbuster, the box office disaster of the film in the United States reconfirmed for Hollywood that its primary business is mass entertainment and not pushing the boundaries of sex and violence.

The sixty-one seconds that earned Showgirls an R rating for its video release reveals the tenuous line that exists between the R and the NC-17. Chapter Three demonstrates that CARA does not arbitrarily determine the boundaries between these two categories on a case-by-case basis as is commonly believed, but is methodologically consistent with its practices and non-discriminatory in its ratings assessments of Hollywood and independently-distributed films. However, the value judgments made in deciding the proper rating for a film that dangles between the R and NC-17 boundary are based on preserving the appearance of the "incontestable R" for its member organizations. By comparing the R, NC-17, and unrated versions of a single film with the media accounts of its battle with CARA, I shall provide a detailed insight into the shrouded rating process and construct a list of do's and don'ts similar to the Production Code that guides CARA's rating practices. In doing so, I shall demonstrate the existence of a previously publicly undocumented code of standards between the R and NC-17 categories and clarify many misinformed and biased accounts of the negotiation process. From case studies of Basic Instinct (1992) and Scream (1996) followed by detailed discussions of five 1992 films (The Lover, Body of Evidence, Damage, Bad Lieutenant, and Wide Sargasso Sea) I draw the following six conclusions about CARA:

- 1) much confusion exists over CARA's rating criteria;
- 2) a double standard does not exist in regard to male and female nudity;
- 3) there are specific and precise restrictions on the content and duration of shots depicting sexual acts;
- 4) a single shot can earn an NC-17;

- 5) CARA is especially tough on images combining sex and violence; and
- 6) CARA's appeals board may be susceptible to criticism;

Together, these criteria show that the management of the "incontestable R" is often an easily definable and observable process revolving around sex and nudity, yet one deliberately camouflaged by CARA due to its discursive commitment to self-regulation, not censorship.

Chapter Four further serves to justify the consistency of CARA's rating practices and the validity of the six claims listed above by examining the major ratings battles from 1993 to 1998. I demonstrate how a succession of sexual thrillers in the mid-1990s that initially received an NC-17--Sliver (1993) Boxing Helena (1993), Dangerous Game (1993), Color of Night (1994), and Showgirls (1995)--were eventually shaped to fit the "incontestable R" category. I follow this discussion with an analysis of four theatrically unrated or NC-17-rated "major independent" (previously independent, but now MPAA-distributed) films: Delta of Venus (1995), Crash (1996), Kama Sutra: A Tale of Love (1996), and Broken English (1996). Their R-rated video versions confirm my contentions that rating standards are the same for theatrical and video releases, and that the sexual boundaries of the R rating remained pretty consistent throughout most of the 1990s. Lastly, I reveal a slight shift in praxis that occurred in 1995 with the R rating awarded to Jade and later awarded to Boogie Nights (1997) and Two Girls and a Guy (1998). A relaxing of the standards associated with oral sex and masturbation accompanied these films which suggests that CARA occasionally re-negotiates the boundaries that make up once-forbidden "incontestable R" material. In doing so, CARA's keeps pace with public opinion and reshapes the depictions of such acts so they can be considered "respectable" entertainment.

Amidst all these negotiations for the "incontestable R" rating, CARA remains in perpetual struggle to preserve Hollywood's representations of mass entertainment. Chapter Five examines how the creation of CARA, the strict enforcement of the R rating at the studio and exhibitor level, and the

efforts to shut out non-MPAA films from mainstream theaters can never completely exclude the showing of independent, "harmful," or "non-respectable" films in the marketplace. Examiner subjectivity, studio opportunism, and vertical de-integration will forever impair the industry's efforts at self-regulation, with or without a classification system and hence, the degree of control the PCA wielded in the 1930s and 1940s will never be regained. CARA's attempts to maintain the respectability of Hollywood entertainment, I argue, is performed by systematically discriminating against films that fail to conform to this model in the R category--films which are primarily distributed by independent companies. The constitution of CARA's rating and appeals board, the secrecy of CARA's proceedings, and the costs involved in obtaining a specific CARA rating also contribute to this discrimination. I will show that, when seeking an R rather than an X/NC-17 rating, some independent filmmakers are often at a disadvantage because their films contain subject matter and aesthetics antithetical to CARA's standards for the "incontestable R." Case studies of Poison (1991), Kika (1994) The Doom Generation (1995), Kids (1995) and Happiness (1998) reveal how CARA's standards for the R category inevitably force such films into the NC-17/unrated category and out of the multiplexes. The chapter ends with a discussion of the bleak future of the NC-17/unrated film, as the formation of major independents and MPAA studio arthouse divisions mean a greater commitment to and preponderance of "respectable" entertainment.

In the end, CARA's operations attempt to adhere to the same professed commitment made by the PCA and the Hollywood studios: the commitment to provide "respectable" entertainment for an undifferentiated audience. The rating system performs this commitment within categories of apparent differentiation made actually undifferentiated by an avoidance of the X/NC-17 rating. The struggle to preserve this happy industrial arrangement pervades the history of CARA. When Tom Pollock, chairman of MCA/Universal Motion Picture Group, states that "NC-17 movies do not fit into our main business plan. By and large, we are designing movies as entertainment for large

audiences. That is our mandate,"⁸⁰ he attests to the regulatory logic behind the category's stigmatization and extinction. NC-17 movies are not entertainment. NC-17 movies limit the size of audiences. NC-17 movies are not good business.

¹Movie Ratings and the Independent Producer, Hearings before the Subcommittee on Special Small Business Problems of the Committee on Small Business. House of Representatives. Ninety-Fifth Congress, First Session. Report no. 90-916. 24 March 1977, 14 April 1977, 12 May 1977, 15 June 1977, and 21 July 1977. Pg. 4.

²Frank Miller, Censored Hollywood: Sex, Sin, & Violence on Screen (Atlanta: Turner Publishing, 1994). Apparently, the book's publication also served to promote Turner's new cable station Turner Classic Movies, as a postcard-size insert was included in the pages. Its commercial motivations can easily explain and also cast doubt on the scholarship of the book.

³Stephen Farber, The Movie Rating Game (Washington, D.C.: Public Affairs Press, 1972), v. Farber, along with fellow intern Estelle Changas, also wrote an article for the New York Times about their fellowship program at the MPAA. See "Putting the Hex on 'R' and 'X,'" New York Times, 9 April 1972, and a litany of angry responses to it the following week.

⁴Peter Bart, "Ratings Game Gets Gamier," Variety, 13-19 October 1997, 4.

⁵Quoted in Barry Koltnow, "If You Can't Lick 'Em, Behead 'Em," The Record (Bergen County, NJ), 19 April 1998.

⁶In 1975, the member companies of the MPAA were Allied Artists, Avco-Embassy, Columbia, 20th Century Fox, Paramount, United Artists, MCA-Universal, and Warner Bros.

⁷Everything You Always Wanted to Know about the Movie Rating System, National Association of Theater Owners, pamphlet distributed by AMC Theaters.

⁸Quoted by Jack Valenti in Jon A. Walz, "First 'Rate,'" Box Office, December 1997, 36.

⁹Jack Valenti, "Opinion," Producer, Winter 1990, 32.

¹⁰Jack Valenti, "The Voluntary Movie Rating System: How it Began, Its Purpose, the Public Reaction," 1991, 3.

¹¹Most parents believed M was a sterner rating than the R so the MPAA changed it to GP.

¹²Film Rating Guide for Parents and their Children, Motion Picture Association of America, March 1972.

¹³Everything You Always Wanted to Know about the Movie Rating System.

¹⁴This summary is extracted from a number of sources. They include: Jack Valenti, "The Voluntary Movie Rating System: How it Began, Its Purpose, the Public Reaction," 1991; Jack Valenti, "The Movie Rating System," Daily Variety, 28 October 1975, 54-58; Everything You Always Wanted to Know about the Movie Rating System; National Association of Theater Owners, "The Movie Rating System," in 1994-1995 Encyclopedia of Exhibition, 333-339.

¹⁵In the first decade of CARA's existence, they had seven examiners.

¹⁶See David Geffner, "Double Standard," Filmmaker (Summer 1998), 22; Timothy M. Gray, "The Nuts and Bolts of Movie Rating," Daily Variety, 12 July 1994; and Sam Frank, "The CARA Board," Box Office, October 1990, 44.

¹⁷In October 1990, Frank says the board consisted of 10 parents: seven of whom are mothers aged 43-49; two are fathers, ages 35 and 45; and a 70-year-old grandfather who also happens to be an assistant film director. This is one of the rare instances where the composition of the Board is actually printed. Frank, "The CARA Board," 44. Also, Variety reported

that the California State Parent Teachers Association is permitted to nominate a candidate for a seat on the rating board. See "Ratings Bd. Reveals it Recruits Members from California PTA," Variety, 6 March 1985, 8.

¹⁸See Moira Hodgson, "Move ratings--Do they serve Hollywood or the public?" New York Times, 24 May 1981. It reads: "The current contingent includes three women--a black, Barbara Murray; a Mexican-American, Mona Elkin (both PTA mothers); and a children's book author, Lola Minz. The men are Timothy Joyce, a young newspaperman, and John Bloch, a teacher and film writer associated with the American Film Institute. A brief background description of the Board's membership, minus names, is given by Hal Hinson in "The People Who Rate the Films," Newsday, 12 November 1988, Part 2, pg. 3.

¹⁹Gray, "The Nuts and Bolts of Movie Rating."

²⁰Jack Valenti, "Movie Ratings are for Parents, not Profits," Daily Variety, 23 August 1994.

²¹Geffner, "Double Standard," 22; Frank, "The CARA Board," 44. The number was listed as 22 in "The Movie Rating System" in 1975. The total of 21 comes from the 1991 account. Stephen Farber, writing in 1972, said the RAB included a maximum of 25 members: thirteen from the MPAA, eight from NATO, and four from IFIDA. The Movie Rating Game, 73.

²²According to the 1994-1995 Encyclopedia of Exhibition, RAB is composed of: the President of the MPAA plus one representative of each MPAA member; Exhibitor representatives designated by NATO, equal to the number of MPAA member representatives; and no more than four independent distributors, periodically determined by the Policy Review Committee (made up of MPAA and NATO) members, who agree in writing to submit all their films to CARA. In 1975, the IFIDA--the International Film Importers & Distributors of America--represented the independent distributors.

²³Gray, "The Nuts and Bolts of Movie Rating."

²⁴For example, see Richard Heffner, "What G, PG, R, and X Really Mean," TV Guide, 4 October 1980, 46.

²⁵Jack Valenti, "X Means Protecting Children, That's All," New York Times, 5 August 1990, 14.

²⁶Alan Mirabella, "MPAA's Man of Letters," Daily News (Los Angeles), 26 August 1990, 18.

²⁷Quoted in Richard Harrington, "A Tale of Two Pictures: Should Hollywood be Rated R, for Racist?" Washington Post, 2 February 1992, G8.

²⁸Heffner, "What G, PG, R, and X Really Mean," 46.

²⁹Quoted in Patrick Goldstein, "For Teen Comedies, PG-13 is in," Los Angeles Times, 2 June 1998.

³⁰Michael Medved, Hollywood vs. America (New York: HarperPerennial, 1992).

³¹For instance, Medved criticizes the 1991 Academy Award Best nominees as evidence of the prevalence of "obscene" R-rated films (Bugsy, The Silence of the Lambs, Thelma and Louise, and JFK) over more "decent" non-R-rated fare (Beauty and the Beast). See, "A Sickness of the Soul Replaces the Tinsel," Los Angeles Times, 6 February 1992.

³²Charles Lyons, The New Censors: Movies and the Culture Wars (Philadelphia: Temple University Press, 1997).

³³Tom Sherak, 20th Century Fox distribution head, quoted in Amy Wallace, "The Coming PG-13 Juggernaut," Los Angeles Times, 7 October 1997. Gerry Rich, president of worldwide marketing at MGM also uses the term to describe the PG-13 rating in Patrick Goldstein, "For Teen Comedies, PG-13 is in," Los Angeles Times, 2 June 1998.

³⁴Richard Maltby, Harmless Entertainment: Hollywood and the Ideology of Consensus (Metuchen, NJ and London: Scarecrow, 1983), 136.

³⁵Maltby, Harmless Entertainment, 10.

³⁶Quoted from the documentary Hollywood Mavericks.

- ³⁷Douglas Gomery, "The Economics of the Horror Film," in Horror Films: Current Research on Audience Preferences and Reactions, ed. James B. Weaver and Ron Tamborini (Mahwah, NJ: Lawrence Erlbaum Associates, 1996), pg. 51.
- ³⁸Maltby, Harmless Entertainment, 53-56.
- ³⁹Richard Maltby, Hollywood Cinema (Oxford, England: Blackwells, 1995), 42.
- ⁴⁰Ruth Vasey, The World According to Hollywood, 1918-1939, (Madison: University of Wisconsin Press, 1997), 1.
- ⁴¹Maltby, Hollywood Cinema, 6.
- ⁴²Maltby, Hollywood Cinema, 13.
- ⁴³Richard Dyer, "Entertainment and Utopia," in Only Entertainment (London: Routledge, 1992), 17.
- ⁴⁴Dyer, "Entertainment and Utopia," 18, 24.
- ⁴⁵Vasey, The World According to Hollywood, 1918-1939, 4-5.
- ⁴⁶Mutual Film Corp. v. Ohio Industrial Commission, 236 US, 230 Supreme Court, 1915.
- ⁴⁷Maltby, Harmless Entertainment, 96.
- ⁴⁸Vasey, The World According to Hollywood, 1918-1939, 5.
- ⁴⁹Maltby, Harmless Entertainment, 99.
- ⁵⁰See Douglas Gomery, Shared Pleasures: A History of Movie Presentation in the United States (Madison: Univ. of Wisconsin Press, 1992), 66-67.
- ⁵¹Maltby, Harmless Entertainment, 42.
- ⁵²Maltby, Harmless Entertainment, 134.
- ⁵³Richard S. Randall, Censorship of the Movies: The Social and Political Control of a Mass Medium (Madison: University of Wisconsin Press, 1968), pg. 4.
- ⁵⁴Farber, The Movie Rating Game, 5.
- ⁵⁵For example, Farber states, "Much has been written, though little concluded, on the dangerous effects of certain kinds of films on young people. But I wonder if there may not be--in the long run greater dangers that result from denying young people a large body of films that they want to see. The board has worried about antisocial attitudes inculcated by films that glamorize criminals or rebels (or even pot-smokers). But what about antisocial attitudes arising out of young people's resentment against a hypocritical society that restricts their moviegoing to film considered 'wholesome' by a small group of people from their parents' or grandparents' generation?" Pg. 38.
- ⁵⁶America associate editor Richard A. Blake called Farber's and Chngas' article "a graduate film student view of the industry" that sees "only the creative side of filmmaking without realizing, or wanting to realize, that there is a 'consumer' who does not read Film Quarterly. . . ." See Movie Mailbag, "Did They Rate the Ratings Board Unfairly?" New York Times, April 1971, 11. Publishing day unknown.
- ⁵⁷Farber, The Movie Rating Game, 2.
- ⁵⁸Annette Kuhn, Cinema, Censorship, and Sexuality, 1909-1925 (London: Routledge, 1988).
- ⁵⁹Raymond Moley, The Hays Office (New York: Bobbs Merrill, 1945).
- ⁶⁰Gregory D. Black, Hollywood Censored: Morality Codes, Catholics, and the Movies (Cambridge: Cambridge University Press, 1994), 6.
- ⁶¹Gerald Gardner, The Censorship Papers: Movie Censorship Letters from the Hays Office, 1934-1968 (New York: Dodd, Mead & Company, 1987), xi-xiii.
- ⁶²Edward de Grazia and Roger K. Newman, Banned Films: Movies, Censors and the First Amendment (New York: R. R. Bowker Company, 1982).
- ⁶³Francis G. Couvares, ed., Movie Censorship and American Culture (Washington, D.C., Smithsonian Institution Press, 1996), 4; Matthew

Bernstein, Controlling Hollywood: Censorship and Regulation in the Studio Era (New Brunswick, NJ: Rutgers University Press, 1999), 3.

⁶⁴Janet Staiger, Bad Women: Regulating Sexuality in Early American Cinema (Minneapolis: University of Minnesota Press, 1995).

⁶⁵Kuhn, Cinema, Censorship, and Sexuality, 9.

⁶⁶Staiger, Bad Women, 14.

⁶⁷Lea Jacobs, The Wages of Sin: Censorship and the Fallen Woman Film, 1928-1942 (Madison: University of Wisconsin Press, 1991); Richard Maltby, Hollywood Cinema, among others; Thomas Doherty, Pre-Code Hollywood: Sex, Immorality, and Insurrection in American Cinema, 1930-1934 (New York: Columbia University Press, 1999); Justin Wyatt, "The Stigma of X: Adult Cinema and the Institution of the MPAA Ratings System, in Controlling Hollywood: Censorship and Regulation in the Studio Era, ed. Matthew Bernstein (New Brunswick, NJ: Rutgers University Press, 1999), 238-263; and Justin Wyatt, "The Formation of the 'Major Independent': Miramax, New Line and the New Hollywood," in Contemporary Hollywood Cinema, ed. Steve Neale and Murray Smith (London: Routledge, 1998), 74-90.

⁶⁸Kuhn, Cinema, Censorship, and Sexuality, 127.

⁶⁹Kuhn, Cinema, Censorship, and Sexuality, 6.

⁷⁰Leonard J. Leff and Jerold L. Simmons, The Dame in the Kimono: Hollywood, Censorship, and the Production Code from the 1920s to the 1960s (New York: Grove Wiedenfeld, 1990), 266.

⁷¹Doherty, Pre-Code Hollywood, 1.

⁷²Sue Curry Jansen, Censorship: The Knot that Binds Power and Knowledge (New York: Oxford University Press, 1991).

⁷³Quoted in David Gritten, "The Battle to Avoid the X Rating," Los Angeles Herald Examiner, 9 December 1983, D5.

⁷⁴Movie Ratings and the Independent Producer, Hearings, 137.

⁷⁵Richard Maltby, "'Baby Face' or How Joe Breen made Barbara Stanwyck atone for causing the Wall Street Crash," Screen 27 (March 1986): 22-45; Vasey, The World According to Hollywood, 100-126.

⁷⁶Maltby, Hollywood Cinema, 40; Vasey, The World According to Hollywood, 101.

⁷⁷Vasey, The World According to Hollywood, 134-135.

⁷⁸Vasey, The World According to Hollywood, 157.

⁷⁹Maltby, Harmless Entertainment, 102.

⁸⁰Quoted in Richard Corliss, "What Ever Became of the NC-17?" Time, 27 January 1992, 64.

CHAPTER ONE

When Al Van Schmus--the last of the Breen Boys--retired, the Classification and Rating Administration lost all resemblance to the Production Code Administration. Or did it?

Leonard J. Leff and Jerold L. Simmons¹

What do we expect the medium of motion pictures to convey? Do we allow that motion pictures should be free to contemplate life as it is, which means aspects of it that may be seamy, such as infidelity, prostitution and treachery, as well as aspects of fine and nobler nature, such as devotion, courage and self-sacrifice? Or do we expect motion pictures to be only about the good and cheerful things--about absent-minded professors, Swiss families, and Dalmatian Dogs?

Bosley Crowther²

On November 1, 1998, the Classification and Rating Administration (CARA) turned thirty years old, almost equaling the duration of its predecessor, the Production Code Administration (PCA). It is commonly assumed that the parallel between CARA and the PCA ends there. However, CARA's rating decisions resemble the regulatory practices of the PCA more than is generally acknowledged.

From CARA's inception, the MPAA has consistently perpetuated the belief that the politics and procedures of the two self-regulatory bodies are diametrically opposed to one another. The belaboring of what the MPAA views to be the most significant difference--the dismantling of film censorship--can be witnessed in two press releases from the trade organization, one announcing the creation of CARA in 1968 and the other celebrating its 30th anniversary in 1998.

Censorship and classification-by-law are wrong.

We will oppose these intrusions into a communications art-form shielded and protected by the First Amendment. We believe the screen should be as free for film-makers as it is for those who write books, produce television material, publish newspapers and magazines, compose music and create paintings and sculptures.³

The movie ratings were created in a time of controversy and censorship in America. Censorship boards dotted communities across the land and an absurd manifesto called the Hays Code literally offered a list of do's and don'ts

for filmmakers and performers. The emergence of the voluntary rating system effectively crushed the Hays Code
.....⁴

These press releases suggest that filmmakers could approach their craft with more openness than was possible under the PCA, ushering in a new American cinema built on free expression that has lasted for over thirty years.

Not so, wrote film critic and historian Charles Champlin, evidenced by the title of his 1990 American Film article, "What Will Hays Begat: Fifty Years of the Production Code."⁵ For Champlin, the Code never truly ended; it was momentarily sidetracked, then gradually transformed into another "voluntary and self-regulating way of heading off more imposed censorship." This new "way" of self-regulation not only served once again, as I will show, as a buttress against federal legislation, but helped to reestablish the commercial efficiency of the Hollywood film industry under the guise of "respectable" entertainment.

One of the aims of self-regulation has always been to govern the flow of product through the production, distribution, and exhibition sector of the Hollywood film industry. Motives of self-interest and opportunism, states Richard Maltby, were often disguised and/or denied during the studio system as Hollywood commonly asserted that the movies belonged to the public rather than the producers.⁶ The MPAA still subscribes to this definition of "entertainment as a social function"⁷ although the organization refers to CARA's practices as self-regulation instead of censorship. However, states industry expert Bruce A. Austin, self-regulation is a virtual synonym for both "self-preservation" and self-interest," the same ideals that have motivated the MPAA for almost seventy years.⁸

In beginning to theorize CARA as performing the same economic function as the PCA, I want to first turn to the MPAA itself. The industry originally had named CARA the Code and Rating Administration (later changed to Classification and Rating Administration). Accompanying the announcement of this voluntary classification system was a booklet called the Motion

Picture Code and Rating Program: A System of Self-Regulation, detailing the objectives and regulations of CARA. The opening section, "Declaration of Principles of the Code of Self-Regulation (DPCS) of the Motion Picture Association," provided rating definitions and described the standards for advertising, for titles, and most interestingly, for production of "Code" certified films.

The document gives eleven general standards, which in many ways, echo those of the Production Code.⁹ Compare the DPCS's first three standards of production with the Production Code's three General Principles:

DPCS's Standards of Production

1. The basic dignity and value of human life shall be respected and upheld. Restraint shall be exercised in portraying the taking of life.
2. Evil, sin, crime, and wrong-doing shall not be justified.
3. Special restraint shall be exercised in portraying criminal or anti-social activities in which minors participate or are involved.

Production Code's General Principles

1. No picture shall be produced which will lower the moral standards of those who see it. Hence the sympathy of the audience should never be thrown to the side of crime, wrongdoing, evil, or sin.
2. Correct standards of life, subject only to the requirements of drama and entertainment, shall be presented.
3. Law, natural or human shall not be ridiculed, nor shall sympathy be created for its violation.¹⁰

The similarity between the two codes are striking: both are analogous in tone and language, and both, for the most part, are a collection of generalities subject to the interpretations of their respective administrators. In fact, some of the PCA administrators moved over to CARA (which occupied the same building): Eugene Dougherty became CARA's first chairperson and Albert E. Van Schmus continued in his role as a senior examiner. The CARA seals even maintained the numerical sequence set by the PCA seals. Therefore, it should come as no surprise when outgoing PCA head Geoffrey Shurlock said at the time of CARA's creation, "We'll use the same standards that we've used for 30 years in applying the code."¹¹

However, the PCA's standards, underpinned by an absolute morality of behavior, could no longer be enforced for every movie by the Board. "The rating concept was a totally new approach that dismantled the rigid restrictions of the Production Code," said Valenti.¹² Instead, the G, M, R, and X ratings were distinguished by a Board consensus over what parents may find acceptable for their children. These decisions were based on the degree to which sex, violence, and language in a film violated national community standards. The stronger the level, the more restrictive the rating. This system, said Valenti, allowed the filmmaker "to tell his story in his way without anyone thwarting him," while enabling the industry's self-regulators more classification flexibility in dealing with changing standards of public acceptability.¹³

Valenti's words seem initially plausible. The Production Code was definitely a determining and constricting force in the constitution of studio-produced films since 1930. In that era, a filmmaker working in Hollywood could not "tell his story in his way without anyone thwarting him." He/she had to conform to a set a standards developed in a collaborative effort by the PCA and the industry to cultivate a broad audience. "Make them reasonably acceptable to reasonable people," often said Joe Breen, the director of the PCA.¹⁴ Freedom of expression was thus limited by the Code's special "Moral Obligation" to the people; filmmakers should and could only produce entertainment that was "wholesome" and "correct."¹⁵ Albert E. Van Schmus, in a lengthy oral history with the Academy of Motion Picture Arts and Sciences' Barbara Hall, admits that this uniform standard was undoubtedly censorship of free expression. "I always looked upon myself as a censor. I admit it. That's what I was there for, to try to talk somebody out of doing something in their script."¹⁶

However, this industrial responsibility of restraining the cinematic liberty for the purposes of mass entertainment can also be seen in the objectives of the 1968 rating system.

1. To encourage artistic expression by expanding creative freedom:
- and

2. To assure that the freedom which encourages the artist remains responsible and sensitive to the standards of the larger society.

The DPCS's later specification that "free expression does not mean toleration of license" suggests that the same moral framework and artistic limitations guide both codes: free expression needs to be regulated by a sense of self-discipline and self-restraint in fulfilling a public obligation. Valenti upheld this dictum in 1988: "Every filmmaker ought to be able to tell a story the way he wants to. But that kind of freedom ought to be harnessed."¹⁷ Although the DPCS liberalized the Code by allowing its administrators to permit handling of any and all subjects, it also permitted the administration to object to the tasteless or amoral handling of any and all subjects. Therefore, CARA, at least in its bylaws, was created to perform the same regulatory chores as the PCA.

* * *

I'd like to see the [rating] system abolished. I think we should have the freedom to tell the story, as we, the filmmakers, feel it should be told, without interference and with all the freedom of our imagination.

Director Irwin Winkler¹⁸

Despite Valenti's declaration that "the creative filmmaker ought to be free to make movies for a variety of tastes and audiences,"¹⁹ CARA, like the PCA, was instituted to protect the economic interests of the industry. The integrity of the system was dependent on the containment of expression and the control of the box office. The MPAA essentially lost the power to enforce the Production Code after the Paramount decree of 1948--the Supreme Court decision that ended vertical integration of the motion picture industry. Having to divest themselves from theater ownership, the member studios of the MPAA--who controlled 95% of the box office and 70% of the first run houses in the 92 largest cities--no longer had guarantees for the exhibition of their product.

The result, as director Frank Capra observed, was that the Production Code's seal was no longer enforceable: "The seal became impotent because the [MPAA] could not control the theater chains. Before, if you did not have the seal, you had to play the honky-tonks. The seal is now castrated."²⁰ Now that previous studio-owned theaters were controlled by independent chains, the exhibitors could show any film they wanted, with or without a seal. An anecdote by Sam Arkoff of the independent American International Pictures (AIP) serves to demonstrate how this new flexibility destroyed the studio system. In 1957, Texas Interstate, a theater chain that was tired of the high gross percentage demanded by the majors, offered Arkoff a deal: If he was willing to take only 35 percent of the box office gross (compared to 45-50 percent by the majors) and tossed in a second feature, Texas Interstate would book I Was a Teenage Frankenstein (1957) at the prestigious, single bill Dallas theater, the Majestic, during Thanksgiving. This deal was indicative of the attitude of many exhibitors who finally recognized that the films by AIP, Associated Artists and other independent distributors could be profitable in their prestige houses.²¹ The influx and popularity of foreign films (Open City, 1945; The Bicycle Thief, 1947), disagreements with the Legion of Decency (The Man with Golden Arm, 1955, Baby Doll, 1956),²² competition from television, and The Miracle Case of 1952 (which gave motion pictures the constitutional guarantees of freedom of speech and the press), not only further undermined the need for self-regulation; they dramatically precipitated the conscious violation of the Production Code by MPAA members when box office receipts hit record lows.

The breakdown of Production Code enforcement forced the industry to revise its regulatory system in 1956 to maintain its dwindling hold on the box office. These changes were primarily triggered by Senator Estes Kefauver's chairmanship of the Senate Subcommittee to Investigate Juvenile Delinquency in 1955 and its implicating of movies, comic books, and television as causes of juvenile misbehavior. Films such as The Wild One (1954), Blackboard Jungle (1955), and Rebel Without a Cause

(1955) were perceived as training grounds for youth crime. As a result, the MPAA was held partially responsible for what James Gilbert in A Cycle of Outrage calls "the impression of a mounting youth crime wave."²³ Gilbert notes that the "delinquency film" emerged out of a growing dependence of the industry on the youth and teenage market, as Hollywood abandoned its long-standing commitment to the mass audience in favor of a more segmented one. Pressure from studios intent on exploiting the social phenomenon for profit, along with the opposing pressure from the general public to condemn youth culture in its films, forced the PCA to treat juvenile delinquency within the moral firmament of the Production Code.²⁴ The effects of the medium's apparent liberalization led the Subcommittee in 1956 to conclude that "the proper action was to revise the code, eliminate some of its archaic moralisms, and then enforce it firmly."²⁵ The changes made by the MPAA, partly as a result of these investigations, amounted to discrete allowances of drug use, abortion, miscegenation, prostitution, and kidnapping while situations involving blasphemy, brutality, and vulgarity were still prohibited from being presented on the screen.²⁶

In 1961, the MPAA amended its Code once again by liberalizing the prohibition against sexual aberration after a series of films--most notably Suddenly Last Summer (1959), La Dolce Vita (1960) and Lolita (1962)²⁷--further undermined the validity and integrity of the system. Sexual perversion could now be made acceptable if treated with "care, discretion, and restraint," an arbitrary measurement open to negotiation as other subject matter. Such allowances were necessary as a series of upcoming films with homosexuality as an overarching theme--The Children's Hour (1961), Advise and Consent (1962), and The Best Man (1964)--would encounter Production Code difficulties. Since this trio of films was being released by MPAA member studios, the PCA could not afford to shake the foundation of the Code anymore. Studios were becoming less and less willing to cut their films: United Artists released The Moon is Blue (1953) and The Man with the Golden Arm²⁸ without seals and Columbia distributed And God Created Woman (1956)

through an art-film subsidiary, Kingsley International. Both MPAA companies thus violated its membership commitment to only release Code-certified films. This distribution strategy continued throughout the 1960s, leading to this remark made by the New York Times in 1968 after The Fox (1968) was released by a Warner Bros. foreign subsidiary: "It is a devious ploy and the code becomes toothless while the company retains its simon-pure status as a member of the association."²⁹ Certainly, these circumventions of the Code were important determinants in the establishment of a classification system in 1968.

However, the most important religious, educational, and civic groups had favored classification since the late 1950s. These organizations, especially the Legion of Decency,³⁰ recognized that age classifications, not Code amendments, were the best ways to protect children from exposure to unsuitable films containing drug use, sexual aberration, and other illicit representations. In Sin and Censorship, Frank Walsh notes that the Legion's Father Patrick Sullivan unsuccessfully lobbied Eric Johnston (who replaced Will Hays in 1945) and the industry to abandon the Production Code and endorse a classificatory scheme at this time. In fact, the MPAA, Walsh states, had already prepared a kit for theater owners and distributors in 1959 to fight any reform or legislative movements toward classification.³¹ Sullivan and the Legion then turned to state governments to adopt some classification measures but the MPAA defeated all bills proposed in 1962 and 1963.³²

Van Schmus said that he and many members of the PCA staff wanted classification in the late 1950s but the studios were the ones adamantly opposed to it.³³ The studios feared that classification would cut into its profits. Murray Schumach observes in The Face on the Cutting Room Floor that many members of the industry (Johnston, director Stanley Kramer) created the impression that classification implied censorship,³⁴ refusing to acknowledge that withholding a code seal was an a priori form of categorization. Schumach referred to the industry's fight against self-classification as a "hoax," a method of "perverting freedom of the cinema art in its lust for cash."³⁵

Film executives know that present conditions require a minimum of censorship to meet the creative freedom of foreign movie makers. They also know that the surest way to artistic liberty is through the adoption of voluntary classification--a system of labeling movies to show which are not for children. However, classification many mean less revenue. So Hollywood wants it both ways--no censorship and no classification.³⁶

Leonard Leff and Jerold Simmons in The Dame in the Kimono, agreed that the profit motive drove the industry's position of the matter: "Beneath such golden platitudes was base metal: the industry found classification far less unconstitutional than uneconomical."³⁷

By 1960, theater owners took classification in their own hands and refused, whenever they felt a movie was too "adult," to sell tickets to children unless they were accompanied by an adult. The MPAA distributors followed the lead of exhibitors by classifying Code-certified, "harmless" and "correct" films as "adult" in their marketing. These attempts at voluntary classification, however, often cut profits for everyone in the industry: "adult" films often played only a downtown run; neighborhood theaters rarely booked them because of community criticism; exhibitors scratched them from double bills; and concession stands sold less candy. In the case of the "adult" film, Fanny (1961), starring Leslie Caron and Maurice Chevalier, theater owners pre-empted matinees for the film, then refused to pay Warner Bros. for the performances even though they had contractually booked the film for the entire weekend.³⁸ Not only did such instances stimulate the MPAA studios' case against classification, it exposed the growing estrangement between film distribution and exhibition. The increase of sexually candid studio films with voluntary "adult" labels like Elmer Gantry (1960), Lolita, and Irma La Douce (1963), accompanied by a reluctance on the part of exhibitors to show them, placed the Code in an awkward and impossible position: they had to deal with producers making more and more "adult" films, an unwillingness by exhibitors in trusting Code seals for these films, and the task of differentiating product

for children and adults while adhering to a uniform set of Code standards.

The catalysts for change proved to be the deaths of Johnston in 1963, and Code co-founder Martin Quigley and Joe Breen in 1964, as well as the appointment of Jack Valenti as MPAA president in 1966. Valenti did not share his predecessors' fears of classification. His handling of Who's Afraid of Virginia Woolf? (1966) proved to the studios, at least, that "motion pictures and free expression could coexist"³⁹ as an exemption from Code law was made for this picture. By requiring a box office policy of no admission under the age of 18 unless accompanied by a parent, the MPAA paved the way for classification to be accepted by the industry. Even though theater owners feared classification would further reduce the number of lucrative general audience pictures, and producers felt that classification would create content limitations that would make it difficult to economically compete with foreign films and television, the ability of Valenti and Shurlock (who replaced Joe Breen in 1954) to marshal through the system a mature, expensive, studio-produced hit established its genuine possibility.

Nevertheless, a new Code of Self Regulation was created in October 1966. The MPAA added a new designation--Suggested for Mature Audiences (SMA)--a capitulation to the growing community, court, and legislative pressures to alert parents to subject matter not appropriate for children. Still, the 1966 code failed to strictly exclude children from certain films, though it finally acknowledged the demise of the mass audience with a two-tiered system. Instead, the revised Production Code, as stated in the words of an MPAA pamphlet, would act as a bridge between the industry and the public in a spirit of cooperation.

[T]here is a dual responsibility: . . . A voluntary willingness by film creators and managers to temper freedom with responsibility; a voluntary willingness by the public to be discerning movie-goers, and by parents to know what's playing in the theaters in order to guide the attendance of their children.⁴⁰

This spirit of volunteerism is suspect, given Van Schmus' claim that there was little enforcement of the SMA at theaters, and that films were not always publicized with the tag. "It was simply an advertising effort," he said, and never the "complete answer" to the industry's classification problem.⁴¹

This compromise also failed to restore the integrity of the seal and the system. MGM, an MPAA member, released Blow-Up (1966) through a one-time subsidiary (Premier) after the film failed to get a seal from the PCA. Shurlock knew that fines for code violation were now illegal and producers could easily take the PCA's decision to court. The SMA also offered no additional assurance to filmmakers that artful free expression would be tolerated under the Code revision, because the system lacked a built-in means to pass movies that desecrated the Code.

By the end of 1967, the industry was in complete disarray. The market had been inundated with more "adult" films than any point in Hollywood's history: almost sixty percent of the pictures with seals had a SMA tag, only 160 of the 350 feature-length films shown in the United States that year had a seal,⁴² and The Graduate (1967) and Bonnie and Clyde (1967) had taken sex and violence to another level.⁴³ Julian Rifkin, president of the National Association of Theater Owners (NATO), told exhibitors in 1968, that immediate action was necessary: "The responsible elements in the industry must respond immediately to the crescendo of demand for affirmative action, or others less qualified will act for us. Already statutory classification, obscenity law, and rating systems are springing up all over the United States."⁴⁴

Along with a bill introduced by Senator Margaret Chase Smith in 1967 to establish a Committee on Film Classification, the verdicts of two 1968 Supreme Court cases strongly implied that unrestricted and unenforced exhibition could not continue. Ginsberg vs. New York and Interstate Circuit vs. Dallas upheld the constitutional power of states and cities to deny children access to films that could be viewed by adults. Before any state or municipal government could pass any classification bills, Valenti established CARA in partnership with the MPAA,

NATO,⁴⁵ and the IFIDA (International Film Importers and Distributors of America). With standards and objectives borrowed from the 1966 Code, Valenti incorporated within the rating system a promise of artistic freedom (the MPAA's complaint) with a moral responsibility to families (NATO's fears).

A discourse of protecting children from harmful elements on the screen soothed the system's legal and political detractors, yet its survival depended on the enforcement of the ratings by the theater owners themselves. The support of the exhibitors was crucial, says Champlin, because the burden of enforcing voluntary self-regulation shifted from the producers to the box office.⁴⁶ Therefore, securing the cooperation of NATO--always a staunch opponent of classification--was the key to this endeavor, as Valenti finally forced the organization to admit that artistic and sexual standards had forever changed and that the demand for unadulterated, general family fare would never again reach the levels of the 1940s. With NATO representing 75% of the nation's theaters in 1968, the presence of a CARA rating could work once again like the Code seal before the Paramount decree: a box office guarantee for MPAA-distributed films. Van Schmus acknowledges this very point:

The easiest way to do either the old Code or the new classification system was right at the source, at the creative part of the business, the producing part of the business. Not wait until the picture's made and then get into all kinds of problems, editing or dealing with censors or church groups, that sort of thing. [This is] the only sensible solution To try to deal with all of those states in exhibiting your product? It would have been ghastly! And it would be today. So the theatermen had to be supportive. It couldn't have possibly worked without their support. Even with the old Code, lots of them would not release a picture, or play a picture, if it didn't have Code approval. There were always some theaters that would, and they were quality theaters, excellent theaters, that would play pictures that did not have the Code seal. That's perfectly right, that's the way it should be in our society. But for the average theater in the average community . . . they had to have some guidance, in order to keep that mass audience coming to the theater, which paid some of the huge salaries that the motion picture industry was inclined to pay. They had to be careful with their product. They had to be sure that it wasn't going to get too far out of line. It got

out of line sometimes, but generally speaking you had to have the theater men going along with the idea of self-regulation. Regulation at the beginning of the product, at the origin.⁴⁷

What Van Schmus confirms here is that in order for the industry to maximize profit, exhibitor cooperation was essential. How the commercial efficiency of classical Hollywood would be re-established in a classification system was contingent on the abandonment of cinematic free-expression.

* * *

They'd put XXXXX in Macy's window if you gave them a chance, and they'd argue till they were blue in the face that it was "art."

Joe Breen

[The] widely accepted theory that Americans, in their arts as in their lives, prefer violence to sex, is borne out by the fact that there has yet to be a really substantial box-office hit among blue movies. The figures speak for themselves; in the time that it took Deep Throat [1972] to gross \$500,000, The Godfather [1972] grossed \$42,000,000. Deep Throat is a silly little fable celebrating life; The Godfather is a celebration of blood and death.

cultural critic Brendan Gill⁴⁸

The box office potential of films was inextricably linked to both sides performing their tasks: the MPAA regulating its product and NATO abiding CARA's film ratings. Before the Paramount decree, the PCA could maximize its members' profit since the studios controlled the production, distribution, and exhibition sectors. Now with divorcement and the studios acting primarily as distributors, cooperation between the production and exhibition sectors was absolutely mandatory for the new system to work. NATO made it clear to its members in the NATO News in 1968 that they were just as responsible for the system's success as the MPAA:

The local box office is the crucial point at which the rating system will succeed or fail. No amount of publicity or church support can guarantee the plan unless exhibitors themselves understand it, enforce it at their theaters, and work to create favorable public opinion in their communities. A lack of support on the part of

theater owners can only serve to create the circumstances which encourage hard feelings and, ultimately, censorship.⁴⁹

Having the support and assistance of the National Council of Churches and the National Catholic Office for Motion Pictures (NCOMP, formerly the Legion of Decency) offered NATO the same assurances that the PCA received from religious organizations. NATO also provided its members with guidelines in dealing with civic leaders, local media, clergymen, and parent groups in order to gain their support for the rating system.⁵⁰

However, the system would take time to heal itself. Unbeknownst to the producers, CARA, and the exhibitors, the box office would only recover when the Hollywood industry abandoned the X rating and returned to non-restrictive pictures. In 1968, New York Times film critic Vincent Canby plausibly asserted that the rating system could fail for two possible reasons, both related to the X: 1) X rated films would prove so successful that they would stimulate more production, and 2) as a result, exhibitors might loosen their enforcement of the rating, inviting new calls for governmental censorship and putting pressure on the Board to place limits on the number of X films released.⁵¹ NATO president Julian Rifkin assured the public that this was not the case: "Theater owners across the nation have agreed to support the rating system, not only in theory, but at the box office where they will enforce the age restrictions which accompany certain ratings."⁵² Enforcement would include checking ID's for X rated films, insuring that children were accompanied by a parent for R films, policing children who jumped theaters, refraining from playing an R or X rated trailer to a G or M audience, being aware that the severest rating prevailed on a double feature, running the rating trailer before each film, and educating theater staff on the differences between the ratings.

Some of the criticism of the rating system in its first few years can be attributed to NATO's failure to carefully implement these obligations. Many newspapers reported that neighborhood theaters neglected to police the box office. For example, the New York Sunday News conducted a study that found

underage children being admitted to X rated films.⁵³ In other instances, inattentive exhibitors showed X rated trailers with G rated films. At the same time, opportunistic producers took advantage of the new system at NATO's expense by releasing films with two ratings--with and without restrictive footage--to play for different audiences and theaters across the country.⁵⁴ As public concerns over the availability of obscenity to minors increased in January 1970, Valenti appeared before a subcommittee of the Committee on the Judiciary House of Representatives to oppose any federal regulation of motion picture theaters. He reassured Congress that NATO overwhelmingly supports the rating system and that revisions were currently under way to clarify the system to parents and patrons at the box office.⁵⁵

Raising the age of accompanied R admittance from 16 to 17 in March 1970 did little to quiet detractors of the rating system. Variety revealed in the same month that exactly 175 bills calling for film censorship or punitive actions against exhibitors were pending in state legislatures.⁵⁶ Proposals ranged, for example, from official state film classification and bans on R and X trailers, to taxes of five cents per G admission up to fifty cents per X admission.⁵⁷ Although many of these bills were unconstitutional, they pointed to a growing dissatisfaction with the rating system undoubtedly triggered by the pervasiveness and the handling of X rated fare. Eight months earlier in July 1969, Charlie Poorman of the Motion Picture Herald had warned exhibitors to forgo X rated features altogether. "While it is true that a powerful segment of the populace will patronize the maximum in perversion, there is no industrial future in this."⁵⁸ Opining that the X rating "doesn't represent our best cinematic efforts," Poorman suggested that theater owners replay older films in lieu of "unsuitable" ones.⁵⁹

It appears that many theater owners took his advice, as a survey conducted by NATO on September 30, 1969, reported that 47% of its members--who accounted for 89% of the nation's 13,000 theaters--automatically excluded X rated films from potential engagements for their theaters.⁶⁰ These policies

corresponded with the growing number of newspapers who refused to accept advertising for X films. While the newspaper chains in major cities (New York, Philadelphia, Chicago, Los Angeles, and San Francisco) did not turn away advertisements, dailies in smaller cities (Chattanooga, Miami, Wichita, San Diego) censored X rated ads to conform to the standards of their respective communities.⁶¹ Banning X films from their leases certainly helped exhibitors to avoid community pressure, especially if they could not properly promote an X film in the local newspaper. Refusing X films also avoided the expense of modifying prints and trailers for local censor boards, whose costs, partially, if not entirely, would fall on the individual theaters.

Nevertheless, some major circuits--Loews, RKO, Brandt--departed from their tacit agreement with the MPAA. These violations threatened to have industry-wide ramifications. In an unprecedented chastising of a major exhibitor, Valenti blasted Loews for eroding faith in the rating system for its booking of the Danish sex film, Without a Stitch, in State I and Cine, two Manhattan first-run theaters in 1970. For the first time, he made it clear to the industry that they can not simultaneously be both sex voyeur and a responsible community enterprise:

I told the chief executive of [Loews] that if other large, responsible theater operators decide to play this kind of film, then we are going to be witness to the death of quality exhibition in this country. The theater cannot have it both ways. The theater cannot be half quality and half smut. . . .

If there is a proliferation of the quasi-porn film playing in first-class houses to the exclusion of product of wider appeal, we are in trouble.⁶²

Valenti's words spell out Hollywood's commercial strategy in the age of classification: only G, GP, and R rated films should play in NATO theaters. At the same time, he isolates and penalizes the X, demanding that NATO boycott all X films not produced or distributed by MPAA members. This wedge driven between "quality" adult films and pornography would forever distort the rating, as the stigma attached to this outer

category would always imply a violation of the new Code's responsibility to the "standards of the larger society."

Following Valenti's tirade about keeping exploitative sex out of key flagship theaters, Tonlyn Productions, Inc., the distributor of Without a Stitch, filed a \$30 million damage suit against the MPAA. What is important about the suit is that Tonlyn claimed that Paramount told Loews that Paramount would withhold its products from the chain if they continued to book X films from non-MPAA members. The suit also claimed that Trans-Lux theaters pulled its booking of Without a Stitch after Valenti's attack.⁶³ These assertions suggest the beginnings of the industry-wide cooperation that continues to this day between MPAA distributors and NATO exhibitors.

1971 also marked the year at which the rating system was streamlined in several important ways. At this time, Variety reported that more and more independent distributors were complying with the system, submitting their products for classification so they could secure bookings in better houses.⁶⁴ Initially, many independents had rated their films X for sure-fire booking but changes in public acceptance and taste toward "nudie" films had compelled them to work with, rather than against, the rating system. Variety also claimed that CARA was moving in the direction of awarding an R to adult fare with "legit artistic pretensions;"⁶⁵ The National Screen Service in 1971 created the red-banded trailer and the green-banded trailer for exhibitors, the former warning the projectionist that the trailer can only be attached to an R or X feature while the latter can play for general audiences.⁶⁶ Shortly thereafter, and foreshadowing the advent of the NC-17 twenty years later, NATO members called for the MPAA to adopt a new classification, AO (adults only), to distinguish between pictures of "adult and quality nature" from those with X ratings which are "of far lesser quality and low moral values."⁶⁷ As I will show, however, the MPAA studios always viewed the X as economically non-viable and counterproductive to the notion of "respectable" entertainment.

Probably one of the first basic changes in the system will be an alteration of the "X" category to in some way relieve the stigma it carries. Also, forbidding anyone under 16 or 17 to see a movie even with the accompaniment of his parent may well, if tested in court, prove to be an unconstitutional invasion of family rights.

William Wolf, in 1969⁶⁸

There was no reason to impose the bother upon people whose films were clearly way beyond what parents would accept for children.

Richard Heffner, on why the MPAA did not copyright the X⁶⁹

The institution of the rating system on November 1, 1968, contained one substantial revision to the Production Code: the opportunity for the MPAA signatories to distribute adult films under a Code seal. The studios, who were previously barred from releasing movies without a seal since all films had to be "harmless" and "correct" for a general audience, could now distribute films limited to audiences over 16 years of age. By releasing a film with an X rating--signifying that a film was unsuitable for children--the studios turned a deaf ear to the industry's commercial imperatives. The X rating automatically excluded at least 25% of its potential audience, reduced a film's potential earnings, and violated the industry's commitment to providing mass entertainment

At first, some MPAA studios exploited the notoriety provided by the X rating and its suggestion of "uncensored spectacle." Taking a cue from Michelangelo Antonioni's Blow-Up that an adult film could be an artistic and commercial success, even with a smaller available audience, MGM released Midnight Cowboy (1969) to commercial and critical success--the film won the Academy Award for Best Picture that year. However, this was an isolated case. Most X rated films met with a harsher reception--Warner Bros.' The Girl on a Motorcycle (1968), for example. One unnamed Warner Bros. executive said: "[The code staff] asked us to make some cuts, but we decided to go ahead and take the X rating and make some money."⁷⁰ But after The Girl on a Motorcycle's disastrous performance at the box office, Warner Bros. re-released the film with an R rating and a new

name (Naked Under Leather) after removing an erotic lovemaking scene and Marianne Faithful's masturbation sequence. Greetings (1968) and if.... (1968) were also released in edited R versions after their initial X run.⁷¹

The re-releasing of The Girl on a Motorcycle, Greetings, and if...., suggests that studios became quickly disenchanted with the X rating's ability to play outside the major cities. Their initial eagerness to take advantage of the X gave way almost immediately to the rating's economic limitations. If an R could play to a mass audience--albeit one that required adult supervision for children--why not cut a film to fit the category's requirements as in the days of the Production Code? In fact, the New York Times reported such doings November 1, 1968, the very day of CARA's inauguration.⁷² According to the New York Times, MPAA members were already regulating themselves, cutting their films down from an X rating. Paramount removed some obscene dialogue from an American prison film, Riot (1969), to get an R;⁷³ Antonioni stated he would excise a four-letter word for copulation in the script for MGM's Zabriskie Point (1970) if its inclusion meant an X. "The general view" in the industry, wrote Newsweek four months later in February 1969, was "that, while nobody quite knows what draws an X rating, it is something to avoid."⁷⁴

Stephen Farber confirms the widespread avoidance of the X in The Movie Rating Game. Writing in 1972, he says that the rating had already become a commercial liability by 1970 with studios already arranging their films for an R release.

By now the X has lost whatever chance it might have had to achieve respectability. Several studios have made it a policy to produce no X films, and most studio contracts with directors stipulate that the director must win an R or less restrictive rating on the finished film. The X may even keep some films from being made at all. An independent producer submitted to the board a realistic, non-exploitative script about sailors, and an X rating was threatened simply on the basis of the profanity that was necessarily part of the dialogue. As a result of the projected X, the producer lost financing for the film.⁷⁵

At this time, scripts were still vetted by CARA just as in the days of the PCA, but now recommended deletions were for the

purpose of avoiding an X instead of obtaining a Code seal.⁷⁶ Farber explains that the distributors of already-completed films like Joe (1970), Hi, Mom! (1970), and Straw Dogs (1971), also cut their pictures so they could be awarded an R.⁷⁷ These practices actually trickled down to all the ratings; the MPAA's 1969 annual report noted that almost one-third of its films were re-edited for a different classification.⁷⁸

Responsible for much of the stigmatization of the X rating were non-Hollywood filmmakers. Although the X had been created to allow greater screen freedom and to protect exhibitors from obscenity prosecution, the respectability accompanying The Killing of Sister George (1968), Midnight Cowboy (1969), and A Clockwork Orange (1971) was overshadowed by the rating's appropriation by exploiters--for films such as I am Curious (Yellow) (1969), The Language of Love (1969), and Vixen (1969)--and pornographers.⁷⁹ Most importantly, the failure of the MPAA to copyright the X in 1968 led many distributors to forgo the costs associated with submitting their films to CARA and instead self-imposed the X, taking advantage of the rating's "forbidden" quality. As a result, the X swiftly became synonymous with pornography and licentiousness.

Such impressions were no doubt fueled by an exhibition policy that allowed X trailers to accompany R films, highlighting the vast difference between the two ratings and the X rating's unacceptability for mass consumption.⁸⁰ The stigmatization of the X made it increasingly difficult for serious filmmakers to adopt the rating for films distributed by MPAA companies. Since most patrons viewed all X films in the same light, certain newspapers began to reject advertisements for X films, and many TV stations established policies refusing to run trailers for X rated pictures. In November 1969, the MPAA listed 23 newspapers that would not take ads for X rated films,⁸¹ and a NATO survey indicated that 47 percent of exhibitors would not show such films.⁸²

CARA presumably realized after a few years that the X rating should only be given to MPAA films in the most extreme cases, if at all. According to Stephen Farber, CARA chairperson Eugene Dougherty told him that the raising of the R

age limit from 16 to 17 in 1970 was intended to absorb previous X rated content into the R category so that "no serious film-makers would want to go beyond the limits of the R."⁸³ In support of this assertion, Variety described 1970 as the year of the "wandering X" as more films of X caliber were drifting over into R and GP territory.⁸⁴ Films like M*A*S*H*, Women in Love, and The Boys in the Band earned R ratings when a year earlier they may have been X ratings. This "relaxation" of standards created immense confusion on the GP/R front for CARA--especially in the Ryan's Daughter (1970) case⁸⁵--but its primary effect was the demise of the X rating for major studio films. While the MPAA awarded sixteen Xs to its member studios from November 1968 to October 1969, the subsequent three years saw it drop to twelve, three, and one certificates, respectively. This reduction in X output paralleled a rise in box office: by 1972, domestic theater admissions were up roughly 20 percent over the previous year, halting a seven-year slide, and total box office revenues surged from \$1 billion to \$1.64 billion.⁸⁶

In the concluding remarks of his analysis of CARA's first two years of operation, Julian C. Burroughs Jr., writing in 1971, foresaw the avoidance of the X category by Hollywood.

[T]he major motion picture companies which are represented by the MPAA will have to decide how far they are willing to follow the 'anything/everything goes' trend. To put it another way, as long as the majors--and others would aspire to general public favor--allow good taste to play a significant role in their productions and promotions, they are not likely to lose the support of the majority of Americans⁸⁷

Around the same time, the Associated Press reported in April 1971 that "the day of the X rated film appears to be over" for the major film companies. In this article, Columbia Pictures reiterated its stance against releasing X rated pictures, and James Aubrey, president of MGM, explained why his company no longer was in the business of making X films: "Everybody was caught in the newfound freedom. The industry wallowed in it. But while permissive films might have been successful six months ago, they aren't now."⁸⁸ Twentieth Century Fox abandoned

X film production after the back-to-back box office bombs of the soft-core Myra Breckenridge and Beyond the Valley of the Dolls in 1970. "The board of directors decided then," said a Fox studio source, "never again, not for all the money in the world."⁸⁹ In May 1971, Samuel Z. Arkoff, chairman of AIP, said, "It's good business sense today to make only Gs and GPs," while independent distributor Donald S. Rugoff admitted, "I never bought a film before with ratings in mind but I do now. The hassle just isn't worth it."⁹⁰ Joseph Strick, a director who sought an injunction against the MPAA and Paramount for giving Tropic of Cancer an X in 1970, said that the studios thereafter began to contractually require directors to make R pictures.⁹¹ How quickly the X became an oddity for major studio release is summed up by a Variety headline in July 1971: "WB acceptance of X for 'The Devils' a Rarity Nowadays for Major Film."

With the exception of United Artists' Last Tango in Paris (1973), the X was all but abandoned by the major studios after 1971. Partially responsible for its disappearance was the withdrawal of support for the rating system by NCOMP and the National Council of Churches' Broadcasting and Film Commission in June 1971,⁹² as well as the box office success of the pornographic Deep Throat in 1972 and a series of Supreme Court rulings that redefined the definition of obscenity. Garth Jowett explains in Film: The Democratic Art how these obscenity rulings could possibly have proven disastrous to the motion picture industry's production of adult-oriented material, allowing states to censor works found obscene by local community standards.

After nearly sixty years the motion picture was no nearer achieving freedom from legal restraint than it had been in 1915. While the grounds for censorship had been gradually refined down to a test of "obscenity," the vagueness of the concept, and the fact that its application was to be left to local communities, each applying their own standards, could only encourage continued harassment. The current situation will mean a constant stream of censorship ("obscenity") cases before the Supreme Court, until such time as the justices issues firm and clear guidelines; or finally concur with Justice Douglas that the movies should be freed totally from the burden of censorship.⁹³

Even though Justice William O. Douglas in the 1952 Miracle Decision (Burstyn v. Wilson) reversed the 1915 Mutual ruling that denied free speech protection for motion pictures, Jowett believes that the Court's failure to offer clear guidelines for obscenity constituted similar restrictions on artistic freedom, film production, and theatrical exhibition. Similarly, CARA chairperson Aaron Stern (who replaced Dougherty in 1970) recognized the importance of a dependable and uniform rating system to circumvent regulation on the local level: "You cannot ignore the reality of an Administration committed to states' rights and local autonomy, or the fact that, as of the moment, the states have the power to define obscenity for themselves."⁹⁴ The truth of Jowett's words, written in 1976, and the fear expressed by Stern in 1972 could not be more exact: after 1975, the Hollywood X was nowhere to be seen.

* * *

Closer to the heart of the general matter, however, is the MPAA's total failure to comprehend that the general public--which would seem to include newspaper publishers as well--is not prepared to draw fine distinctions between a movie that has received an X from the Code and Rating Administration, and an independently produced sexploitation picture that has gotten its X by default. . . . In the eyes of the general public, a movie is a movie, and all movies emanate from a single source, called variously "Hollywood" or "the industry." Today, all X-rated movies are being tarred with the same brush. And whether Valenti likes it or not, his organization invented that brush.
film critic Arthur Knight⁹⁵

Most critics, like myself, have been consistently critical of the rating system which you constantly claim is "far from perfect" and with which the raters have fiddled alphabetically in measuring anatomical exposure, degrees of mayhem and litres of blood. While you've wandered through the refinements of "M" and "GP" and "PG," you have failed to correct the misimpression of the public (of which, alas that "X" stands for dirty, whereas it was intended simply to mean "unfit for minors." As many of us noted from the first, the MPAA provided a "respectable" shelter for the pornographic-minded fringe filmmaker via the "X"--and has damned the dedicated filmmaker as well. Like all who attempt to "legislate" morality, you have succeeded only in elevating the lowest and denigrating the finest. That films like Midnight Cowboy and A Clockwork Orange are lumped together by X ratings with the shoddiest of sexploitation films is the doing of the MPAA: you have forced upon established filmmakers a marketplace level of bargaining,

interfering with their creative concepts when, for sheer survival, they must cut their films to get an "R" rather than "X"--a malaise that has extended upwards with further expenditures of time and money for the elevation of other films (Ryan's Daughter, Walkabout, and Fillmore come to mind) from "R" to "PG" (or whatever you choose to call that second level at the moment). You who have justified the censorial rating code as self-censorship and an alternative to government censorship have now brought public censorship upon your industry. And within that industry, the ratings have reduced movie quality to a debate on how many pubic hairs can flutter on the edge of a frame.

Film critic Judith Crist in a personal letter to Jack Valenti⁹⁶

Arthur Knight's column in the Hollywood Reporter and Judith Crist's letter to Valenti were written in response and clarification to a strongly worded New York Film Critics Circle resolution urging a "dramatic revision or abolition of the MPAA's rating policy" in May 1972.⁹⁷ At the crux of their arguments was the X rating. While Knight believed improvements could be made to the existing system (creating an A rating for Code-rated X films), Crist, speaking on behalf of the New York Film Critics, held the X mainly responsible for industry censorship and urged its rescission to protect the rights of filmmakers and the moviegoing public.

However, these cries, inflamed by a decision by the Detroit News banning all display advertising and editorial mention of X rated films, demonstrated how little influence film critics wielded over the rating system. Valenti's position that the critics' arrows "should be aimed, not at the motion picture industry, not at the rating program, but at those newspapers and other media which have embarked on censorship,"⁹⁸ may have been what Vincent Canby called 'bunkum,'⁹⁹ but it nevertheless concealed the fact that the stigmatization of the X benefited the commercial interests of the Hollywood studios and improved the tarnished image of the industry. With the near-abandonment of X film production by the majors, the continued arranging of material for an R rating by CARA, the shunning of X films by the major exhibitors, and the appropriation of the X by hard- and soft-core pornographers, the X, in effect, stumbled unintentionally into

a realm of "harmful entertainment," functioning as a de facto marker of obscenity in the cinema. At the same time, the R rating solidified itself as a marker of "respectable" entertainment in the New Hollywood. Variety, in its annual overview of CARA in 1972, noted that Hollywood's sudden shift away from X rated material helped to reduce public criticism of its standards for its other categories.¹⁰⁰ Clearly, the creation of the "incontestable R" is directly linked to the renunciation of the X rating.

Two Supreme Court rulings in June 1973 effectively sealed the fate of the production of X films by the major studies and emphasized the importance of an "incontestable R" for the industry. The first ruling was Miller v. California which delegated to local communities the power to set their own standards for defining obscenity. Within days of that decision, a Supreme Court of Georgia ruling upheld a jury conviction under a local obscenity law for the exhibition of Carnal Knowledge (1971) despite the fact it was rated R. The U. S. Supreme Court reversed the Carnal Knowledge conviction a year later (on the grounds the film was not found obscene under the standards established in Miller v. California), but the fact still remained that any community could choose to prosecute any film it felt offended its standards in descriptions or depiction of sex. The possibility of being presented with a flurry of Carnal Knowledge-type cases did not escape Valenti at this time: "The great fear that exists in the responsible motion picture industry," he said, "is the concern that this legal hysteria will become a contagion and sweep across the country."¹⁰¹ While not directly admitting that abandoning X rated fare would temper this cultural panic, Valenti's appropriation of the term "responsible" expresses a commitment on the MPAA's part to rigidly adhere to this entertainment strategy at any cost.

In the New York Times in December 1973, Stephen Farber and Estelle Changas chronicled the industrial changes made by Hollywood in the wake of these rulings. In an article highly critical of the MPAA, they asserted that serious filmmakers had been profoundly affected by the MPAA's refusal to challenge the

Courts' decisions and could no longer produce anything stronger than an R."¹⁰² For example, they claimed that a major studio backed out of financing Arthur Hiller's film of Hubert Selby Jr.'s violent street novel Last Exit to Brooklyn (later made in 1989). Similarly, French Connection (1971) producer Philip D'Antoni dropped the option on Cruising, Gerald Walker's novel about a homosexual killer (a story that eventually made it to the screen in 1980). Farber and Changas also reported that studio executives, producers, and directors admitted an inhibiting effect on their choice of material because of the Supreme Court rulings. They claimed that Universal vice president Ned Tanen, Columbia producer Larry Gordon, and Robert Altman all had rejected or considered rejecting scripts containing potentially controversial elements. According to Altman:

The panic can't help having an effect on you. I was just reading a script that has a sexual scene with a young man and a prostitute--a comic scene. And without even wanting to, I found myself thinking, "This is going to be a problem. How am I going to do it? Is it really necessary, and should it be done in a very explicit, funny way. But if I do it that way, I don't know if it can be shown."¹⁰³

These aesthetic and economic concessions, stated the authors, "regulate[d] and enforce[d] the obscenity decision for Justice Burger," as CARA arranged studio films for an R rating so they could play in the most conservative areas of the country.¹⁰⁴ Added Altman, "The rating system actually spawned the acceptance of censorship."¹⁰⁵

In a same-day response to this article, Jack Valenti once again argued that CARA was not a "censor" since filmmakers may voluntarily choose to revise their films. The film industry, he suggested, should "press ahead with an importuning to the Supreme Court to reexamine its pornography decisions and having done so, to erase for all time the fetters it places on creative artists." Nevertheless, he added, "in the foreseeable future we must live with the Court decision. We may curse it, defy it, theorize about it, but there it is. It won't go away."¹⁰⁶

From this political context, I believe, emerged the "incontestable R," a category that could withstand or better yet, stave off prosecution of the MPAA by local communities while maintaining the industry's image of "respectable" entertainment. While Farber and Changas overestimate the power that CARA wielded in self-regulating X rated studio films out of existence in 1973, Valenti underemphasizes the role he and the MPAA played in "shaping" the "incontestable R" practice. Both CARA and the filmmaker work for the MPAA who are interested in making "respectable" mass entertainment for profit. The X rating violates these three MPAA objectives. CARA may provide specific instructions in order for a film to be trimmed down from an X, but the MPAA studios have wanted to shape their films for an "unrestricted" R category since the dawn of the rating system. Furthermore, the filmmaker desiring the large budget and publicity machine of the studios must sign a contract to deliver an R picture--even when the director gets "final cut." When Ralph Bakshi claims he doesn't "know of a single director who hasn't been told not to make an X film," he expresses the view that it is not necessarily the muscle of CARA that dictates the rules, but rather the might of the Hollywood studios. Never ones to defend artists' rights or challenge government rulings,¹⁰⁷ the MPAA recognized at an early stage the sound business principles associated with an avoidance of the X rating.

Not coincidentally, at the same time that Farber, Changas, and Valenti spoke of an industry-wide dismissal of an adult aesthetic, Variety reported that "the rating system is flourishing, drawing more non-Establishment features into its procedures, in turn seeding an even greater public awareness of the system."¹⁰⁸ CARA chairperson Aaron Stern's public distaste for the MPAA's stance toward "adult" subject matter must have been a major reason for his dismissal by Valenti at the end of 1973. Interested more in the educative potential of the cinematic form than in protecting the economic interests of the MPAA membership, Stern--incredibly--spoke in opposition to classification and the X rating.

If the rating system were called upon to defend itself as a noncensoring action, it could not defend itself. The fact that we keep somebody out of the theater is literally not defensible. I'm absolutely opposed to the X rating.¹⁰⁹

Given such comments, it is unsurprising that Valenti later admitted he made a mistake in putting Stern, a psychiatrist, in charge of the rating system.

There were a lot of things we didn't agree on. Nothing personal. It was his views on movies in general, demeanor, the ratings system, how he viewed certain things, the stance he was taking in the press, which was not consonant with the motives of the ratings system.¹¹⁰

To restore "consonance" in the rating system, Richard Heffner replaced Stern in July 1974. He existed as CARA chairman for a twenty-year period, in which few films even attempted to challenge the boundaries of the X category and the "incontestable R."

* * *

Hollywood has adopted the rating system to its own devices. It has effectively reduced the four ratings to two--R and PG.
critic Ben Yagoda¹¹¹

In November 1974, Variety reported that "traditional film suppliers now avoid the X rating like the plague."¹¹² In the previous year,¹¹³ Hollywood studios did not release any X films; the rating was only self-imposed by pornographers or adopted by independent distributors. Instead, all studio films were arranged for an R rating or less, a guarantee that all Hollywood product was once again permissible for an all-ages audience. Variety also argued that in the absence of the adult category, ratings negotiations would primarily involve differentiating between various recommendations for children.

The film ratings exist solely as a guide for the advisability of attendance by children under legal age (though the periodic controversies over ratings would seem to indicate that ratings applied to everyone, which is not so). Hence the PG and R ratings interface is the most crucial, and not the overpublicized notoriety of the X

rating. Whether a film is PG or R determines far more in the way of patronage than G-PG or R-X dichotomies.¹¹⁴

While there exists a few isolated cases involving the R-X dichotomy in the years leading up to the NC-17 in 1990, for the most part, Variety is correct in its assumption that future ratings battles would be fought between the PG and R. These disputes, however, would mainly concern issues of violence, language, and tone, and not nudity or sexuality as did the X rating.¹¹⁵

The mild PG rating given to Jaws in 1975 indicated a shift in the PG-R boundary and mirrored the reorganization of Hollywood praxis described by Thomas Schatz:

If any single film marked the arrival of the New Hollywood, it was Jaws, the Spielberg-directed thriller that recalibrated the profit potential of the Hollywood hit, and redefined its status as a marketable commodity and cultural phenomenon as well. The film brought an emphatic end to Hollywood's five-year recession, while ushering in an era of high-cost, high-tech, high-speed thrillers. Jaws' release also happened to coincide with developments both inside and outside the movie industry in the mid-1970s which, while having little or nothing to do with that particular film, were equally important to the emergent New Hollywood.¹¹⁶

Certain industrial, cultural, and social changes that Schatz identifies at this moment can be specifically related to the demise of the X rating and the ossification of the "incontestable R." The art cinema movement that dealt with politically subversive, sexually graphic, or explicitly violent material--such as the auteur-driven, X-rated works A Clockwork Orange, The Devils, or Last Tango in Paris--ceased to be an industrial force. Demographically, viewers were becoming younger and lacked the cinema literacy these adult films presupposed. And finally, the surge of mall-based theaters led to widespread policies prohibiting X rated pictures.¹¹⁷

An adjustment in regulatory procedure must also have accompanied the emergence of the "New Hollywood." Jaws' saturation booking and advertising placed increased importance not only on opening weekend numbers but on the securing of a PG rating to play to unrestricted mass audiences. Even though

Universal added its own cautionary notes in the ads for Jaws--the film may be "too intense for pre-teenagers"--many critics and parents found the film too violent and horrifying for children to be unaccompanied by a parent. Charles Champlin noted that the film's unparalleled initial gross (\$22 million in its first ten days) largely buried such complaints under a hoopla of box office ascendancy, which obscured the fact that Jaws' rating may have set a new precedent for the PG category.¹¹⁸ He once again questioned the "origins, usefulness, consistency, and credibility" of the classification system, although by this point, as Variety remarked, "film ratings . . . ha[d] become simply a part of American and Hollywood life disturbed only by an occasional outburst."¹¹⁹

Despite Jaws, the next four years saw CARA experience very little controversy under new chairman Richard Heffner, partly because his administration treated violence more harshly and nudity less severely in the PG/R boundary. In a 1978 New York Times article, Heffner said, "Violence that was once comfortably ensconced in a PG is now an R," adding that "Barry Lyndon (1975) and Lies My Father Told Me (1975) had the kind of nudity that had always automatically gotten an R. But we felt that, in the context of those pictures, parents wouldn't feel their brief nudity deserved an R."¹²⁰ Motivated by an increased sensitization to the needs of parents, Heffner only had to worry about arranging films for these two categories,¹²¹ unlike Dougherty or Stern, who had to juggle four ratings in a period of cultural, social, and economic instability. Now that the industry, once again, served as guarantors of "respectable" entertainment, CARA, who now could aim at improving its growing approval rating with parents (rather than reform groups or legislators) and developing concrete determinants for their categories (now that the X had been abandoned). CARA, in 1978, even altered the composition of its Board to make it more flexible and responsive to parental concerns. Replacing all of its members--some of whom were left over from the PCA days--were parents, who, after a six-month trial period, could serve only three years at the most. "We are trying in our ratings, to represent a changing parental population," Heffner said.¹²²

He also instituted an automatic R rating for pictures containing the word "fuck" and other "harsher sexually derived words" (slang expressions for lovemaking or genitalia) although the rating could be reversed on appeal. Beginning with All the President's Men (1976), twenty consecutive R ratings caused by the automatic language rule were overturned in the appeals process, including The Front (1976), A Bridge Too Far (1977), and The Last Waltz (1978).¹²³ As a result, certain "obscene" words gradually made their way into PG films.

As the lines between the PG and R continued to blur, CARA began considering the insertion of a new rating between the two categories to deal with questions of violence, language, and sex. A "PG-2" or "R-13" was desired by both Hollywood and its patrons: studios wanted more freedom in targeting an audience; parents wanted more latitude in making choices for their children. These demands were fueled by a series of successful R rated films released in 1980 starring teenagers but banned for teenage viewing (without an adult). The Blue Lagoon (Brooke Shields), Little Darlings (Tatum O'Neal, Kristy McNichol) Foxes (Jodie Foster, Scott Baio) and Fame drew a large teenage audience, many of whom bought tickets or snuck into theaters because of increasingly lax admission policies.¹²⁴ Additionally, Hollywood produced a series of films--what Bill Paul terms "animal" comedies¹²⁵--in the early 1980s with teenage appeal: Porky's (1981) Spring Break (1983), Valley Girl (1983) Risky Business (1983), and Fast Times at Ridgemont High (1983) all centered on high school life. This surge in production of R rated teenage entertainment led NATO to push for a key change in the classification system in 1983. It favored lowering from 17 to 16 the minimum age for unsupervised admission to R features, and supported giving the public more detailed information on content in PG and R films. Aside from the regular complaints accompanying the enforcement of the R, exhibitors were becoming increasingly frustrated by the difficulty of policing teenage patrons at the growing number of multiplexes.¹²⁶

Not until a torrent of complaints from critics, parents, and exhibitors poured forth in 1984 did the MPAA and NATO

finally consider a change to the rating system. That year, a number of R films won PGs on appeal--Beat Street, Sixteen Candles, Hard to Hold--making more explicit films available to children as well as undermining the authority of the Board.¹²⁷ Of greater significance, the Spielberg-executive-produced Gremlins and the Spielberg-directed Indiana Jones and the Temple of Doom, both rated PG, were alleged to be too violent and scary for young children. Two scenes in particular caused the commotion: a scene in which the gremlins terrorize a woman in a kitchen and she ends up blendering and microwaving two of them; and the sequence when Indiana Jones witnesses a ritual sacrifice where a man's still-beating heart is ripped out of his chest. The anger over these films built on the outrage expressed about the violence in two other Spielberg productions--Raiders of the Lost Ark (1981) and Poltergeist (1982)--which were similarly given PG ratings.¹²⁸ In response to these concerns, the MPAA, on 1 July 1984, created the PG-13 category: "Parents strongly cautioned. Some material may be inappropriate for children under 13." The automatic language rule now applied to the PG-13 instead of the R; one use of a single sexual expletive would place a film in the new category. Two years later, CARA decided that any reference to the use of an illegal drug was automatic PG-13 material as well.¹²⁹

Creating the PG-13 preserved the industry's commitment to "respectable" entertainment with a minimum of effort. However, the new category: 1) failed to address concerns about rising levels of sex and violence in the movies, 2) failed to provide more specific rating information requested by parents and exhibitors, 3) failed to improve upon rating enforcement at theaters, 4) failed to denote the differences between a PG, PG-13, and R, and 5) succeeded, in fact, in permitting once R rated material into an accessible all-ages category. A similar stratagem of circumvention would occur six years later over the X rating.

* * *

Al Pacino's recent controversial film about a series of murders in New York's leather-clad sado-masochistic homosexual community is gruesome, loathsome, and vile--easily the most graphic and vivid sex-and-violence film ever to escape an "X" rating.

film critic Jack Garner on Cruising
(1980)¹³⁰

When I booked Zorba the Greek, all my Greek friends were mad. When I booked Goodbye, Columbus, all my Jewish friends were mad because of the wedding scene (which had reception guests shoveling down food with vivid gusto. I don't anticipate any trouble over Cruising.

Oscar Brotman, a Chicago exhibitor¹³¹

After Columbia's Emmanuelle and United Artists' Inserts in 1975, the MPAA member studios did not release a single, non-foreign film rated X for the next fifteen years.¹³² However, a studio or filmmaker's occasional desire to challenge the boundaries of that rating for economic or artistic reasons usurped the industry's commitment to "respectable" entertainment and an "incontestable R" category. An X picture with an R rating would certainly generate controversy and bring free publicity to a picture that effectively could play for a mass audience. The MPAA signatories, who now acted mainly as distributors for individual production houses, understood this; at times they deliberately bankrolled risky projects containing contractual R ratings. Herein lay the slippery task of CARA, who unlike the PCA, did not really have the industrial or public support of arranging films into a single category for mass consumption. The PCA regulated films at their production stage; CARA, it is generally understood, only regulated films after their completion. As a result, the Board was forced to arrange potentially "non-respectable" X rated products into "respectable" R products. In most cases, CARA's negotiations with a distributor on an acceptable R cut for a film were done privately and unaccompanied by media fanfare. The exceptions occurred only when 1) a major studio produced a film either so "adult" and/or "non-respectable" in tone that cutting it for an R fails to render it palatable for mass audiences; 2) a director decided to cut his film for an R but criticized the Board for being a censoring body; 3) a director refused to cut

his film even though he was contractually obligated to deliver an R picture; and/or 4) exhibitors refused to show an R picture or limited its attendance to adults 18 or over. These four dynamics routinely threaten not only the self-regulating operations of CARA, but the survival of the entire industry, which is dependent upon a synergy of integrity between production, distribution, and exhibition.

The first major controversy over the X in many years--what Dale Pollock in the Los Angeles Times called a "deep crack" in the rating system¹³³--emerged in 1979 with Cruising. United Artists decided to film Gerald Walker's novel when previous attempts to adapt the book had failed in the early 1970s. Directed by William Friedkin, Cruising starred Al Pacino as a cop searching for a killer who carves up homosexual victims with a steak knife. The Pacino character eventually discovers that he is gay himself while tracking down the murderer in the New York homosexual community.

Cruising certainly contained market exploitation value in its probing of the S & M underworld of gay sex. However, the notion of Hollywood profiting from a portrayal of homosexual psychopath did not please New York's gay community, particularly the Village Voice's Arthur Bell.

[William Friedkin's] film promises to be the most oppressive, ugly, bigoted look at homosexuality ever presented on the screen, the worst possible nightmare of the most uptight straight and a validation of Anita Bryant's hate campaign. It will negate years of positive movement work and may well send gays running back into the closet and precipitate heavy violence against homosexuals. I implore readers--gay, straight, liberal, radical, atheist, communist, or whatever--to give Friedkin and his production crew a terrible time if you spot them in your neighborhood Owners of gay establishments would do well to tell Friedkin to fuck off when he comes around to film and exploit.¹³⁴

In The New Censors, Charles Lyons details the disruption of the location shooting caused by gay men and women and the, their intimidation of the filmmakers, as well as the National Gay Task Force's failed attempt to persuade Mayor Ed Koch to withdraw the film's production permit. Yet, "despite an evening of violence" in a July 27th demonstration through

Greenwich Village "and numerous mass rallies, sit-ins, and marches," Lyons wrote, "Friedkin completed Cruising without altering the script."¹³⁵ The end product, Vito Russo notes in The Celluloid Closet, leaves audiences "with the message that homosexuality is not only contagious but inescapably brutal."¹³⁶

When United Artists released Cruising in February 1980, the trade reviewers castigated the film and the soft R rating that CARA assigned. Variety was the harshest.

If this is an R, then the only X left is hardcore--and that will kill business in the broad marketplace, leaving whatever dollars the big dispute can generate in urban playoff.

To put it bluntly, if an R allows the showing of one man greasing his fist followed by the rising ecstasy of a second man held in chains by others, then there's only one close-up left for the X.¹³⁷

The Hollywood Reporter also criticized Cruising's explicit violence and sex, suggesting instead that the film straddled the line between an R and X.

[T]he Jerry Weintraub production is a violent and exploitative cops-and-killer movie [that is] all so distasteful (albeit realistic) and unmotivated that most audiences will be repelled, and word of mouth should be generally negative.

Both the murders and the S & M are graphically shown and, in regard to the latter, the film would have earned a hard X Rating (instead of the current R) if the camera would have moved one inch. Much of this is probably due to Bud Smith's careful editing.¹³⁸

In fact, the theatrical release of Cruising was nowhere near as graphic as the first cut, recalls Smith, who, along with Friedkin, had to edit three minutes out of Cruising in order to earn an R rating.

There was a scene in the peep show where there was another killing. There was blood spurting on the screen, and that was too much for the MPAA; they just don't like blood spurting! I don't blame them actually. We had to cut out a lot from the scene that takes place in a gay bar. There was a guy lying in a bathtub, and another one was pissing on him. There was a scene of copulation as you're panning from Al Pacino's point of view; you basically saw guys giving each other blow jobs. Way in the back, there was a

guy up in a strap, a leather sling, and someone else reaches out and puts some gel on his forearm and sticks it up his rectum. All this was in the original dailies.¹³⁹

After being resubmitted to the Board five or six times, the edited R version toned down the violence in the killings and "softened" the specifics of the sodomy sequence.¹⁴⁰

The on-screen brutality, sordidness, and unpleasantness of the film that repelled the normally unflappable trade critics even shocked the members of CARA. Richard Heffner admitted that the Board had major difficulty rating the picture.

No picture has given us so much anguish as Cruising. Because the theme is so incredibly unpleasant we knew that people would want us to punish the film. People are angry. They want to be saved from this film. But it's not the job of the ratings system to punish movies for moral or esthetic reasons.

There was only one thing we could have done that was worse than giving the film an R rating. That was to give it an X to save our own necks. It would have been easier to give the movie an X. We'd have been heroes. Homosexuals would love us. But we wouldn't have been correct. The question we had to answer in order to give it an X was whether every parent of a 17-year-old in New York City had to be prohibited from bringing his child to the movie. We didn't think so.¹⁴¹

What becomes clear from Heffner's remarks is that the rating system is powerless to reshape a film's theme or tone. Specific parameters, as a later chapter will demonstrate, do exist for the content differences between the R and X/NC-17 categories, but not for a film's tone. Vincent Canby in the New York Times recognized that Cruising's tone, was primarily responsible for its unpleasantness "because it makes no attempt to comprehend [the subject matter]. It just stares."¹⁴² In other words, Friedkin and United Artists, rather than CARA who is usually attacked, must bear the primary blame for the film's "contestable" R.

Protests, poor reviews, and an R rating can frequently encourage audiences to attend a controversial Hollywood film; Cruising had all three. However, in this case, the major studios failed to provide CARA with a sufficiently "respectable" product that the Board could arrange into an R

film. This synergetic breakdown temporarily damaged the integrity of the rating system as exhibitors abandoned their part of the bargain: a compliance with CARA's classification ruling. This rare, but dramatic undermining of self-regulation, echoing conditions leading to the destruction of the Production Code, testifies to the necessity of industry-wide cooperation to the success of the rating system.

The ramifications of exhibitor dissatisfaction over Cruising's R rating was signaled by General Cinema Theaters' cancellation of the film's thirty-five engagements, two weeks before the film's opening on February 15, 1980.¹⁴³ The chain--the largest in the United States at the time--issued a statement explaining its decision: "General Cinema Corporation policy is to refuse to play X rated pictures or pictures which in our judgment should be X rated."¹⁴⁴ Obviously, company executives felt Cruising contained something that other R rated films did not at the time, despite Heffner's insistence to the contrary. Mel Whitman, executive vice-president of General Cinema, offered this additional explanation for its ban: "An R rating permits an adult to bring an 8-year-old child to Cruising. The theme, the extreme violence, and the abnormal sexual aspects make the movie unsuitable for children."¹⁴⁵

Whitman's account gets us no closer to exactly why General Cinema found the film to be X rated. However, his words, together with the corporation's public statement, give credence to the existence of the "incontestable R," an unrestricted "adult" category that I have been arguing in this dissertation. was developing throughout the last half of the 1970s. General Cinema's assumptions that an R film can be clearly distinguished from an X film, and that an R film should be suitable for children, personifies the unspoken industry policy of "respectable" entertainment in the New Hollywood: anyone--regardless of age--should feel "comfortable" watching an R picture. Perhaps knowing this full well and first-hand, United Artists Theaters took it upon themselves to prevent unescorted children from attending Cruising by posting signs at their theaters advising patrons that "In the opinion of management

this picture should be rated X. No one under 18 will be admitted."¹⁴⁶

To some extent, General Cinema's boycott of Cruising resulted from fears of community backlash and the possibility of violence at theaters showing the film.¹⁴⁷ Yet, some reports suggest that the chain's concerns were fiscal in nature, as General Cinema, like other exhibitors, put up non-refundable guarantees of as much as \$65,000 to book it before seeing it.¹⁴⁸ The U.S. Supreme Court had ordered the cessation of this practice--blind-bidding--but did not make it illegal in the 1948 Paramount decree (which explains why it reemerged in the laissez-faire economy of the Reagan years). Some states had outlawed blind-bidding by 1980, but those states without laws placed exhibitors who wished to show the film at the mercy of the market; in the case of Cruising, poor word of mouth could lead to low box office and out-of-pocket expenses for theater owners.¹⁴⁹

United Artists reportedly took legal action against General Cinema for breach of contract. Another exhibitor, Mid-America Cinema, personally asked United Artists to release it from its Cruising contract but the distributor refused. In place of a Cruising poster in three of its theaters' lobbies, Mid-America displayed the following letter, dissociating themselves from the filmmakers.

Cruising is a picture we sincerely wish we did not have to show. Had we been afforded an opportunity to preview this picture ahead of purchase, you would not see it in our screen today. However, because of a system called "blind bidding" wherein future movies are offered for bid months before we can view them, our hands are tied. We are now obligated to play Cruising. Our request to be released from this contract was denied. It's play or face possible lawsuit. The management of Mid-America Cinema offers its apology to patrons and suggests all comments be addressed to: United Artists, 729 7th Ave., New York, N.Y. 10019.¹⁵⁰

In addition, United Artists had already attached to the beginning of Cruising its own statement: "This film is not intended as an indictment of the homosexual world. It is set in one small segment of that world, which is not meant to be representative of the whole."

Both disclaimers here function as apologies for Cruising's R rating and for its masquerade as mass entertainment--an apology something Hollywood should never have to do for its products. On one hand, blind-bidding practices presuppose the delivery of an "incontestable R," a mutual agreement between production, distribution, and exhibition to produce and show works of "respectable" entertainment." On the other hand, the incontestability of CARA's practices depend upon Hollywood producing works that are "pre-respectable" before submitting them to CARA. With Cruising, the theater owners lost faith in United Artists as well as in CARA, and subsequently canceled bookings, re-rated the film, and relinquished responsibility for the product.

This case was complicated by the negligence of CARA itself, which discovered in May 1980 that Friedkin and United Artists had not made the cuts they had agreed to before Cruising's release in February. Requests for an iris-out to be added to an early murder scene, an elimination of a fellatio scene, and a black border to be applied to a bar scene with suggestive sexual activity were disregarded.¹⁵¹ Shortly thereafter, Cruising was withdrawn from theaters and re-released in a re-edited R version--the first instance of its kind for a major studio film. Valenti felt the mistake had "not abused or torched the system," but he must have realized that any more oversights in the future would certainly erode the integrity of the rating system in the eyes of both the industry and American parents.¹⁵² On that note, Heffner suggested that the film's controversy showed "the need for refinement in the rating system, [and] the need to differentiate between R pictures that are almost X."¹⁵³ These concerns resurrected demands for the creation of an adult, non-pornographic category that would take ten years to implement.

* * *

Why should I suffer for something Billy Friedkin didn't do?
Brian De Palma on Dressed to Kill¹⁵⁴

I have no problem saying I make movies in order to make money. Even before Carrie [1976], I knew I was in showbiz. Whether it's art or not, it's part of the world I live in. We're dealing with huge amounts of money and we have to justify the way we spend it, which means getting enough people who want to see what I've done. . . . I have a certain vision that I put forth, and I've been very fortunate, thank you. I am going now to do exactly what I want, because I've done films that pay for themselves. And I don't make any apologies for that.¹⁵⁵

Brian De Palma

Media people always ask how I can make movies like this (Scarface). This is what's in my brain. I don't have to justify it to anyone. Studio heads are only interested if a movie makes money. And out of 15 movies I've made, I've justified my existence to them on at least ten of them.

Brian De Palma¹⁵⁶

Friedkin never criticized the rating system when arranging Cruising for an R rating, a course of submission he employed years earlier during negotiations for The Exorcist (1973) and later with To Live and Die in L.A. (1985). Brian De Palma, on the other hand, went down swinging in his rating battles, sometimes even winning the fight.

Not that De Palma had to bring controversy upon himself; his movies could do that for him. The combination of violence and eroticism in his films--like those of Ken Russell--have always been problematic for CARA. But unlike Russell, De Palma pushes the boundaries of mainstream cinema from the inside, working within the Hollywood system by using stars and big budgets. De Palma represents the industry's opportunism as well as its potential self-destructiveness: the major studios continue to support his "quasi-respectable" filmmaking practices as long as his pictures succeed at the box office.

Outside the industry, De Palma has infuriated almost every social group or organization imaginable. The U.S. Catholic Conference condemned The Fury (1978) as "an affront to human dignity."¹⁵⁷ Women's groups picketed Dressed to Kill (1980) for its misogyny, an accusation that would recur with Body Double (1984). Cuban Americans disrupted the filming of Scarface (1983) in Miami to show their opposition to stereotypes used in the movie.

Within the industry, De Palma has publicly railed against Richard Heffner and the Board for having a vendetta against him ever since rating negotiations for Dressed to Kill.¹⁵⁸ CARA received a lot of criticism for passing the film with an R, even though De Palma submitted Dressed to Kill three times before earning that rating. Certain strategic cuts and dialogue dubs--razor slashes, masturbation, pubic hairs, language, close-ups--had to be made to avoid the X, their specifics quite similar to the distinctions between the R and adult categories in the 1990s, which I discuss in a later chapter.¹⁵⁹ Despite these changes, the "non-respectable" tone of Dressed to Kill placed CARA in the same bind it faced with Cruising: De Palma was contracted to deliver an R cut, the distributors would not release the film without an R rating, and the theater owners wanted the R to reach the largest possible audience. This was the last time De Palma was cooperative. With Scarface, he would not be so accommodating.

A few weeks before Scarface's opening on 9 December 1983, the Board gave the eagerly awaited film an X rating; according to De Palma, they found the film "excessively and cumulatively violent."¹⁶⁰ Indeed, the film was brutally violent for its time, and Pacino's ad nauseam use of the word "fuck"--reportedly 183 times¹⁶¹--did not make the Board's decision seem unreasonable. However, Universal would not release the film wide in almost 1000 theaters with an X rating. Scarface cost too much (\$25 million) for a limited release, and exhibitors, who had already booked the film for the holiday season, expected Scarface to earn a lot of money. De Palma, who said he "had been very careful to avoid the uses of explicit violence,"¹⁶² had already submitted four versions of the film to CARA and refused to cut his film any further: "We would fix one part and then they would suddenly raise questions about another part that they'd never seen before."¹⁶³ He eventually told Universal, "Look, you guys are going to have to fire me, and you can finish the process yourselves. I think we are affecting the effectiveness of this film, and I won't work and I don't care anymore."¹⁶⁴

Although producer Martin Bregman remarked, "There is nothing in Scarface that hasn't been done more graphically in every slash film,"¹⁶⁵ Richard Heffner felt that "[t]he accumulation of violence and language was too much. We consider ourselves responsible to parents, and we didn't think many parents would cheer us for giving this film an R rating."¹⁶⁶ Although Universal had final cut, the company certainly did not want to take the film out of De Palma's hands. To do so would be a bad business decision if they ever wanted to work with such a valuable commercial director again. In addition, an unpleasant ratings squabble in the media--already jump-started by De Palma's refusal to cut the film--would embarrass the industry as a whole, hurting the appearance of integrity and "respectable" entertainment upon which CARA's policies were founded.

Nevertheless, Universal had one last resort: the Rating Appeals Board. The studio brought with them to the New York hearing the first cut of Scarface minus one 12-frame shot of an arm that had been chain-sawed off.¹⁶⁷ Surprisingly, the RAB voted 17-3 in favor of overturning the X rating for practically the original cut of the film.¹⁶⁸ Had the X rating been sustained, Universal would have had three options: 1) to release the film X rated, 2) to cut the film themselves, or 3) to convince De Palma himself to make the necessary alteration. De Palma, on the other hand, said, "If I lost the appeal, I would have taken a lawsuit all the way to the Supreme Court."¹⁶⁹

The overwhelming vote to repeal Scarface's X dodged two important issues that would become central to discussions surrounding the creation of the NC-17 in 1990. First, what would be the industrial ramifications if an MPAA studio released an X picture? Contracts stipulating R final cuts were devised to avoid legal hassles with a director, to avert media accusations of censorship, and to ensure a mass audience. Universal and De Palma could have possibly shattered the industry model of "respectable" entertainment." Second, does the RAB favor Hollywood product in their rulings in appeal cases? Critics have argued that the NATO members of the Hollywood industry-dominated board felt pressured to pass

Scarface with an R since they had booked it for the holidays. It was also reported that the RAB knew Universal had a lot of money riding on the picture and they did not want to cripple the investment of a fellow industry member.¹⁷⁰ In any case, the RAB's strongly overruled the Board, a contradiction that occasionally leads to charges leveled by independent companies and film critics of CARA's favoritism and hypocrisy.

Following Scarface, De Palma's Body Double, Russell's Crimes of Passion (1984), and Adrian Lyne's 9 1/2 Weeks (1986) received some notoriety for their original X rating, but all were cut down to an R with little fanfare. None of these films was a box office success. When Alan Parker's Angel Heart received an X in February 1987, demands for rating reform were resurrected. The well-publicized controversy dwelled on the sexually violent love scene between Mickey Rourke and Lisa Bonet where they were drenched by rainwater turned into blood. Tri-Star, a division of Sony (who will not release any X rated films), and Parker, who signed a standard-studio contract guaranteeing delivery of an R film, appealed the decision to the RAB. Since the vote was only 6 to 5 in favor of reclassifying Angel Heart, the filmmakers did not receive the necessary two-thirds majority to overturn the Board's judgment.¹⁷¹ The close vote, however, enabled them to receive a new hearing, which ended with an insufficient majority vote of 8 to 6.¹⁷² Declaring "commercial blackmail,"¹⁷³ Parker trimmed ten seconds from the sex scene featuring what Andrew Sarris called Rourke's "bobbing buttocks"¹⁷⁴ in order to earn an R. This single cut, as I argue in a later chapter, was consistent with CARA's cutting practices in the 1990s.

At that time, however, most critics believed that Angel Heart, unlike Cruising, Scarface, or Crimes of Passion, did not warrant the X given by the Board. Something so trivial as "bobbing buttocks" provided them with a point of entry to attack the rating system for its arbitrary and subjective policies. Jack Mathews and Roger Ebert, like most critics, found nothing violent or erotic in Angel Heart that had not been shown numerous times in other R films.¹⁷⁵ They reiterated the common complaint that the X had evolved into a skull and

crossbones for mainstream filmmakers because studios would not release pictures with that rating, media outlets would not advertise them, and exhibitors will not play them. They believed that an "A" rating for films that were adult but non-pornographic should be inserted between the R and X. However, unlike some critics, Mathews and Ebert did not favor replacing the X with an A, a sentiment shared by none other than Jack Valenti.

I don't care if you call it 'AO' for adults only, or Chopped Liver or Father Goose. Your movie will still have the stigma of being in a category that's going to be inhabited by the very worst of pictures.¹⁷⁶

Disputes over redefining the adult category trailed off the next few years as no major studio or director attempted to challenge the system. But these arguments resurfaced when a slew of pictures--many distributed by a then unknown company called Miramax--received the X.

¹Leonard J. Leff and Jerold Simmons, The Dame in the Kimono (New York: Grove Weidenfeld, 1990): 278.

²Bosley Crowther, "Not for Children?" New York Times, 16 April 1961.

³Personal Statement of Jack Valenti, President, Motion Picture Association of America. In connection with announcement of new national voluntary film rating system, 7 October 1968. AMPAS files.

⁴"Voluntary Movie Rating System Celebrates 30 Years of Providing Information to America's Parents," Motion Picture Association of America, Press Release, 27 October 1998.

⁵Charles Champlin, "What Will H. Hays Begat: Fifty Years of the Production Code," American Film, Vol. 6, no. 1 (Oct 1990): 42-46, 86, 88.

⁶Richard Maltby, Hollywood Cinema (London: Blackwells, 1995), 42.

⁷See Maltby, Hollywood Cinema, 40-46.

⁸Bruce A. Austin, "Making Sense of Movie Rating Statistics," Box Office, October 1991, 45.

⁹These eleven standards are:

1. The basic dignity and value of human life shall be respected and upheld. Restraint shall be exercised in portraying the taking of life.
2. Evil, sin, crime, and wrong-doing shall not be justified.
3. Special restraint shall be exercised in portraying criminal or anti-social activities in which minors participate or are involved.
4. Detailed and protracted acts of brutality, cruelty, physical violence, torture and abuse shall not be presented.
5. Indecent or undue exposure of the human body shall not be presented.
6. Illicit sex relationships shall not be justified. Intimate sex scenes violating common standards of decency shall not be portrayed.
7. Restraint and care shall be exercised in presentations dealing with sex aberrations.
8. Obscene speech, getures or movements shall not be presented. Undue profanity shall not be permitted.
9. Religion shall not be demeaned.

10. Words or symbols contemptuous of racial, religious or national groups, shall not be used so as to incite bigotry or hatred.
11. Excessive cruelty to animals shall not be portrayed and animals shall not be treated inhumanely.

¹⁰The Motion Picture Production Code.

¹¹Quoted in "Movies--G, M, R, X," Newsweek, 21 October 1968, pg. 98.

¹²Jack Valenti, "The Movie Rating System," Daily Variety, 28 October 1975, 54-58;

¹³Valenti, "The Movie Rating System," 54-58;

¹⁴Barbara Hall, Oral History with Albert E. Van Schmus, Academy Oral History Program, 1992. Pgs. 101, 156.

¹⁵The Motion Picture Production Code. "Moral obligations" is capitalized in the original document along with such words as entertainment, helpful, harmful, moral importance, art, product, thing, and effect. These capitalized terms affirmed the cultural and social function of movies as entertainment for the masses and not as an informative or destructive vehicle in the name of art.

¹⁶Hall, Oral History with Albert E. Van Schmus, 102.

¹⁷Quoted in Kim Masters, "Rating Game," Premiere (US), September 1988, 64.

¹⁸Hal Hinson, "Not as Easy as A-B-C," Newsday, 12 November 1988, Sec. 2, pg. 2.

¹⁹Personal Statement of Jack Valenti. 7 October 1968.

²⁰Quoted in "The Morality Crisis," Newsweek, 19 April 1965.

²¹Sam Arkoff, from Flying through Hollywood by the Seat of My Pants, excerpted in Roger Ebert, ed., Roger Ebert's Book of Film (New York: W.W. Norton & Company, 1997), 232-234.

²²The MPAA refused a seal to The Man with the Golden Arm but the Legion granted it a B. The MPAA approved Baby Doll but the Legion condemned it.

²³James Gilbert, A Cycle of Outrage: America's Reaction to the Juvenile Delinquent in the 1950s (New York: Oxford UP, 1986), 144.

²⁴Gilbert, A Cycle of Outrage, 175-178.

²⁵Gilbert, A Cycle of Outrage, 159.

²⁶The 1956 Code is printed in full in Murray Schumach, The Face on the Cutting Room Floor: The Story of Movie and Television Censorship (New York: William Morrow, 1964).

²⁷For a discussion of these films' negotiations with the Legion of Decency, see Frank Walsh, Sin and Censorship: The Catholic Church and the Motion Picture Industry (New Haven and London, CT: Yale UP, 1996), 282-306.

²⁸Murray Schumach notes that in July 1962, both The Moon is Blue and The Man with the Golden Arm were quietly granted seals, although they had not yet completed their theatrical runs. This was the first time the PCA reversed its decisions while a film was still playing in theaters. See The Face on the Cutting Room Floor, 69-70.

²⁹Quoted in Robert Windeler, "As Nation's Standards Change, So Do Movies," New York Times, 8 October 1968.

³⁰The Legion of Decency changed its name to the National Catholic Office for Motion Pictures (NCOMP) on 8 July 1965.

³¹Walsh, Sin and Censorship, 320-321.

³²Walsh, Sin and Censorship, 321.

³³Hall, Oral History with Albert E. Van Schmus, 102.

³⁴Schumach, The Face on the Cutting Room Floor, 256-268.

³⁵Schumach, The Face on the Cutting Room Floor, 259.

³⁶Schumach, The Face on the Cutting Room Floor, 255.

³⁷Leonard J. Leff and Jerrold L. Simmons, The Dame in the Kimono (New York: Grove Wiedenfeld, 1990), 237.

- ³⁸Murray Schumach, The Face on the Cutting Room Floor: The Story of Movie and Television Censorship (New York: William Morrow, 1964), 260.
- ³⁹Leff and Simmons, The Dame in the Kimono, 258.
- ⁴⁰Pamphlet, "A Year in Review: MPAA," June 1968.
- ⁴¹Hall, Oral History with Albert E. Van Schmus, 294-297.
- ⁴²Robert Windeler, "Hollywood is Preparing a Broad Film Classification System," New York Times, 21 September 1968.
- ⁴³Leff and Simmons, The Dame in the Kimono, 270.
- ⁴⁴Julian S. Rifkin, "Now is the time," NATO News, 15 July 1968, pg. 1.
- ⁴⁵NATO, the result of a merger between Allied States and Theater Owners of America in the mid-1960s, comprised 10,000 of the nation's 13,000 theaters. Only one major theater group, the Walter Reade Organization, refused to support classification because it felt the rating system was unconstitutional and would lead to government censorship. See Julian C. Burroughs, Jr., "X Plus 2: The MPAA Classification System During its First Two Years," Journal of the University Film Association 23, no. 2 (1971): 45-46.
- ⁴⁶Champlin, "What Will H. Hays Begat," 46.
- ⁴⁷Hall, Oral History with Albert E. Van Schmus, 312.
- ⁴⁸Brendan Gill, "Blue Notes," New Yorker, 2 January 1973.
- ⁴⁹"Film Rating System Announced: Four Ratings Geared to Protect Children," NATO News, October 1968, pgs. 1 and 4.
- ⁵⁰"The Rating System and Your Theatre," NATO News, October 1968, 3.
- ⁵¹Vincent Canby, "For Better or Worse, Film Industry Begins Ratings," New York Times, 1 November 1968.
- ⁵²"Rifkin on Rating System," NATO News, October 1968, 1.
- ⁵³In New York, the X rating barred anyone under 16, not 17.
- ⁵⁴See, Vincent Canby, "Why Do They Laugh at 'G' Movies," New York Times, 2 November 1969, pgs. 1, 27.
- ⁵⁵Statement by Jack Valenti, President, MPAA, before Subcommittee No. 3 of the Committee on the Judiciary House of Representatives, 28 January 1970.
- ⁵⁶"Claggett Tidying MPAA's New Bills; 39 Wanna Tax X," Variety, 25 March 1970, 5.
- ⁵⁷Gene Arneel, "Censor Threats Haunt MPAA; Just Too Much, if Mostly Silly," Variety, 18 March 1970, 5.
- ⁵⁸Charlie Poorman, "Survival Booking . . . in the Days of G, M, R, and X," Motion Picture Herald, 16 July 1969, 7.
- ⁵⁹Poorman, "Survival Booking," 8.
- ⁶⁰Vincent Canby, "Will They Censor the Teenybopper?" New York Times, 22 March 1970.
- ⁶¹"'Protecting Public' vs. 'Censorship,'" Variety, 25 February 1970, 7.
- ⁶²Quoted in Gene Arneel, "Valenti Raps Loew's 'Stitch' Booking; Can't be Voyeur & Respectable Biz," Variety, 28 January 1970, 4.
- ⁶³"Harris Sues MPAA, TOA, Par Alleging Conspiracy and 'Trade Libel' vs. 'Stitch,'" Variety, 11 February 1970, 4.
- ⁶⁴"MPAA GP's Proliferate; 'Precious Jewels' and X; Five Rate 'Restricted,'" Variety, 11 February 1970, 6.
- ⁶⁵"'Zabriskie's' R Poses Questions," Variety, 11 February 1970, 6.
- ⁶⁶These changes, however, did not take into account the vast disparity between certain X and R films, although it was a step in the right direction in making sure X trailers did not play with G films. See Burton Robbins, "The Honeymoon is Over (between Church and Film Industry)," Greater Amusements, June 1971, 5.
- ⁶⁷"NATO Unit Asks 'AO' (Adults Only) to Escape Stigmatizing Via 'X,'" Variety, 25 March 1970, 5.
- ⁶⁸William Wolf, "MPAA Ratings: Intimidating and Ineffective," Entertainment World, 5 December 1969, 16. His italics.

- ⁶⁹Quoted in Martha Southgate, "Raters of the Lust Art?" Daily News (Los Angeles), 8 April 1990, City Lights sec, pg. 3.
- ⁷⁰Quoted in Canby, "For Better or Worse."
- ⁷¹"X Marks the Spot," Newsweek, 24 February 1969, 101. Director Jack Cardiff was not consulted about these changes.
- ⁷²Canby, "For Better or Worse."
- ⁷³Riot eventually was awarded an M and was criticized for its mindless violence and homosexual candor.
- ⁷⁴"X Marks the Spot," Newsweek, 24 February 1969, 101.
- ⁷⁵Stephen Farber, The Movie Rating Game, (Washington, D.C.: Public Affairs Press, 1972), 49. His emphasis.
- ⁷⁶Farber, The Movie Rating Game, 50.
- ⁷⁷Farber, The Movie Rating Game, 50-51, 66-67.
- ⁷⁸Farber, The Movie Rating Game, 57.
- ⁷⁹See Frank Miller, Censored Hollywood: Sex, Sin & Violence on the Screen (Atlanta: Turner Publishing, 1994), 220-223.
- ⁸⁰The New York Sunday News reported the horror of one woman who took her 14-year-old son to see the R rated Goodbye Columbus only to see the coming attraction of the X rated I, a Woman II. See Bob Lardine, "Movie Industry is on a Spot Marked X," New York Sunday News, 20 July 1969, 10.
- ⁸¹Burroughs, Jr., "X Plus 2," 48. Cited from New York Times, 28 November 1969, 62. By July 1972, 34 newspapers would not advertise X-rated films. These included the Detroit News, the Cleveland Plain-Dealer, the Cincinnati Enquirer, and the Boston Herald-Traveler. See Leonard Gross, "What's Blue at the Movies?" Los Angeles Times West Magazine, 16 July 1972, 20; Vincent Canby, "The Ratings are Wrong," New York Times, 4 June 1972.
- ⁸²Robert B. Frederick, "'Young NATO' Group Advises MPAA's 'G' Rating be Purified in Sex, Gab," Variety, 19 November 1969, 22. However, in the same article, Young NATO claims the percentage may have decreased since the survey was taken. In any case, the number is still high.
- ⁸³Farber, The Movie Rating Game, 51.
- ⁸⁴A. D. Murphy, "\$-Sign over MPAA Alphabet, Distribs Wanna Shun Risky 'R,'" Variety, 25 November 1970, 5.
- ⁸⁵Valenti said, "Where I think we have failed is in being able to communicate what GP means. What we rate on is what we think parents would want their children to see." See "Rating the Rating System," Time, 31 May 1971, 73.
- ⁸⁶Thomas Schatz, "The New Hollywood," in Film Theory Goes to the Movies, ed. Jim Collins, Hilary Radner, and Ava Preacher Collins (New York: Routledge, 1993), 16.
- ⁸⁷Burroughs, Jr., "X Plus 2," 53.
- ⁸⁸Associated Press, "X-rated Films Shunned," Christian Science Monitor, 13 April 1971.
- ⁸⁹Quoted in Jack Langguth, "Doctor X," Saturday Review, 2 December 1972.
- ⁹⁰Quoted in "Rating the Rating system," Time, 31 May 1971, 73.
- ⁹¹See Moira Hodgson, "Movie ratings--Do They Serve Hollywood or the Public?" New York Times, 24 May 1981.
- ⁹²See Gregory D. Black, The Catholic Crusade Against the Movies, 1940-1975 (Cambridge, England: Cambridge University Press, 1997), 235-236.
- ⁹³Garth Jowett, Film: The Democratic Art (Boston: Focal Press, 1976), 449.
- ⁹⁴Quoted in Leonard Gross, "What's Blue at the Movies?" Los Angeles Times West Magazine, 16 July 1972, 22.
- ⁹⁵Arthur Knight, "Knight at the Movies," Hollywood Reporter, 15 May 1972.
- ⁹⁶Judith Crist to Jack Valenti, 18 May 1972, New York Public Library clippings file. Crist cc'd the letter to William Wolf, chairman of the New York Film Critics Circle, and Ronald Gold, a writer at Variety.

- ⁹⁷"N.Y. Critics Vote Condemns Code; Valenti Cites Risks of Retreat; Sez 'Dailies Now the Censors,'" Variety, 10 May 1972.
- ⁹⁸Quoted in Stephen Grover, Wall Street Journal, 15 May 1972. Title unknown.
- ⁹⁹Canby, "The Ratings are Wrong."
- ¹⁰⁰A.D. Murphy, "Code in Perspective over 4 Yrs.: Measure Indie Production Flood; U.S. Makers Seek G and PG Ratings," Variety, 8 November 1972, 19. The trade paper also added that the possibility of new adult rating to cover "quality" films had been severely undermined after Stanley Kubrick pulled A Clockwork Orange out of release in August for sixty days in order to qualify for a lower rating after cutting two scenes.
- ¹⁰¹Quoted in Edward de Grazia and Roger K. Newman, Banned Films: Movies, Censors and the First Amendment (New York: R. R. Bowker Company, 1982), 140. My italics.
- ¹⁰²Stephen Farber and Estelle Chngas, "What Has the Court Saved Us From?" New York Times, 9 December 1973.
- ¹⁰³Quoted in Farber and Chngas, "What Has the Court Saved Us From?"
- ¹⁰⁴Quoted in Farber and Chngas, "What Has the Court Saved Us From?" My emphasis.
- ¹⁰⁵Quoted in Farber and Chngas, "What Has the Court Saved Us From?"
- ¹⁰⁶Jack Valenti, "'To Rate a Film is Not to Censor It,'" New York Times, 9 December 1973, 15, 25. His emphasis.
- ¹⁰⁷The MPAA held off classification for many years and it played no role in the Miracle decision.
- ¹⁰⁸A.D. Murphy, "Five Years of Derision for Film Code, But It Works as Intended," Variety, 31 October 1973, pgs. 1, 61.
- ¹⁰⁹Quoted in "The War Between 'Censors' and Producers (Rated R)," Los Angeles Herald Examiner, 16 July 1972, 21.
- ¹¹⁰Quoted in Hodgson, "Move Ratings--Do they Serve Hollywood or the Public?"
- ¹¹¹Ben Yagoda, "How Hollywood Manipulates Film Ratings," Saturday Review, August 1980, 42.
- ¹¹²Murphy, "Code Ratings Analysis Since '68."
- ¹¹³Variety tabulates the ratings from the first of November until the last day of October.
- ¹¹⁴A.D. Murphy, "Code Ratings Analysis Since '68; Self-Imposed X's Outside Record," Variety, 6 November 1974.
- ¹¹⁵When The Street Fighter, a Japanese martial arts film distributed by New Line Cinema, was given an X in late 1974, it was believed to be the first film ever given that rating based solely on violence. See Gerald Jonas, "The Man Who Gave an 'X' to Violence," New York Times, 11 May 1975.
- ¹¹⁶Schatz, "The New Hollywood," 17.
- ¹¹⁷Schatz, "The New Hollywood," 15-20.
- ¹¹⁸Charles Champlin, "Mixed Review of the Motion Picture Code," Los Angeles Times, 13 July 1975, sec. 4, pg. 5.
- ¹¹⁹A.D. Murphy, "Over 50% 'Restricted' Ratings in U.S.," Variety, 5 November 1975, 7.
- ¹²⁰Quoted in Aljean Harmetz, "Movie Ratings--Too Much of a Mystery?" New York Times, 3 May 1978.
- ¹²¹The G rating continued its periodic slide since 1972, amounting to only seven percent of the majors' output in 1979 when it once commanded thirty-two percent. However, This percentage is a little misleading since Variety includes in its major-minor tally, the output of Allied Artists, American-International Pictures, and Avco Embassy who are not MPAA members. See "Rated Major Pix Up 21% from Last Year, Per MPAA," Variety, 7 November 1979, pgs. 24, 32.
- ¹²²Quoted in Harmetz, "Movie Ratings--Too Much of a Mystery?"

- ¹²³Harmetz, "Movie Ratings--Too Much of a Mystery?"; Dale Pollock, "Ratings Struggle to Stay Abreast," Los Angeles Times, 5 May 1980, sec. 6, pg. 4.
- ¹²⁴See, for example, Leslie Bennetts, "Debate over Film Ratings Widening," New York Times, 23 June 1984.
- ¹²⁵William Paul, Laughing Screaming: Modern Hollywood Horror & Comedy (New York: Columbia UP, 1994).
- ¹²⁶See Will Tusher, "NATO Push for Relaxed R-Rating, Legal Panel Highlight Conclave Biz," Variety, 26 October 1983, pgs. 7, 374; "Ratings Change Delays Irking NATO Members," Daily Variety, 31 October 1983.
- ¹²⁷"Just What Makes a Movie PG-13?" San Francisco Chronicle, 4 July 1984, 48.
- ¹²⁸Vincent Canby, "As a Rating, PG Says Less than Meets the Eye," New York Times, 10 June 1984.
- ¹²⁹See Vincent Canby, "Are the Ratings Just Alphabet Soup?" New York Times, 20 April 1986.
- ¹³⁰Jack Garner, "Ratings: Do They Tell Moviegoers as Much as They Should?" Democrat and Chronicle (Rochester, N.Y.), 14 September 1980, 1C.
- ¹³¹Quoted in "Gays More Timid in Chicago?" Variety, 13 February 1980.
- ¹³²United Artists Classics released in 1979 the X-rated Italian film--Arabian Nights--directed by Pier Paolo Pasolini.
- ¹³³Dale Pollock, "R-Rated 'Cruising': The MPAA Seal of Disapproval," Los Angeles Times, 4 May 1980, Calendar. This article was the first of a three-part series that appeared in the newspaper the following two days.
- ¹³⁴Arthur Bell, "Bell Tells," Village Voice, 16 July 1979.
- ¹³⁵See Charles Lyons, The New Censors: Movies and the Culture Wars (Philadelphia: Temple UP, 1997), 117-122.
- ¹³⁶Vito Russo, The Celluloid Closet: Homosexuality in the Movies, revised ed. (New York: Harper & Row, 1987), 259.
- ¹³⁷Har, "Cruising (review)," Variety, 12 February 1980.
- ¹³⁸Ron Pennington, "Cruising (review)," Hollywood Reporter, 12 February 1980, 3. Pennington also notes that the film "appears to take no judgmental position in terms of the [S & M] lifestyle or homosexuality in general," further contributing in my opinion to its failure to fulfill the heteronormative demands of Hollywood entertainment.
- ¹³⁹Quoted in Laurent Bouzereau, The Cutting Room Floor (New York: Citadel, 1994), 171-172.
- ¹⁴⁰Aljean Harmetz, "How 'Cruising' Received Its 'R' Rating," New York Times, 16 February 1980.
- ¹⁴¹Quoted in Harmetz, "How 'Cruising' Received Its 'R' Rating."
- ¹⁴²Vincent Canby, "Screen: Pacino Stars in Friedkin's 'Cruising,'" New York Times, 15 February 1980.
- ¹⁴³See "Largest Theater Chain Rejects Film 'Cruising,'" Los Angeles Herald Examiner, 31 January 1980; Martin Gould, "'Cruising' to be Rescreened by General Cinema," Hollywood Reporter, 5 February 1980.
- ¹⁴⁴Quoted in Harmetz, "How 'Cruising' Received Its 'R' Rating." General Cinema Corp. viewed the picture a second time after announcing the cancellation but stood by its previously revealed decision. See "2nd Look Nix By GCC: 'Cruising' an X Pic," Variety, 13 February 1980, pgs. 5, 219.
- ¹⁴⁵Quoted in Harmetz, "How 'Cruising' Received Its 'R' Rating."
- ¹⁴⁶"UATC Posts Warning at Windows: 'Cruising' is X Film in R Clothing," Variety, 20 February 1980. UATC similarly notified its patrons with the showing of Columbia's Hardcore in 1979.
- ¹⁴⁷See, for instance, "Hub Rues Sack Use of Cinema 57 for 'Cruising' Pic," Variety, 20 February 1980.
- ¹⁴⁸"Hassanien Screens 'Cruising'; UATC Dates to Stand," Hollywood Reporter, 5 February 1980

¹⁴⁹A major reason for Variety's condemning review was that Cruising producer Jerry Weintraub barred its reporter from the film's press screening. Weintraub said he based his decision on a matter of policy to bar any reviews from appearing too early before a film's release. However, the timing of his action, most people believed, was to keep at bay critical opinion of the film in order to bring General Cinemas and other defecting chains back into the fold and to prevent the "escape" of others. See Stephen Klain, "Weintraub to Media: 'Fan Dispute, But Hold Your Critics,'" Variety, 6 February 1980, pgs. 4, 38.

¹⁵⁰Jonna Jeffries, "'Cruising' Sparks Booker Apologies, Patron Complaints," Box Office, 10 March 1980, 1.

¹⁵¹See "'Cruising' in New Ratings Rumpus; 'R' Taken, Given," Variety, 11 June 1980, pgs. 4, 30; "Did 'Cruising' Respect Rulings?" Variety, 25 June 1980, pgs. 4, 37; and Dale Pollock, "R-Rated 'Cruising': The MPAA Seal of Disapproval," Los Angeles Times, 4 May 1980, Calendar.

¹⁵²"Did 'Cruising' Respect Rulings?" Variety, 25 June 1980, 37.

¹⁵³Quoted in Harmetz, "How 'Cruising' Received Its 'R' Rating."

¹⁵⁴Quoted in Peter Wood, "'Dressed to Kill'--How a Film Changes from 'X' to 'R,'" New York Times, 20 July 1980.

¹⁵⁵"20 Questions: Brian De Palma," Playboy, February 1985, 118+.

¹⁵⁶"20 Questions: Brian De Palma."

¹⁵⁷Laurent Bouzereau, The De Palma Cut: The Films of America's Most Controversial Director (New York: Dembner Books, 1988), 48.

¹⁵⁸Peter Wood, "Dressed to Kill--How a Film Changes from X to R," New York Times, 20 July 1980. In a separate reply, Heffner said, "We aren't waging a vendetta against Mr. De Palma. I never considered anything he said a personal attack. We rate films, not their makers!"

¹⁵⁹See Bouzereau, The Cutting Room Floor, 137-140.

¹⁶⁰Quoted in Gritten, "The Battle to Avoid the X rating," Los Angeles Herald Examiner, 9 December 1983, D5.

¹⁶¹Kristin McMurran, et.al., "The Famous Turn-Out for (and Some are Turned Off By) the bi-coastal previews of Al Pacino's Bloody 'Scarface,'" People, 19 December 1983.

¹⁶²Quoted in Gritten, "The Battle to Avoid the X rating," D5.

¹⁶³Quoted in Stephen Farber, "Scarface and the Onus of the X rating," Daily News (New York), 20 November 1983, Leisure sec., pg. 3.

¹⁶⁴Quoted in Gritten, "The Battle to Avoid the X rating," D5.

¹⁶⁵Quoted in McMurran, et.al., "The Famous Turn-Out."

¹⁶⁶Quoted in Farber, "Scarface and the Onus of the X rating," 3.

¹⁶⁷"20 Questions: Brian De Palma."

¹⁶⁸Farber, "Scarface and the Onus of the X rating," 3.

¹⁶⁹Quoted in Susan Dworkin, Double De Palma: A Film Study with Brian De Palma (New York: Newmarket Press, 1984), 167.

¹⁷⁰See Farber, "'Scarface' and the Onus of the X rating," 3; Richard Gertner, "Rating 'Scarface': A Postmortem," Motion Picture Product Digest, 15 February 1984, 60-61.

¹⁷¹Aljean Harmetz, "X Rating for 'Angel Heart' is Upheld," New York Times, 14 February 1987, 14.

¹⁷²"Appeals Board Upholds 'Angel Heart' X Rating," New York Times, 21 February 1987, 11.

¹⁷³Quoted in Anne Thompson, "Selling a Rating Alphabet War Pits Creativity vs. the Box Office," Chicago Tribune, 8 March 1987.

¹⁷⁴Andrew Sarris, "Sex is Over-Rated," Village Voice, 7 April 1987.

¹⁷⁵Jack Mathews, "Motion Picture Assn.: Raters of the Lost Art?" Los Angeles Times, 6 March 1987, Calendar; Roger Ebert, "Artful Adult Films Should Rate 'A,'" Chicago Sun-Times, 1 March 1987.

¹⁷⁶Quoted in Aljean Harmetz, "New Debate on Rating For Movies," New York Times, 5 March 1987.

CHAPTER TWO

You and I know that most movies, NC-17 or not, released by major and minor studios in this country are not art. They're pure entertainment Let's stop kidding ourselves that we are protecting art. It's big business. That's what it's about The bottom line by the MPAA is that they're not doing it because they believe in the First Amendment. They're doing it because it's in their economic interest.

Joseph Farah, editor of the Sacramento Union newspaper, on the change of X to NC-17¹

If this isn't censorship, then why does it feel like it?

Hal Hinson, Washington Post²

So long as we have the enormous parental approval we have for this ratings system, I am not going to go to my partners in exhibition and suggest that we make a radical change.

Jack Valenti³

In 1990, calls for a new designation to replace the X did not radiate from parents, reform groups, or other moral guardians that had earlier pressured the industry into establishing a classification system and later influenced the creation of the PG-13 rating. Instead, disapproval emerged from independent producers and distributors as well as film critics, who accused the Board of preventing serious adult films from reaching a wider audience. They blamed CARA for the limited advertising and exhibition opportunities for X rated films in the marketplace, citing the system's failure to distinguish between exploitation and art in assigning ratings. The additional rating sought between R and X--as before, an "A" for adult--was demanded by the National Society of Film Critics, motion picture directors, and others to differentiate an intense adult product from one of pornography, similar to the categories of the British system of self-regulation.⁴ These concerns and demands reflected and fueled the perennial debate over the legitimacy of the entire rating system by the nation's film critics. Echoing objections made by the media in regard to the ineffectual PCA in the 1960s, Jack Mathews of the Los Angeles Times called the rating system "antiquated and

narrow-minded,"⁵ and Charles Champlin of the same newspaper believed the X had "outlived whatever usefulness it ever had."⁶

In the early stages of this rating debate, Valenti reiterated in the New York Times the same rhetoric he had used for the past 22 years in defending his ratings administration from the nation's critics:⁷ 1) CARA, unlike the PCA, does not rate films based on qualitative factors. You can't have two ratings, "one for 'serious' slasher movies and one for 'pornographic' slasher movies," because people could sue you for placing their film in the latter category. "Sometimes the distinction between 'erotic' and 'porn' are not that easy to judge.'" 2) The system is merely voluntary. CARA can not be held responsible for the limited distribution of X rated films since they can neither force a director to cut a film for an R nor force an exhibitor to reject X rated pictures. "Whatever he does on an economic basis is up to him." 3) Complaints of censorship always help sell a film. Attacking CARA is a wonderful marketing tool for a distributor. "A good publicity man complains about censorship and gets a lot of publicity" for his film. 4) Why fix what is not broken. CARA serves the parents of America and not producers, distributors, or film critics. "More than 450 films a year come up for a rating, on average, and why should we change this rating system, which is working, because of one or two or three films a year where this is a problem? . . . We are getting no letters from parents demanding that we end the rating system. And our opinion polls for years have shown that 70 to 73 percent of parents find it useful."

The sincerity of Valenti's remarks belie the fundamental truth of CARA's existence: to serve the economic interests of the MPAA companies by regulating its products. Such platitudes of fairness, free expression, and responsibility have quieted parents, reformers, and the state in the past who have demanded greater restriction on cinematic content. Once the industry seemed to cooperate, these forces found the rating system "useful." Unfortunately for the MPAA, these very same platitudes were now being turned against them by filmmakers and critics in 1990, who, in much like those in the few years

preceding the creation of the rating system, wanted greater cinematic freedom. By replacing the stigmatized X with the NC-17 rating ("No children under 17 allowed") on September 27, 1990, the MPAA managed to appease the production end of the industry whose willing and obedient participation in the rating system was essential to its survival. However, in spite of the hopes that adult non-pornographic films could at last be widely exhibited in the United States, this change would turn out to be merely cosmetic. "Respectable" entertainment remained the cornerstone of the rating system.

* * *

A toy skin diver flippers his way through a bath toward a woman's vagina. A couple makes fervent love, the man entering from behind. An arm is lopped off. Well-dressed diners sit down to feast on a corpse. A man sits on a toilet, defecating noisily. All these scenes from this year's crop of independent films have been cited by the Motion Picture Association of America as deserving an X rating.

Alex Patterson in The Village Voice

You're seeing a caliber of aberrational behavior on the screen that just wasn't extant before.

Jack Valenti in 1990⁸

In March and April 1990, three films relaunched the onslaught of familiar complaints directed at CARA and its regulatory policies: Greycat Films' Henry: Portrait of a Serial Killer, and Miramax Films' The Cook, the Thief, His Wife and Her Lover and Tie Me Up! Tie Me Down! Along with Circle Releasing's The Killer and Dark Obsession,⁹ these five films were distributed by independent companies and received Xs by CARA. Dark Obsession was later released in 1991 with an NC-17, but the remaining four were released unrated. Henry was a cause célèbre since it languished on the shelf for five years after the film's first two distributors, Vestron and Atlantic, withdrew their support. (In the case of Atlantic, the X rating forced them to pull out of the project in 1988.)¹⁰ CARA objected to Henry's excessive violence and "moral tone" and the filmmakers actually agreed that the film was unsuitable for children.¹¹ Nevertheless, when the film got picked up by

Greycat Films after receiving tremendous praise at the Telluride Film Festival in September 1989, Henry was viewed as the victim of a rating system that prevented adult films from reaching American screens.

As a new distributor, Greycat Films did not have the marketing presence and experience to exploit this controversy so Henry created little media debate. Miramax, on the other hand, had marketing muscle and media knowhow. After achieving enormous financial and critical success with sex, lies and videotape in 1989, Miramax, Justin Wyatt argues, subsequently "maximized the publicity" of its films by challenging the MPAA ratings system and charging CARA with discrimination against independent distributors of foreign films.¹²

Harvey Weinstein, chairman of Miramax, had first questioned the Board's policies after Scandal (1989) received an X, a rating he claimed never to have thought possible for the film.¹³ Miramax, accompanied by First Amendment attorney Martin Garbus, subsequently lost its appeal in a vote of 8-7 in favor of retaining the X rating.¹⁴ As a result, the producers constructed a new version of the contentious orgy scene with different footage (minus full frontal male nudity) to earn an R rating.

With The Cook, the Thief, His Wife and Her Lover, Miramax opted to release the film uncut and unrated with a warning that no one under 18 should be admitted. In response to the reduction of potential playsites, Miramax, along with director Peter Greenaway and star Helen Mirren, publicly railed against CARA for giving R ratings to slasher movies like Halloween (1978) while sandbagging difficult and challenging art films with the deadly X. Miramax also issued press releases deploring the idea that "a major international artist [like Greenaway] might be subjected to censorship"¹⁵ and openly considered suing the MPAA.¹⁶

While CARA may have felt justified in believing that the orgy scene of Scandal and the overall tone of Cook were inappropriate for children, the X given to Tie Me Up! Tie Me Down! was inopportune, to say the least. It was the third X given to Miramax within a year. A 6-6 appeals vote upheld the

ruling, which director Pedro Almodóvar later revealed to the press as stemming from two sexually explicit scenes: one where Victoria Abril engages in apparent masturbatory activity with a windup toy in a bathtub, and one containing an authentic-looking lovemaking scene between Abril and Antonio Banderas.¹⁷ Almodóvar accused CARA of being "fascists" for turning a blind eye to violent MPAA member products like Conan the Barbarian (1982) and Rambo: First Blood Part II (1985) while branding foreign films containing adult sexual content with an X rating.¹⁸

This time, however, Miramax would not accept the decision lying down. At the behest of civil rights lawyer William Kunstler, Miramax filed a lawsuit charging that the rating of Tie Me Up! Tie Me Down! was "arbitrary, capricious, and unreasonable," and that the MPAA was "motivated by prejudice toward foreign films and a bias in favor of those made in this country, as well as a prejudice toward independent distributors."¹⁹ This suit followed a similar one filed a week earlier by Mijack Productions, producers of Henry: Portrait of a Serial Killer, who claimed that the MPAA acted in a "discriminatory fashion" by assigning the picture an X although "other films containing the same or greater levels of violence" had received R ratings.²⁰

Of the two lawsuits, Miramax's case received the most publicity since the New York Supreme Court heard the case much earlier, in June of 1990.²¹ Judge Charles E. Ramos quickly dismissed the Miramax case the following month, ruling that the plaintiffs had failed to prove their case under law. He wrote, "There has been no showing that the X rating afforded 'Tie Me Up!' was without rational basis or arbitrary and capricious," or that the MPAA "acted in bad faith or outside of its stated function in its rating of 'Tie Me Up! Tie Me Down!'"²² Ramos questioned Miramax's good faith in launching the suit, pointing to its behavior in exploiting the X in their advertising and to its own admission that Tie Me Up! was not suitable for those under the age of eighteen.

However, it was a pyrrhic victory for the MPAA. Ramos' harshest words were reserved for Valenti, Heffner, and CARA,

surprising everyone including Kunstler himself: "I didn't think we would win. But never, in my most optimistic mood, did I think that even though we would lose, we would end up victorious."²³ In Ramos' opinion, he indirectly gave credence to questions of CARA's "fairness and methodology" that had been heavily leveled by critics and filmmakers the past few months: "The manner in which the MPAA rates all films, not just 'Tie Me Up! Tie Me Down!' causes this Court to question the integrity of the present rating system." Ramos remarked that the present system of rating motion pictures was "an effective form of censorship," that it facilitates "the marketing of exploitative and violent films," and that its concern for the welfare of children is "illusion[ary]." With regard to the X rating, Ramos observed that films dealing with adult subjects must be treated in "non-adult terms" (cut to fit an R) or take an X rating. He suggested that the MPAA assume some "responsibility to avoid stigmatizing films with an 'X' rating" and to "consider proposals for a revised rating system . . . or to cease the practice altogether."

Following the case, Valenti angrily attacked the judge's logic as "idiotic," saying that the judge made no effort to find out how the rating system actually worked before formulating his opinion.²⁴

[Ramos] made the right decision in the case but when he got into the rating system, he was barren of any knowledge about it. He presented no evidence for his charges, no data. . . . If you make a claim, shouldn't you have some supportive evidence for it? (The judge) defecates in the middle of the table and walks away to leave somebody else to clean up the mess.²⁵

Valenti added that he still saw "no reason to change the rating system" after the ruling;²⁶ however, he had met with studio heads a few weeks earlier to discuss dropping the X altogether if the case went against the MPAA.²⁷

Notwithstanding one's opinion of Ramos' familiarity with the industry, the judge's evident disdain for the operations of the rating system only strengthened its opponents' convictions in its inadequacies. Additional firepower was accumulated when Miramax's Hardware, New Line's King of New York, Shapiro-

Glickenhaut's Frankenhooker, Omega Entertainment's In the Cold of the Night, and Silverlight Entertainment's Life is Cheap . . . But Toilet Paper is Expensive were given X ratings in the past two months. Nico Mastorakis, president and CEO of Omega Entertainment, said that "the pressure right now on the MPAA to change the system will only continue to snowball" and that he planned to sue the MPAA if he lost his appeal for In the Cold of the Night.²⁸ He also announced his intention to create an independent ratings board paneled by major U.S. film critics, although it never came to fruition.²⁹

Instead, a new rating service to compete with CARA emerged from the Film Advisory Board, a Los Angeles firm that charged only \$450 to \$500 to rate a film. Compared to CARA whose fees at that time could reach \$8000 for the big budget films, the Film Advisory Board's lower ratings fee had attracted a small number of independent video distributors. Turner Home Entertainment, whose family-oriented made-for-cable productions would have received no higher than a PG rating, bypassed CARA simply to save money; on other hand, other companies, like Fox/Lorber Associates, went with the Film Advisory Board's "AO" (adults-only) rating because some of their releases would have been labeled with the stigmatized X by CARA.³⁰

While no alternative system ever proved to be a formidable challenger to CARA, their mere presence threatened the MPAA's credibility. The rating system, dependent on industry-wide cooperation, absence of competition, and the commitment to "respectable" entertainment and the "incontestable R" had been jeopardized by this current wave of disgruntlement. To be sure, the independent distributors had a valid gripe; ten of eleven X pictures originated from outside the studio system (Wild Orchid being the exception), and all but two of them--Henry and Hardware³¹--were foreign productions. Many of these films only narrowly lost their rating appeal that would have given them an R. And independent distributors, unlike the majors, don't have the deep pockets to re-edit their films down to an R, a cost which, according to Russell Schwartz, vice-president at Miramax, can range from \$25,000 to "well into the six figures."³²

Since the only group supporting the independents were the critics rather than the major producers or exhibitors, the MPAA had no pressing reason to change its system. A Pacific Theaters vice president said that his company (which is a NATO member) "really ha[d] not had too much feedback from the public against the system,"³³ and Valenti remarked that "the only people complaining about the system are a few distributors and a few critics."³⁴ As far as the MPAA and NATO were concerned, any legitimate rating above an R would hurt profit potential by eliminating the lucrative youth market. More importantly, any rating not providing "respectable" entertainment value for a Hollywood picture in a NATO-owned theater would damage the industry's commercial efficiency. Ira Korff, president of the National Amusements theater chain, repeated this sentiment: "I thought [The Cook, the Thief, His Wife and Her Lover] had parts that were really offensive. We played it in our U.K. theaters, but I wouldn't play it here. If you end up with a couple of major distributors fighting over a semi-X, then you might see something happen."³⁵

Nevertheless, concern over the X rating did indeed began to affect the major studios and their high-profile directors, just as it had with Scarface and Angel Heart. Martin Scorsese and Phil Joanou--directors of MPAA member films Good Fellas (1990) and State of Grace (1990) and both contractually obligated to deliver an R to the studio--reportedly considered challenging the rating system after their films had received Xs on their first submission to the Board. While Sony's Total Recall (1990) had recently escaped an X after editing, Variety suggested that Scorsese, Joanou, and their studios felt that the first cuts of their films were considerably less violent than the futuristic Paul Verhoeven movie.³⁶ The producers of Life is Cheap also found it "inconceivable" that an arm-severing in Total Recall got an R while their own arm-severing film got an X.³⁷

At the same time, Leonie dePicciotto, vice president of publicity for Samuel Goldwyn, the independent distributor of David Lynch's Wild at Heart (1990), remarked that Lynch complained to CARA that "if you can give Total Recall an R, you

should be able to give Wild at Heart [1990] an R."³⁸ Lynch, like Verhoeven, aired no complaints to media while editing his film for an R.³⁹ However, by winning the Palm d'Or (best film) at the Cannes Film Festival) in an uncut version, Wild at Heart offered further support for the view that the rating system exerted economic force on celebrated filmmakers to cut their films for the American market.⁴⁰

When twenty-seven prominent studio filmmakers signed a petition urging the creation of a new adult letter rating, it finally became clear to the MPAA and NATO that significant members in the industry were unhappy with the erosion of artistic freedom caused by CARA's practices.⁴¹ The petition--"An Open Letter to Jack Valenti"--was presented to MPAA Senior Vice President Bethlyn Hand at a press conference on July 24, 1990, and ran in Daily Variety and the Hollywood Reporter the following day. It partially read:

The 'X' rating . . . has come to be universally recognized as pertaining simply to pornography. . . . We believe that it is imperative that the MPAA correct this problem by creating a new letter rating that will more fairly reflect the association's original intention in regard to adult-themed fare.

While the MPAA maintains that its Classification and Rating Administration does not censor films or force filmmakers to censor their films, the taint of an "X" rating clearly results in massive and arbitrary corporate censorship. . . .

We therefore strongly suggest that a new rating of "A" or "M" be incorporated into the system to indicate that a film contains strong adult themes or images and that minors are not to view them.⁴²

Silverlight Entertainment organized and circulated this petition after Life is Cheap lost the appeal of its X rating by receiving a 4 to 3 vote in favor of reversing the rating.⁴³ Instead of releasing the film unrated, the company self-applied an adults-only "A" rating in its advertising, because, in the words of president Mark Lipsky, "If the [MPAA] is not ready to do that, then we'll do it ourselves."⁴⁴ Even though self-interest may have partially motivated Silverlight's petition, the familiar story of a failed appeal and the support it had

managed to draw from major studio filmmakers, confirmed CARA's worst fear: that a "crisis of confidence" in the rating system existed from both inside and outside the industry.⁴⁵

* * *

Jack Valenti, who performed a political miracle in 1968 to get the present system OK'd by the industry, has a new miracle cut out for him.

film critic Charles Champlin⁴⁶

The steadfast refusal of Valenti and the MPAA to make the most minor change--in an hour they could solve the adults-only problem by replacing the X--has left America as one of the only countries in the Western World where non-pornographic films intended for adult audiences are virtually proscribed.

film critic Jack Mathews⁴⁷

With threats of litigation and self-applied "A" ratings abounding, it may have appeared that a significant structural change was imminent. Dissension in the industry did not benefit the economic interests of the major studios. To a small extent, the loss of monies suffered from independents not having their films rated would cut into the financial support for CARA. More significantly, competing rating systems could, in theory, affect the profits of the majors. Other letter ratings flooding the market might destroy the credibility of CARA and confuse the public, whose overwhelming "approval" of the voluntary system secures the participation of NATO, quiets government officials, and keeps various interest groups at bay. However, the chance of these alternatively-rated films playing outside of urban markets or at NATO-controlled mall theaters and multiplexes was remote. Without discernible community demand for an adult A rating, the exhibitors had no reason to show such films, and filmmakers had no reason to produce them. The box office was good; there was no reason for anyone to rock the boat.

Unsurprisingly, CARA was adamantly opposed to creating the "A" category, since it violated standards of operation that had worked for twenty-two years. Abandoning the X and creating the "incontestable R" enabled Hollywood to restore its image of

"respectable" entertainment. Forcing directors to sign "R" contracts assured this could take place. According to Jack Mathews, "The X designation and the consequent 'R' clause [gave] them control over filmmakers who work[ed] at the outer edge of the spectrum."⁴⁸ Paul Schrader added that once the major studios let a high-profile director "make an adults-only movie, then Martin Scorsese or Brian De Palma or Stanley Kubrick will want to make one too. That's the last thing they want."⁴⁹ With an A rating inserted between the R and X, Board members, who were only accustomed to making judgments of parental acceptability, would need to make judgments of artistic quality. Subjective distinctions between "clean" and "dirty" sex and between "justified" and "exploitative" violence, would make the fine line between "respectable" and "non-respectable" that much harder to determine. CARA examiners, said Richard Heffner, can and should not have this authority to make such distinctions.

Film raters must not be empowered with two ratings that signal parents whenever films are patently out-of-bounds for youngsters under 17; one presumably for "good" films (A), and the other for "bad" films (X). Whatever letter or number or symbol is used for the purpose, only one rating should legitimately signal "not for kids" . . . and it mustn't be denied to people or films we disdain.⁵⁰

A dual adult rating "would invite the very censorship all of us wish to avoid," argued Joan Graves, the administrative director of the MPAA (now the chairperson of CARA).⁵¹ In many ways, Heffner and Graves are correct. The legal ramifications of having to prove that they did not act (in the words of Judge Ramos) "arbitrarily, capriciously, and without rational basis" in assigning an X rating based on such subjective conditions as artistic merit, would be a nightmare for CARA. "Once they start [making distinctions]," added Valenti, "the entire rating system will collapse."⁵²

However, CARA only began to consider the possibility of at least some alteration to the rating system after its own MPAA filmmakers expressed dissatisfaction with the current categories. "Nothing lasts, everything is subject to change," Valenti said in the middle of August, after the Silverlight

petition initiated a meeting with representatives of the Director's Guild of America (DGA) and the Writers Guild of America West (WGA) about making improvements to CARA.⁵³ No independent producers or distributors were invited to the private director/writer meeting, much to the dismay of Silverlight's Mark Lipsky who questioned Valenti's good faith in the proceedings:⁵⁴ "Cutting me and all distributors out [of the meeting] was an important way for Valenti to gain control of the situation."⁵⁵ Although Valenti was not specific about the changes to be made at the time, he always remained steadfast against an adults-only category between the R and the X in his discussions with filmmakers, studios, and critics.⁵⁶ DGA executive director Glenn Gumpel even said at the time, "I don't know if it's realistic to think there's going to be an A rating."⁵⁷

During August, the American Film Marketing Association--a trade organization representing the most prominent international distributors of independent English-language movies--added their support for the implementation of an "A" rating, indicating that the X hurt distribution overseas for independent films.⁵⁸ A new motion picture rating system was also announced during this time and, as part of its unveiling, directly attacked CARA's rating policies. A Parents' Rating Service (PRS) spokesperson said, "The notion of threatening to label a non-sexual film 'X' simply because a rating board does not like what it sees, is repugnant to all those who cherish freedom and diversity in the arts."⁵⁹ For any film dealing with "unusual subject matter," the PRS adopted one of Judge Ramos' suggestions for a revised MPAA system--the employment of psychiatrists--in determining the suitability for viewing by children under 13.⁶⁰

At the end of August, when CARA finally bestowed the poisoned X onto a "respectable" studio film--Universal's Henry & June, the MPAA was at last forced to take action. ("X-Rated 'June' could ignite major revolt against MPAA" read Variety's headline.)⁶¹ CARA objected to five scenes: a shot of a 19th-century Japanese woodcut of a woman being embraced by an octopus; a love scene between Henry (Fred Ward) and Anais

(Maria de Madeiros) in which his buttocks can be seen (a "grinding" shot); and three lesbian scenes, including one between Anais and June (Uma Thurman).⁶² The contract for Philip Kaufman--who directed the award-winning The Right Stuff (1983) and The Unbearable Lightness of Being (1988),⁶³ granted him the right of final cut only if the film earned an R rating, not an X. Universal, as a matter of policy, would not release X rated films, so legally they could have taken Henry & June out of Kaufman's hands and cut it themselves.⁶⁴ However, Universal decided to appeal the film's rating, instead of--as was customary for member studios--editing a film down to an R.

Universal had confronted a similar problem with De Palma and Scarface in 1983 when CARA assigned it an X. Fortunately for the industry, the studio won its appeal for an R rating. If Scarface had lost its appeal, CARA and Universal would have been placed in an awkward position that may well have led to the demise of the X rating at that time.

Henry & June was essentially the same battle, round two, seven years later: a high profile director, an opportunistic major studio, and a sticky X rating. However, the difference in 1990 was not just the film's arrival in a more hostile and unstable rating environment, but the fact that Universal, in a backhanded way, supported the X-rated cut of the film. The odd phrasing of Universal president Tom Pollock's comments--"Philip Kaufman has agreed to deliver an R-rated film and we support him in his efforts to gain that rating"⁶⁵ and "We want to support Phil's vision as we did with Spike Lee on Do the Right Thing [1989] and Martin Scorsese on The Last Temptation of Christ [1988]"⁶⁶--suggests a reluctance to tamper with Henry & June even if the film lost its appeal, an event which Pollock was clearly betting against.⁶⁷

Unlike the case with Scarface, in which De Palma publicly denounced CARA and was at odds with Universal, Pollock and Kaufman used Henry & June's X rating to lobby for a change in the rating system by aligning themselves with the arguments previously used by the independent distributors and film critics. Both men publicly questioned how David Lynch's more sexually violent Wild at Heart earned an R while Henry & June

received an X,⁶⁸ and Kaufman remarked that "[Henry & June] is certainly meant to be an adult movie, but given the situation, there really isn't an adult rating."⁶⁹ Even though Pollock agreed with Kaufman that "it [was] so clear that this quality film was not meant to be lumped with the hard-core stuff,"⁷⁰ he still would be forced to choose between compromising Kaufman's artistic freedom and violating Universal's vow to the MPAA not to release unrated films. In any event, Pollock said that releasing Henry & June with an X rating was not an option.⁷¹ Once again Heffner delivered the typical CARA response: "I think Henry & June is an absolutely beautiful splendid film. But we believe most parents would consider this out of bounds for children. All we're saying with an X rating is that this is an adult film. We are not saying it is pornographic."⁷²

Universal scheduled Henry & June's appeal for October 3, 1990. Independent distributors threatened immediate protest if the appeal proved successful. "I will cry foul from the rooftops if it's overturned," said Miramax's Russell Schwartz. "[The MPAA] will really be digging themselves into a hole with us."⁷³ The appeal, however, never took place, rescuing Universal from having to make an awkward decision that may have had significant industrial repercussions.

Instead, on September 26, the MPAA announced the replacement of the X with an NC-17 rating--No Children Under 17 Admitted--.⁷⁴ The new designation took effect immediately and was copyrighted so that pornographers could not unilaterally apply it to their films. Henry & June became the first major studio film to be adorned with the outermost rating since United Artists released the British-produced Inserts in 1975 and Pier Paolo Pasolini's Arabian Nights and The Canterbury Tales in 1979 with an X. It also was also one of the last.

* * *

How do you change the category by simply changing the name? If I say we're no longer going to call a person a child molester, we're going to call him a wayward soul, does that make him any the less what he is?

Richard Heffner, on the change of X
to NC-17⁷⁵

If a new rating was created, no matter what letter you give it, it would soon take on the patina of pictures that inhabit that particular category.

Jack Valenti⁷⁶

Phil Kaufman does not make X-rated movies. So if Kaufman makes a movie that is rated X, then there's something wrong with the system.

director James L. Brooks⁷⁷

Those filmmakers and critics who believed that replacing the X with the NC-17 would remove the stigma of the former letter, encourage freer expression in Hollywood, and permit wider exhibition of adult films overlooked the industry's commercial imperative: "respectable" entertainment for the maximum audience for the maximum profit. No studio head or exhibitor would support a new rating that did anything else, especially when box office receipts were hitting record highs.

This concern certainly preoccupied the minds of MPAA and NATO members as they deliberated over the rating change in August and September. "It took me a long time to reach a consensus among theater owners and studios," said Valenti, who needed to convince them that a revision was necessary to stave off media criticism and discourage legal action.⁷⁸ Many MPAA companies apparently supported a new rating from the beginning; Philip Kaufman told Variety that "other studios heads have told me they believe [Henry & June] should be shown as is was made, and they're ready to support a change in the rating system."⁷⁹ And Joe Roth, head of 20th Century Fox, joined Tom Pollock in publicly advocating a need for revision.⁸⁰ Before giving their support, Paramount and Warner Bros. were reportedly against a change, perhaps in fear that noted directors would resist efforts to sign contracts agreeing to deliver an R rated movie if a less stigmatized "A" or NC-17 was instituted.⁸¹

What were less clear were exhibitors' sentiments about a new rating. On one hand, the Los Angeles Times reported NATO's strong opposition to it. Showing films with a new adult rating would shift the burden of maintaining the system's integrity

onto them; theaterowners would now be responsible for policing movies themselves, a role previously performed by the existence of CARA's "incontestable R."⁸² IDs would need to be checked at the door, and theaters would have to be monitored for underage children. On the other hand, an informal Variety telephone survey taken the week the NC-17 was announced indicated that fewer than 5% of those 50 theater owners and operators polled objected to the implementation of a new rating. Their overwhelming approval of a system overhaul contradicted Valenti's oft-repeated claims that exhibitors were content with the current system. The results of the poll's findings, however, are dubious, since Variety neglected to distinguish between remarks made by personnel from NATO-owned theaters and remarks made by personnel from independently-owned ones. The article quoted only small and/or independent exhibitors, whose interests would be better served by a new rating than would those of the majors because they play more X-rated or unrated arthouse films.

It may appear then that the swiftness by which Valenti, the MPAA, and NATO agreed to discard the X for the NC-17 would indicated an overwhelming desire of the studios and exhibitors to change the system. However, the NC-17 was neither a ratings revision nor a compromise with independent distributors and critics; instead, it was a no-lose proposition for the industry--and Valenti may well have suggested this. The new classification would respond to complaints of censorship by filmmakers and critics while preserving the industry's "incontestable R." Differentiating the NC-17 from pornography while at the same time proclaiming that the floodgates of free expression were now reopened disguised the fact that the rating system actually underwent a makeover rather than an about-face. Without the addition of an "A" rating, Hollywood could rhetorically express the same commitment to "respectable" entertainment that had guided its business practices throughout much of CARA's tenure.

At first, the NC-17's inconsequentially eluded many of the nation's critics, filmmakers, and studios. Peter Rainer (National Society of Film Critics chairperson) and Jack Mathews

were both wrong in suggesting that the new rating would lead to market reform. On the day following the announcement of the NC-17, Rainer said, "By creating a category that does not have the stigma of the X, it will potentially create a situation where filmmakers are now able to explore adult themes without de facto censorship."⁸³ Mathews wrote that "the ban on advertising for X-rated films will not apply to the NC-17 rating at major newspaper and television stations."⁸⁴ Twentieth Century Fox president/CEO Strauss Zelnick speculated that the CARA "[would] apply the NC-17 a little more freely than X" because "exhibitors will be more comfortable" with the rating.⁸⁵ Russell Schwartz of Miramax applauded the MPAA's action, saying "This leaves the X rating with the pornographers, where it belongs. It means that the system will now function as it was originally intended to."⁸⁶

Even Valenti acknowledged that "some criticism of the X becoming soiled is valid."⁸⁷ "It's no one's fault, but the X rating has a patina, a complexion which, frankly, we never intended it to have. By renaming it NC-17, we hope it will convey to the movie world there are any number of reasons for a film to get this rating."⁸⁸ "It takes us back to the days, hopefully of Midnight Cowboy, Last Tango in Paris, and A Clockwork Orange."⁸⁹

The NC-17 did not fulfill any of these hopes. Essentially, the NC-17, remarked Janet Maslin, was an X in a clean raincoat,⁹⁰ a similarity noted in the metaphors of other observers at the time. A. Alan Friedberg, chairperson of the Loews theater chain and a proponent of the A rating, realized that things remained the same: "All Jack Valenti has done is change the color of paint."⁹¹ "You don't change the contents of the garbage can by changing the label on the can," said American Family Association spokesperson Allen Wildmon.⁹² "What the MPAA has done is buy a retread to replace a flat tire," wrote Hal Lipper of the St. Petersburg Times.⁹³ And even the MPAA's press release announcing the NC-17 admitted to the interchangeability of the two ratings.

[T]he criteria for films rated NC-17--no children under 17 admitted--will continue to be evaluated as X-rated films

have been in the past, that is, on the basis that most parents would agree that such a film should not be made available for viewing by youngsters. Indeed, criteria for all other rating categories will remain as they are now.⁹⁴

Since the rating criteria were unchanged, the MPAA essentially ignored the criticism directed at CARA by independent distributors and critics during the previous months: Why is sexuality rated more severely than violence? What essentially distinguishes an R film from an X film? Is CARA more lenient in rating MPAA member films than those distributed by independent companies? Time's Richard Corliss said that the NC stood for "not completely" resolved.⁹⁵ Retired pornography distributor and exhibitor David Friedman summarized the NC-17 as an "exercise in subterfuge."⁹⁶ Snd Mark Lipsky--who had circulated the Silverlight petition calling for the "A" rating--remarked that "[The NC-17 is] certainly an improvement, but [Valenti] really hasn't resolved the issue."⁹⁷

Even so, some independent distributors, such as Mirmamax believed that the trademarked NC-17 would remove some of the marketing stigma associated with X product. For example, in attempts to re-release Tie Me Up! Tie Me Down!, Russell Schwartz said his intention was "to go into markets where we have played and try to reposition it, and other markets where it hasn't played."⁹⁸ However, it soon became clear that the NC-17 would have no permanent or hazardous effect on the industry because the rating almost immediately inherited the functions and connotations of the X.

First, the MPAA distribution companies made no move to increase adult feature film production after the introduction of the NC-17. Of any major studio release, only MGM/UA's Showgirls assumed the badge in 1995--with disastrous results. It is widely viewed as confirming the suspicion that the NC-17 is no more marketable than the X. Without legitimate NC-17 studio product, the adult rating retained its pornographic stigma.

Second, most NATO exhibitors simply translated their existing policies against showing X films into policies barring NC-17 films. Representatives from two of the largest American

theater chains--United Artists and General Cinema--told Variety the week after the rating change that the NC-17, if anything like the X, would be unwelcome at their theaters.⁹⁹ In short, without the support of the MPAA and NATO for the NC-17, it made no difference that leading publications and television outlets dispelled industry myths by running advertisements--albeit with some restrictions--for Henry & June.¹⁰⁰ Hollywood entertainment, it soon became clear, would not lose one night of "respectability."

* * *

After all the hoopla over revising the industry's rating system, the arrival of Universal's Henry & June, Hollywood's first NC-17 film, seems to bear out the notion that the more things change, the more they remain the same.

Martin A. Grove, Hollywood Reporter¹⁰¹

I just do not believe that there will be all that many NC-17 films coming down the pike. . . . I seriously doubt that many investors will be rushing to put their money into projects which have a built-in structural limitation to their financial success.

NATO president William Kartoizian¹⁰²

What explains this abandonment of the NC-17 by the major studios and exhibitors so soon after they endorsed its use? Some blame can be placed on the poor box office performance of Henry & June. Lukewarm reviews, advertising complications, a small opening on only 300 screens, and a \$11.3 million domestic gross for the \$10 million film surely did not encourage MPAA members to produce more NC-17 product. As the Hollywood Reporter's Martin A. Grove observed after Henry & June's opening weekend, it "was playing the way a good art film or specialized appeal film would have played with an R rating or no rating at all. Clearly [the film] wasn't suddenly attracting mainstream moviegoers."¹⁰³ To be sure, Universal missed advertising breaks in the Sunday's entertainment sections and were unable to run trailers prior to Henry & June's October 5th release date because of the rating controversy.¹⁰⁴ More importantly, though, the film's lack of star power, unorthodox subject matter, lesbian sex scenes, and

arthouse qualities would certainly have made attracting a sizable audience difficult, even an audience above the age of 17. In fact, the box office returns might have been much lower if Cineplex Odeon--in which Universal parent company MCA had a majority stake--had not played the film on a quarter of its opening day screens.¹⁰⁵

Pressure from other sources such as state politicians, religious groups, and newspapers also contributed to the premature death of the NC-17 rating. City officials in Dedham, Massachusetts pressured a Showcase Cinemas theater to drop Henry & June before its scheduled opening. The chain pulled the picture from that theater shortly after being threatened with having its license canceled.¹⁰⁶ In Orange County, California, a fight erupted between a patron and demonstrator at a theater targeted for picketing.¹⁰⁷ The demonstrators apparently were encouraged by appeals from a Christian talk-radio station to protest Henry & June and the NC-17 rating in general; in the words of one picketer: "X-rated films mean NC-17 and X-rated films do not belong in the malls."¹⁰⁸ In Kissimmee, Florida, efforts to establish a city ordinance--the first of its kind in the nation--making it a crime to sell NC-17 tickets to children, were eventually aborted, but only after direct intervention by Valenti.¹⁰⁹

In addition, a coalition of family, religious, and conservative organizations--tired of having their views ignored by the MPAA--banded together to form a national association of local film rating boards. Ted Baehner, a member of the coalition, said, "We saw an instant need to keep 10-year-olds out of multiplexes that were showing NC-17 films."¹¹⁰ The National Coalition on Television Violence also called for volunteer citizen rating boards in every state to replace CARA.¹¹¹ The Birmingham (Alabama) News (circulation 200,000) and Sacramento Union (circulation 70,000) both refused to carry ads for Henry & June or any film with an NC-17.¹¹² "We consider the Sacramento Union a strong family paper," said editor Joseph Farah, "and we believe accepting X-rated movie ads--whatever they're called--would be a contradiction of our image and philosophy."¹¹³ He also rejected the argument that the NC-17

was introduced to differentiate serious adult film from pornography: "[The] NC-17 doesn't really accomplish that at all, because if I make a pornographic movie with absolutely no redeeming social qualities at all and I submit it to be rated, it will get an NC-17. So NC-17 does not imply that there is any artistic merit to the film . . . It doesn't accomplish that purpose at all."¹¹⁴ What these above reports clearly suggest is that the R rating--that is, the "incontestable R"--perfectly demarcated the boundary between "respectable" mass entertainment and "non-respectable" adult entertainment for many exhibitors, advertisers, and consumers of Hollywood pictures. They felt that an NC-17 plainly stood for pornography. It did not matter whether the rating accompanied a serious-minded fiction film or a sexually explicit, pornographic one.

Farah proved to be correct on one account: pornographers did indeed gravitate toward the new rating. All along, Valenti had always maintained that hard-core filmmakers would never seek the copywritten NC-17 rating, due to the costs involved in submitting the film to CARA (\$800 to \$8000 depending on the budget), and to the fact that pornography had shifted almost exclusively to the home video market. Audiences did not exist anymore, he said, for theatrical porn: "When you can get a (sexually explicit) video for home, why would you want to go into town and join the raincoat crowd in some seedy movie theater?"¹¹⁵ NATO president William Kartoian concurred with Valenti, suggesting that it was difficult to imagine "a skin flick being promoted with a 'triple NC-17' banner"?¹¹⁶

However, some hard-core distributors capitalized on the broader marketing opportunities briefly made available by the NC-17. Lou Tsipouras, president of Stardusk Productions, paid the minimum \$800 fee to CARA for an NC-17 for Radio Active, a \$200,000 sixty-five minute pornographic video destined for cable and pay television. He justified the expenditure by saying it would be easier to advertise, rent, and sell the film in the home video market with an NC-17 instead of a self-rated X or no rating at all.¹¹⁷ For similar reasons, John Parker, president of Parliament Films, sought the NC-17 for a wider

theatrical release of Blonde Emanuelle in 3-D, a 1978 film originally titled Disco Dolls in Hot Skin in 3-D starring Penthouse centerfold Serena. Parker admitted that "basically, the NC-17 rating is the same as the old X, only it has a nicer title."¹¹⁸ This rationale explains why other little-known exploitation flicks, such as Centerspread and Midnight Woman, immediately "bought" the NC-17 before the adults-only rating re-assumed its pornographic stigma.¹¹⁹

Because of this profiteering on the part of pornographers, newspapers who had refused to run X advertisements but were now accepting NC-17 ads were "rewarded" for their cooperation with pornographic ads. For example, the Blonde Emanuelle ad that ran in the Los Angeles Times looked a lot like ads for pornographic films that the newspaper had refused to run for many years.¹²⁰ It was inevitable that complaints would soon come pouring in from citizens angry at the newspaper for failing to differentiate between art and smut.¹²¹

Religious groups, on the other hand, refused to make such a distinction; they condemned the NC-17 right from the start, putting pressure on studios and exhibitors to abandon the category. The United Church of Christ, the U.S. Catholic Conference, the National Council of Churches, and the National Conference of Catholic Bishops supported a statement urging exhibitors and media outlets to ban NC-17 films. They charged that the MPAA had:

caved in to the commercial interests of those who are attempting to get sexually exploitative material into general theatrical release. . . . The change is neither in the public interest nor in the best interest of the industry. . . . We call upon the MPAA to reconsider its action. It is an arrogant and ill-advised decision which deeply affects the public good. It was made in isolation, without public consultation.¹²²

Although Valenti has regularly consulted with religious leaders, the pronouncements of the Catholic Church have had little, if any, effect on industry practices since the demise of the Production Code. However, in their fight against the NC-17, the churches found allies; they aligned themselves with parent groups protesting exhibitor laxity in barring minors

from R rated films. (The decision of the MPAA--as part of their NC-17 announcement--to include explanations to exhibitors and parents listing why a film received an R, was a response to long-standing public outcry that the R rating was not being enforced.) James Wall, editor of the Christian Century, spoke for many parents when he said: "NC-17 films will show up in the local malls and in time it will become porous as the R has been."¹²³

These protests, especially those by Donald Wildmon's American Family Association (AFA), crippled the prospects for all NC-17 films in ancillary markets, the major source of revenue from a film for the studios. The family-values organization's boycott of Blockbuster Video, the country's largest video chain, influenced the company's refusal to stock movies with the adult designation.¹²⁴ For the first three months of the NC-17's existence, Blockbuster carried such films as The Cook, the Thief, the Wife and Her Lover and Tie Me Up! Tie Me Down! However, spokesperson Ron Castell announced a no-NC-17 policy in January 1991: "When they revised the X rating, we said we would wait and see how they would use the new rating. But the criteria used for NC-17 was the same as the X. So we're saying that since the NC-17 is the same criteria as the X, we're not going to carry it."¹²⁵ Blockbuster's stance threatened the very survival of the NC-17 rating as the Video Software Dealers Association (VSDA) subsequently expressed concerns that stocking such films would make them vulnerable as well to moral crusaders like the AFA.¹²⁶ Jack Messer, president of the VSDA, called Blockbuster's categorical NC-17 ban "a disservice to the retail video industry," creating "an entire class of films to be unavailable to the consumers who might desire to rent them."¹²⁷ CARA's response to these occurrences was "It could be [that] we'll see the same thing happen with NC-17 as happened with the X. Decisions in the marketplace are not something we can do anything about."¹²⁸

This reply suggests the most cynical explanation for the reasons behind the NC-17's disappearance: neither the studios nor exhibitors ever seriously intended to make or show NC-17 films. According to this theory, the new rating was a

publicity stunt, a way to stifle criticism of the rating system by appearing to make a major change to it. Mark Lipsky alleged that something like this was the case:

I think the NC-17 rating is a sham and shame. . . . I think that very clearly it was a stopgap measure that Valenti used to sidestep the publicity and heat. . . . I don't think by any standards or any measures that [separating serious adult films from pornography] is what the NC-17 was supposed to do. If that's what the NC-17 was supposed to do, [the MPAA] would have kept the X and simply inserted the NC-17 between the X and the R."¹²⁹

In light of the fate of the NC-17 category, Lipsky's suspicions seem somewhat justified. It is difficult to take the MPAA's press release at face value when it claims that "We believe that changing the name to "NC-17 . . . will restore this category to its original design."¹³⁰ A month after the release of this statement, William Kartoizian, president of NATO, perhaps unintentionally, revealed to exhibitors the true nature of the change:

In our discussions with the MPAA, it was made clear that an exhibitor may very well decide that he or she may decline to play an NC-17 film just as if that same film were rated X. Such a decision would be based on the film's content and the exhibitor's judgment on whether playing that particular film is acceptable in the communities in which that exhibitor's theaters are located. Exhibitors are permanent members of these communities, and as such, recognize the value of good community relations.¹³¹

This quote demonstrates that exhibitors had no particular concern for free expression; they were averse to the NC-17 for precisely the same reasons they were averse to the X. NC-17s were not "respectable" entertainment for their motion picture houses.

Given the surrounding climate of 1990--350 separate obscenity bills currently pending in 45 states,¹³² the uproar over funding of the National Endowment for the Arts (NEA), and the prosecution of rap artists Two Live Crew--there was little economic benefit and considerable threat of penalty for the MPAA and NATO in defending free expression in the arts. The Hollywood Reporter's October 26th headline, "NC-17 winning

acceptance as part of American moviegoing," may have been slightly premature in its prediction that the film industry would release more NC-17 product.¹³³ Despite the new rating's initial acceptance, certain groups of patrons, filmmakers, exhibitors, and reformers would see to it that the NC-17 would eventually reclaim its pornographic stigma.

In 1990, unlike 1968, the MPAA and NATO knew from experience that the adult rating was not only poison to the box office, but also damaging to the integrity of their system of self-regulation. Hence, they overlooked the cosmetic change in the X rating and went back to business as usual: "respectable" entertainment. Since Henry and June, few mainstream motion picture houses would play NC-17 films. The year after the rating change, Peter Rainer lamented, "It's one thing to sanction more adult-oriented movies; it's another thing to make them."¹³⁴ At this point, the majors' decision to forgo NC-17 distribution and exhibitions was reinforced by an upswing in the overseas and video markets, which over the next few years, would come to account for well over fifty percent of a film's gross revenues. MGM/UA made the only serious attempt to resist all of these factors and release a high-profile, big-budget NC-17 film: Showgirls in 1995.

* * *

Some critics believe it is the rating which entices movie audiences. This is another misconception. Few people wake in the morning to exclaim, "Tonight, let's go see a PG movie." What they do they is "Let's see a movie tonight. What's playing that is good?" In this context, "good" means entertaining movies, stories told with the zest and skill that enthralls audiences.

Jack Valenti¹³⁵

In the years preceding MGM/UA's Showgirls (1995), a number of NC-17 films were released, but none of these films removed the economic and moral stigma of the category. Whore (1991), Bad Lieutenant (1992) Wide Sargasso Sea (1993), and You So Crazy (1994), as well as other NC-17 releases, were not distributed by MPAA signatories, did not play in most

mainstream theaters, and contained non-commercial elements that made them unsuitable for the mass market. Showgirls renewed the hope that Hollywood would recognize the NC-17 rating as a viable commodity.

The makers of Showgirls kept in mind what Richard Maltby describes as the necessary conditions for the consumption of a Hollywood film: "a 'good' movie is one that gives us our 'money's worth.'"¹³⁶ MGM/UA believed that the combination of NC-17 sexual rawness, "a lot of bare-breasted nudity," a big Hollywood budget, and Basic Instinct director Paul Verhoeven would provide viewers with a worthwhile experience in exchange for their time and ticket price.¹³⁷ Despite these factors, the film failed in its attempts to eroticize, shock, and most importantly, please its viewers in the manner promised by Hollywood cinema. Even though Showgirls debunked long-standing industry myths by securing prime advertising and exhibition outlets for adult product, the MPAA studios viewed the critical and financial disaster of the film as simply one more case of the commercial unfeasibility of the NC-17 rating and the commercial feasibility of the "incontestable R." The real story, however, was substantially more complicated.

* * *

This is a gamble worth taking. If there are consequences, we'll all have to live with that. It's an adult movie, but so what? It's entertainment. It's honorable. American audiences are strong enough to accept this movie. You're not going to be ashamed to see your neighbor in the movie theater when you see Showgirls.

Paul Verhoeven¹³⁸

The potential for controversy, the loss of ancillary markets, and the inability to secure exhibition venues to support the industry's large production and advertising budgets made a likely NC-17 film an extremely risky investment. Nevertheless, these obstacles failed to dissuade MGM/UA from purchasing the North American distribution rights for Showgirls from Chargeurs, the film's foreign backer.¹³⁹

When initially shopping the project to production studios, Verhoeven had made final cut a mandatory condition of any contract for this project. He was no longer willing to arrange his film, as he had done with Robocop (1987), Total Recall (1990) and Basic Instinct (1992), to reach the wider, more "respectable" audience of the R rating.¹⁴⁰

When I first read the script, I told Joe [Ezsterhas] I wouldn't consider it unless we found a film company that gave the O.K. I didn't want to go through the Basic Instinct experience, going back to the M.P.A.A. 300 times.¹⁴¹

After three straight box office hits, Verhoeven felt he had earned the right--or more appropriately, gained the clout--to demand final cut for his next project, a privilege given to very few directors working in Hollywood. If it happened to be rated NC-17, then so be it.

So why did MGM/UA purchase a property with the NC-17 condition attached? First, MGM/UA was the only MPAA member not publicly owned--they answered to the European bank Credit Lyonnais--and so the studio had a degree of freedom to distribute controversial films that its counterparts lacked.¹⁴² Second, Stargate (1994) had been its only hit since Thelma and Louise in 1991. MGM/UA believed that an NC-17 film would definitely generate publicity, controversy, and profit. Third, reuniting Verhoeven with writer Joe Ezsterhas--"the Barnum and Bailey of cinematic psychosex"¹⁴³ whose tandem earned Basic Instinct \$352 million worldwide--guaranteed MGM/UA some box office insurance in domestic, foreign, and video markets.

In seizing the chance to make an NC-17 movie, MGM/UA violated standard Hollywood practice of abandoning the rating. By contractually giving Verhoeven final cut of Showgirls, MGM/UA the studio disrupted Hollywood's traditional mode of producing "respectable" entertainment in the mold of the "incontestable R." MGM/UA placed total control of Showgirls in the hands of the artist, in hopes of profiting from a controversial rating. It was this sort of opportunism that Valenti had often said would pose the greatest threats to CARA,

as such short-term profitability for one studio would threaten the long-term stability of the entire industry.

MGM/UA obviously did not care. Showgirls, like all Hollywood films, was intended to be a "moneymaker," but in the words of one critic, a "starmaker" and "groundbreaker" as well.¹⁴⁴ With a relatively modest \$40 million budget, MGM/UA heavily promoted the film's production values and sensationalistic elements to an adult audience, intending to open the film as wide as possible. Frank Mancuso, chairperson of MGM/UA, believed, at the time, that Showgirls was "a commercial project, and with the size and pattern of the release that there's an opportunity for the film to gross a substantial amount of money."¹⁴⁵ The film also featured the potential star-making motion picture debut of Elizabeth Berkley, a teenage actress from the television show Saved by the Bell. The role of Nomi Malone was a make-or-break role for Berkley, whose unclothed appearance during half of the film could incite cheers or jeers. Finally, with its abundance of sex and nudity, Showgirls clearly was a test of the acceptability of provocative, erotic, NC-17 films in mainstream markets. Verhoeven recognized this.

It's not soft porn. I don't know if it's titillation or not. But it does take nudity for granted... Women are topless and that's how it is... It also pushes the envelope portraying sexuality in a more precise way than you normally do in American movies.¹⁴⁶

In good faith or rather through gentlemanly hubris, Verhoeven even agreed to defer 70% of his \$6 million director's salary until the movie turned a profit.¹⁴⁷

Since the NC-17 automatically excludes the teenage and family audience from a film, Showgirls needed to promote itself in a dramatic fashion in order to recoup its somewhat costly price tag. Without having any previous NC-17 marketing strategy of this magnitude to borrow from, MGM/UA maximized the potential audience for Showgirls by making it as ubiquitous as possible, unabashedly promoting its forbidden nature and raw sexuality in a way previously unseen in any advertising campaign to come out of Hollywood. Showgirls' marketing plan

was indeed shrewd, innovative, and effective, and managed to solve a number of problems previously thought to be intractable.

First: Where can you advertise a trailer of an NC-17 film and can it contain any representative images? It was commonly believed that most television stations would not advertise X or NC-17 films. However, this was untrue. The four major broadcast networks had a policy of airing advertising spots for an NC-17 film on a case-by-case basis. In the case of Showgirls, only NBC refused to carry the trailer, though the network gave permission to its owned-and-operated stations and affiliates to carry it at their discretion. The trailer ran on the other three networks after 10 p.m., just an hour later than the standard cutoff time for R rated films. For movie houses, CARA's Advertising Administration approved both a "green band" and a "red band" trailer of Showgirls, enabling the film to be promoted to adults attending movies with any rating, not just those rated R or NC-17.

Showgirls' first theatrical summer teaser, approved for general audiences in a "green band" trailer, promised "a movie event so erotic . . . so dangerous . . . so controversial . . . that we can't show you a thing"; this onscreen text was followed by a shot of Berkley running her tongue along a shiny pole. The second "red band" trailer was only shown with R rated films and outlined the film's story through images of breasts, lesbianism, and catfights.¹⁴⁸ Capitalizing on the notoriety of the Verhoeven/Ezsteras dyad of Basic Instinct, this trailer promised that "last time they took you to the edge; this time, they're taking you all the way." The most provocative footage of Showgirls was saved for the 250,000 copies of an eight-minute home video trailer MGM/UA released to video stores on September 11, eleven days before the film's premiere. It included bare breasts, sexually explicit scenes, and graphic violence. Free of charge to consumers eighteen or over, the video could be picked up at all major retail outlets, except Blockbuster Video.¹⁴⁹ Many stores had to order additional copies because the demand was so great.¹⁵⁰ An executive from a rival studio called this "a brilliant move.

Whether the consumer picks up the tape or not, it had the veneer of something special . . . that just might be a little nasty."¹⁵¹ This multi-tiered strategy of marketing an NC-17 rating demonstrated that adult audiences could be reached in a variety of mainstream contexts.

Second: Where can you advertise the film in print? Contrary to industry belief, many of the nation's newspapers, not only the Los Angeles Times, Chicago Sun-Times, and the New York Times, were willing to accept ads for NC-17 films provided that their artwork was not offensive.¹⁵² In addition, despite the fact that CARA's Advertising Administration had little tolerance for sexuality and nudity in newspaper advertising--as shown in the cases of Jason's Lyric (1994) and Ready to Wear (a.k.a. Prêt-à-Porter, 1994)--it approved the Showgirls advertisement for mass distribution.¹⁵³ By designing an appealing, but not revealing, promotional ad that met the standards of CARA and the policies of mass media outlets, MGM/UA was able to purchase a flood of print spots. The advertisements and poster art featured a revealing shot of Berkley with what appeared to be a never-ending leg and the words "Leave your inhibitions at the door."¹⁵⁴ Only the Daily Oklahoman and the Fort Worth Star-Telegram refused to carry the ad. Outdoor advertising included banners on airplanes, taxi panels, kiosks, bus shelters, and billboards over Times Square and Venice Beach.¹⁵⁵ The studio especially targeted the 18-34 male audience by placing advertisements next to the box scores of Labor Day sports sections.¹⁵⁶

Third: How do you convince theater owners to show the film? Never before had there been an NC-17 film with such commercial potential. Art films like Bad Lieutenant or foreign films like Romper Stomper (1992) were always destined for a limited release on the arthouse circuit; national multiplex chains would rarely consider these "non-respectable" NC-17 films for their theaters. However, the Hollywood-produced Showgirls confronted exhibitors with a difficult decision: should they assume the risk of showing an adults-only film, one that could be a moneymaker at the box office? Exhibiting the film meant that theater personnel would have to check

teenagers' IDs at the box office--potentially creating box office gridlock--and monitor those trying to sneak into Showgirls from another movie. MGM/UA, aware of exhibitor uncertainty toward an NC-17 product, showed theaterowners an eight-minute teaser trailer seven months prior to the film's release to assure them of Showgirls' legitimacy and non-pornographic quality--in other words, to demonstrate, as much as possible, its "respectable" nature.¹⁵⁷ The studio even provided exhibitors with the finished film before its release, to further reassure them.¹⁵⁸ And as an extra incentive for exhibitors, MGM/UA relieved some of the burden of enforcing the adults-only rating by offering to pay for an extra usher to stand outside the Showgirls screenings to catch theater jumpers.

MGM/UA's strategic wooing of exhibitors transformed any appearance of exploiting the NC-17 rating into an appearance of concern for child welfare. Such a strategy conformed to the regulatory manifesto of the ratings system. Although some pressure groups, such as the American Family Association, still found Showgirls a "hard-core porn movie,"¹⁵⁹ many exhibitors considered the film appropriate for their screens and not synonymous with pornography. Only two theater chains, Cinemark in Texas and Carmike in Georgia, refused to change their policy against showing NC-17 films. James Edwards Sr. of Edwards Theatres, who booked the film, admitted that he might have refused the film a few years before, "but times change . . . and if we want to stay in business, we have to change."¹⁶⁰ However, as Bruce Corwin, president of Metropolitan Theatres remarked, a less restricted rating was still the preferred option: "Obviously, we'd all love to see it come in with an R. It makes it easier for everyone."¹⁶¹ There were also two other significant reasons for Showgirls' inroads into mainstream exhibition: 1) theaters built as stand-alone buildings by large chains were not subject to the once-common lease restrictions barring NC-17 films; and 2) operators in the older buildings violated their lease agreements to show the film.¹⁶²

Four, How profitable can NC-17 films be in the ancillary markets? With expected revenues from box office sales

currently accounting for less than one-fourth of a film's total revenues,¹⁶³ the profitability of the video, television, and overseas markets are important factors in deciding to produce any film, NC-17 rated or not. Thirty percent of all video stores will not rent NC-17 product, fifty percent of the sell-through market (notably Blockbuster, Wal-Mart, and Kmart) will not carry NC-17 films, and pay cable outlets HBO, Showtime and Viewer's Choice will not run films with the adult rating.¹⁶⁴ Overseas, an NC-17 film may be banned throughout much of Asia and the Far East because of nudity and sexuality, and might face even harsher age and advertising restrictions in Europe. It would appear, then, that MGM/UA was taking a big risk with Showgirls.

However, the studio paid only \$10 million for the film's North American distribution, an amount they were almost certain to earn back in the ancillary markets even if Showgirls sank at the box office. Chargeurs, the producer, must also have thought that they had a no-lose situation on their hands, as the company insured itself against a catastrophic drop in the film's ancillary value by pre-selling all its overseas distribution rights, reportedly getting top dollar in Japan.¹⁶⁵ Showgirls' reasonable \$40 million production pricetag made such deals possible for Chargeurs, and it was also undoubtedly the case that Verhoeven's name attached to a big budget "sex" film from America lured distributors to purchase the film even prior to its completion.

As expected, on July 19, 1995, CARA gave the NC-17 to Showgirls for "nudity, erotic sexuality throughout, graphic language, and sexual violence."¹⁶⁶ Perhaps to Verhoeven's chagrin, few people expressed moral outrage about the film. One of the few reform groups that spoke out against Showgirls was the Christian Film and Television Commission, who urged "moral Americans" to boycott the film.¹⁶⁷ Morality in Media also contested the film, condemning its subject matter and MGM/UA's efforts to market the film in neighborhood theaters and video stores.¹⁶⁸ The organization decided to forgo demonstrations so not to attract consumers to the film. A spokesperson for Bob Dole, who said that these organizations

were doing precisely what the presidential candidate suggested in his "nightmare of depravity" speech, applauded them for their efforts.¹⁶⁹ On the other hand, Gina Gershon (Cristal in the film) claimed that Showgirls was "the perfect Bob Dole movie. . . . It's all about morals and values . . . it just happens to be done topless."¹⁷⁰ The absence of cultural and political debate surrounding the film certainly made it appear that most of the public cared little about the fact that an NC-17 film was playing in their neighborhood theaters.

With the film's U.S. premiere approaching, there was a media blitz for Showgirls. Elizabeth Berkley demonstrated the art of lap dancing on David Letterman during his late-night show. Joe Ezsterhas took out a full page ad in Daily Variety; in an open letter to the public, he blasted the studio's male-targeted marketing campaign, by encouraging women to see Showgirls for its story and not for its sexual content. In an interview, Ezsterhas also attacked the ratings system itself, encouraging underage teens to "use [their] fake IDs" to get into Showgirls. Jack Valenti immediately declared that the screenwriter "needed medical attention."¹⁷¹ MGM/UA published a book about the making of Showgirls that contained explicit photographic outtakes and stills from the film. The studio also launched an extremely well-trafficked web site, receiving over one million hits daily (50,000 to 75,000 was considered a success at that time), which translated into about 175,000 people.¹⁷² The site, which children could access despite a warning that its contents were off-limits to anyone under 17, featured nude photos, a dialogue simulator with the performers, and a link to the Playboy web site.

As demonstrated by Showgirls' successful marketing inroads, theatrical guarantees, and relative dearth of controversy, MGM/UA proved that a major studio could successfully distribute an NC-17 film. The warnings that the rating would fail to secure advertising and theatrical venues were certainly unfounded. Most importantly, Showgirls revealed, to some extent, that an NC-17 film could be considered "respectable" entertainment. Gerry Rich, MGM's vice president of worldwide marketing pointed out this fact: "The

whole myth that you couldn't release an NC-17 film widely was just that--a myth."¹⁷³ However, the question still remained: Would Showgirls attract a paying audience with its large amount of nudity, sex, and strong subject matter? If so, and if the film had "reasonable success," said Verhoeven on the day of its release, "the people at the studios may think, 'OK, we can make NC-17 films.' The freedom that will be obtained will be beneficial to the directors and ultimately to the public."¹⁷⁴

* * *

Oh, I don't think so. I wasn't worried. I knew we had nudity enough for an NC-17.

Paul Verhoeven, when asked whether Showgirls could get an R¹⁷⁵

If you make a movie that a lot of people want to see, no rating will hurt you. But if you make a movie that few people want to see, no rating will help you.

Jack Valenti¹⁷⁶

Despite opening on September 22, 1995, in 1388 theaters, a record for an NC-17 film (about the same as Clockers and Dangerous Minds that year and more than half the standard number for big-budget Hollywood releases), Showgirls was a box office disaster in the United States. The hype surrounding Showgirls proved to be an unfulfilled tease for critics and audiences alike as the film earned only \$8.1 million in its first week. Worse yet, Showgirls precipitously fell sixty percent in its second week to a box office total of \$3.7 million--eventually grossing slightly over \$20 million domestically--and its failure can be attributed to its poor word of mouth and to the fact that critics almost unanimously gave it some of the most abominable reviews in recent memory; Dana Kennedy of Entertainment Weekly called it the "worst movie in history."¹⁷⁷

Even though Verhoeven and Ezsterhas had repeatedly stressed the non-sexual elements of female empowerment and morality present in Showgirls, reviewers condemned nearly everything about the picture. Many cited the incompetent

performances (particularly that of Berkley), the dullness of the narrative, the disturbing gang rape of Molly, the laughter-inducing dialogue, the inclusion of only one "real" sex scene, and the unerotic sexual imagery. Janet Maslin of the New York Times found the film a "bare-butted bore."¹⁷⁸ Kenneth Turan of the Los Angeles Times called Berkley's Nomi "an irritating self-absorbed twerp."¹⁷⁹ After seeing its premiere in Los Angeles, William Cash of London's Daily Telegraph wrote that Showgirls "reduces eroticism to the banal level of the Playboy Channel" and "is simply a hardcore version of Baywatch."¹⁸⁰ Anthony Lane of the New Yorker said that the film's depiction of lust and sexuality "should not be shown to people over seventeen."¹⁸¹ And Richard Corliss of Time believed that the film wasn't sexy, "only X-ie."¹⁸² Most damagingly, critics tended to find the characters in Showgirls unsympathetic, a property inconsistent with the notion of entertainment that Hollywood has always constructed. As Maltby observes, part of Hollywood's appeal to its audiences lies in "a sympathetic character overcom[ing] a series of obstacles to achieve his or her desire;"¹⁸³ thus a portion of the blame for Showgirls' box office failure must be placed upon its unlikable protagonists.

Mockingly coined "Fleshdance" and "All About Eve in pasties," Showgirls certainly did not live up to the expectations it had created. One exhibitor said, "if it wasn't NC-17, it would never get any interest out of you, me, or anyone else."¹⁸⁴ Since Showgirls contained only one sexual intercourse scene, men in the audience were perhaps disappointed with the sex and eroticism.¹⁸⁵ Tom Shone of the London Times believed that the only people who would get excited by Showgirls were "those too young to see it."¹⁸⁶ Verhoeven eventually admitted that there was a "perception problem" with Showgirls because the advertising promised a sexy, pornographic movie. "That was wrong," he said. "The trouble was, audiences went looking for thrills and emerged unaroused and that made them hate the film."¹⁸⁷ Or perhaps the estimated three million people estimated to have seen the eight-minute video trailer had already inferred that the film

was unsatisfying as erotic entertainment, and never considered paying seven dollars to see it at the theater.¹⁸⁸

However, consumers seemed happy to pay three dollars to rent Showgirls on video, as demand for the film racked up over 250,000 pre-orders in North America, significantly more than the average for a film with similar box office take.¹⁸⁹ Even Blockbuster Video and other video outlets, accepted Showgirls for rental once it had been cut for R,¹⁹⁰ proving that NC-17 films could be marketed fully in the ancillary markets if cuts were made to the theatrical version.

The film's ability to secure advertising, to have a wide release, to open with \$11 million at the box office, and to penetrate the major video outlets had many industry watchers, like John Burnham of the William Morris Agency, soon predicting an increase in NC-17 production by the major studios.

I think that big studios are going to be much more open to it. Studios will be interested in anything that has that kind of ability to open so successfully. . . . The NC-17 rating is no longer tainted, now that it's confirmed that it can succeed in the intended market of release.¹⁹¹

Marc Platt, president of TriStar Pictures, like many other observers, believed an audience still existed for an NC-17 film despite Showgirls' poor showing.

If an NC-17 film were a great movie, there would certainly be an audience. There are still substantial hurdles with NC-17 films that one must overcome in bringing the film to the marketplace. I don't believe those hurdles will necessarily disappear, but I do believe that if an audience finds a film satisfying, then they will go to that film, regardless of its rating.¹⁹²

The Hollywood Reporter remained uncertain about Showgirls' impact, remarking that the film was "hardly a test" of how well an NC-17 rating would succeed with a mass audience.¹⁹³

As it turned out, no one has "tested" the waters with a moderately-budgeted NC-17 film since Showgirls in 1995. Why, in the face of Showgirls' strong opening numbers, is this still the case? Apart from the limited release of NC-17 films from the arthouse subsidiaries of the MPAA companies (discussed in Chapter Five), the only major studio to seriously consider the

rating was Warner Bros. with Eyes Wide Shut in 1999. They instead chose to edit the Stanley Kubrick film for an "incontestable R." Why does Verhoeven turn out to be correct with the following two remarks made after Showgirls' box office failure: "Studios will be hesitant to make NC-17 movies" after Showgirls¹⁹⁴ and "My advice to myself or anybody else is . . . don't make [an NC-17] for more than \$20 million"?¹⁹⁵

The fact still remains that NC-17 films do not serve the best economic interests of Hollywood. MCA vice-chairperson Tom Pollock sums it as follows.

There's no law that says NC-17 films can't work . . . but the primary business of Universal Pictures and all the studios is mass entertainment, not pushing the boundaries of sex and violence. It doesn't have to do with moral reasons. It has to do with monetary reasons.¹⁹⁶

Even if Showgirls was a hit, its success would not necessarily have spawned more NC-17 films from the majors; the rating still carries the stigma of pornography and "non-respectable" entertainment for many people. A Hollywood Reporter poll taken two months after the release of Showgirls supports this claim.¹⁹⁷ In a telephone survey of 1009 adults ages 18 and up, the poll found that 34% of its respondents would be less likely to attend a film if it was rated NC-17, and 24% would refuse to attend an NC-17 film even it received critical acclaim. Of those polled, 94% associated the NC-17 with sexual or violent content. The report concluded that the rating was a handicap that stripped away at least one-quarter of the box office regardless of the quality of the film in question. By suggesting that low budget NC-17 films that targeted young adults and minorities had the best chance for success, the report undeniably implied that NC-17 films were both economically risky and audience-unfriendly. The report also indirectly upheld the belief that low-budget independent films were more suitable for the rating. It is hardly surprising, then, that the majors only sporadically release NC-17 films on a limited basis while the independents employ it more frequently.

In short, the NC-17's proven viability in the marketplace had not greatly affected its desirability. Most importantly, what remained unchanged was the fact that the NC-17 rating limited the commercial prospects for a film. Why intentionally have "an uphill fight," observed Twentieth Century Fox distribution executive Tom Sherak, by restricting the paying audience to grown-ups?¹⁹⁸ "If you have an excellent story, don't you want as many people as possible to see it?"¹⁹⁹

Furthermore, Variety was most certainly in error when they wrote that Showgirls "could enable other high powered filmmakers to refuse to edit their films in order to obtain a more universally acceptable--or studio-required--R tag."²⁰⁰ Hollywood would never relinquish its customary power over filmmakers by which it enforces the industry's commercial imperative: "respectable" entertainment for the maximum audience and profit. Most tellingly, Valenti said that the MPAA studios would never deliberately set out to make an NC-17,²⁰¹ and they were not going to give up the contractual right to cut a film down to an R.

A different explanation for the failure of Showgirls and the abandonment of "adult" films by Hollywood was presented by director Amy Heckerling, who expressed skepticism that "there's an audience that necessarily wants its porn from Hollywood."²⁰² Ever since Basic Instinct, theatrically-released erotic thrillers had fizzled at the box office: Poison Ivy (1992), Sliver (1993), The Last Seduction (1994), Color of Night (1994), Jade (1995), Striptease (1996), Lolita (1998), The Player's Club (1998), and Wild Things (1998) were not successful. "Sex just doesn't play at the movies anymore," argued Alyssa Katz in The Nation. "Voyeurism went private with the arrival of the VCRs, at exactly the time AIDS hit, and it has stayed at home, and on television, ever since."²⁰³

Heckerling and Katz may be right in some respects, but two industrial factors had also worked against Showgirls. First, the flood of sex thrillers that followed Basic Instinct all but drowned the genre's commercial value at the theaters.²⁰⁴ Second, soft-core eroticism, of the kind that Showgirls used as a publicity stunt, could be seen on pay cable and rented at any

video store--privately and at a much cheaper price.²⁰⁵ Mainstream audiences already had access to straight-to-video erotic thrillers like Animal Instinct and Indecent Behavior, and original pay television programming, such as Showtime's Red Shoe Diaries. Playboy Entertainment also had successfully produced a number of low-budget, erotic features directly for video and cable, as well as produced video calendars of its magazine's playmates. Since Blockbuster Video and other conservative chains carried many of these videos, and also the R rated Showgirls spin-offs Lap Dancing, Midnight Tease 2, and Stripteaser, home viewing sales skyrocketed at the expense of soft-core theatrical fare. After all," says Katz, "who wants to sit next to some pervert while watching smut?"²⁰⁶

Although Showgirls neither produced at the box office nor spawned an NC-17 revolution, it ironically (yet maybe not surprisingly) emerged as a midnight cult movie in New York and Los Angeles, much like The Rocky Horror Picture Show (1975). After Betty Buckley, the star of Sunset Boulevard on Broadway, hosted a Showgirls party at Planet Hollywood in February 1996,²⁰⁷ MGM/UA relaunched the film into a few theaters as high camp, imitating the audience participation that had accompanied Buckley's fete. At the first midnight shows in March, the studio hired drag performers to pass out scripts that cued viewers to shout along with the characters' lines, and to sexually gyrate and lapdance beneath the screen during Showgirls' most memorable moments.²⁰⁸ "Maybe this kind of ritualistic cult popularity isn't what I intended," said Verhoeven, who wasn't consulted on the re-release, "but it's like the resurrection after the crucifixion."²⁰⁹ Nevertheless, Showgirls managed to break the record of Pia Zadora's The Lonely Lady (1983) for the most Golden Raspberry Awards, the Oscar's doppelganger given out annually before the Academy Awards.²¹⁰ The film received seven awards including worst picture, actress (Berkley), and screenplay (Ezsterhas). Even Verhoeven was on hand to pick up his worst director award, remarking that "at least this appreciation is better than nothing."²¹¹

The discourse surrounding Showgirls obscures the fact that Verhoeven only had to cut 61 seconds from the film (and alter 20 seconds to change camera angles) in order to receive an R for its video release. Some sex scenes were speeded up but most of the nudity and dialogue remained intact. The film would have been relatively easy for MGM/UA and Verhoeven to cut the film for an R rating and a wider theatrical release. The trivial nature of these alterations suggests that Showgirls did not radically challenge the concept of "respectable" entertainment and the "incontestable R." I believe Showgirls' apparent success in overcoming many of the impediments thought to be associated with the NC-17--exhibitor apprehension, reform group disapproval, media boycott--can be considerably attributed to it being a typical R-rated Hollywood film with a few NC-17 moments thrown in for notoriety. If Sight and Sound media critic Linda Ruth Williams is correct in contending that, "Verhoeven goes no further than he did in Basic Instinct, and not as far as the average straight-to-video erotic thriller,"²¹² many of Hollywood's typical detractors probably felt the same way. What narrative and stylistic elements might have accounted for this perception and thus might be considered R material rather than NC-17 material? The boundaries between an R and NC-17 rating, I will show, is quite obvious upon closer examination--a fact that contradicts CARA's frequent claim that they have no predetermined recipe for the R category.

¹Quoted in Will Tusher, "Porn Scorn Looms as NC-17 Threat," Daily Variety, 16 October 1990, pgs. 1, 18.

²Hal Hinson, "If This Isn't Censorship, Then Why Does It Feel Like It?" Washington Post, 29 April 1990.

³Quoted in Hinson, "If This Isn't Censorship."

⁴The British system has an 18 rating for art films (restricted to adults 18 and over) and an R18 for pornography. However, films can be banned in Britain so the 18 rating, unlike the X in the United States, does not function as the category of least acceptability.

⁵Jack Mathews, "Is it Time to Change the Ratings System for Movies?" Los Angeles Times, 12 April 1990, Calendar.

⁶Charles Champlin, "Commentary; Dropping the X;" Los Angeles Times, 17 June 1990, Calendar.

⁷Quoted in Glenn Collins, "Guidance or Censorship? New Debate on Rating Films," New York Times, 9 April 1990.

⁸Quoted in Jill Abramson, "Burying the X," Premiere (U.S.), January 1991, .30.

⁹Dark Obsession was released in June 1991 with an NC-17. The Killer was released without a rating.

¹⁰"'Henry' Takes Tortuous Path to Screen," Hollywood Reporter, 20 April 1990.

¹¹See the press kit for Henry: Portrait of a Serial Killer.

¹²Justin Wyatt, "The Formation of the 'Major Independent': Miramax, New Line and the New Hollywood," in Contemporary Hollywood Cinema, ed. Steve Neale and Murray Smith (London: Routledge, 1998), 80.

¹³Bart Mills and Nina J. Easton, "'Scandal' Faces Another Shock--an X-Rating," Los Angeles Times, 16 March 1989, Calendar.

¹⁴Daniel Cerone, "'Scandal' to Make New Bid for R Rating," Los Angeles Times, 8 April 1989, Calendar.

¹⁵Quoted in Collins, "Guidance or Censorship?"

¹⁶Vicki Sabatini, "'Henry' Producers Taking MPAA to Court over X Rating," Hollywood Reporter, 18 May 1990. Miramax even featured an X formed by a crossed knife and fork on its theatrical poster for Cook.

¹⁷Almodóvar singles out the copulation scene as the most problematic one. See Steve Weinstein, "Pedro Almodóvar: Living Under the 'X' (interview)," Los Angeles Times, 6 May 1990, Calendar.

¹⁸"Almodóvar Appeals X Given to His New Film," New York Times, 23 April 1990; Weinstein, "Pedro Almodóvar: Living Under the 'X' (interview)."

¹⁹Andrew L. Yarrow, "Almodóvar's Film's X rating is Challenged in Lawsuit," New York Times, 24 May 1990. A similar charge that an independently distributed picture was rated X "arbitrarily and capriciously" was issued by the filmmakers of Bang, Bang the Mafia Gang in 1971. See Gene Arneel, "Says 'X' Kills Pic; Sues Code," Variety, 1 December 1971.

²⁰Richard Huff, "Suit Charges MPAA ratings Unfair," Daily Variety, 18 May 1990.

²¹Greycoat's suit was eventually dismissed by a Washington D.C. Federal Court judge in March 1992 who ruled that the X rating for Henry "was not done unfairly or in bad faith." See "Court Throws Out Maljack Ratings Suit Against MPAA," Daily Variety, 23 March 1992.

²²Miramax Films Corp. v. MPAA, 560 New York Supplement, 2nd Edition, 730 (1990). Each of the following quotes are taken from this opinion. The prosecution prepared a nine-minute tape of sexual scenes from The Postman Always Rings Twice (1981), Blue Velvet (1986), 9 1/2 Weeks (1986), Fatal Attraction (1987), and The Accused (1988) that they believed were more sexual than Tie Me Up!, but the Court refused to look at them.

²³William Kunstler with Sheila Isenberg, My Life as a Radical Lawyer (New York: Birch Lane Press, 1994), 366.

²⁴Quoted in Vicki Sabatini, "Directors Blast X Ratings; Valenti Says Ruling 'Idiotic,'" Hollywood Reporter, 23 July 1990, pgs 1, 18.

²⁵Quoted in Jack Mathews, "A Rational Look at an Irrational System," Los Angeles Times, 21 July 1990, Calendar.

²⁶Quoted in Glenn Collins, "Judge Upholds X Rating for Almodóvar Film," New York Times, 20 July 1990.

²⁷Will Tusher, "Valenti: No Dice on No Children Rating," Variety, 25 July 1990, 20.

²⁸Quoted in Sabatini, "Directors Blast X Ratings," 18.

²⁹Jack Mathews, "Top Directors Join New Drive to Overhaul X," Los Angeles Times, 5 July 1990, Calendar.

³⁰"Rating Service Competition Heats Up as X-ratings, Prices Become Issues," Video Marketing Newsletter, 9 July 1990. The Film Advisory Board offered six ratings: F for Family, M for Mature, VM for Very Mature, EM

for Extremely Mature, AO for Adults Only, and a sixth one mistakenly deleted from the article. How these ratings would be more helpful to a parent than the MPAA ratings befuddles the author.

³¹Hardware was later trimmed to an R. A scene of a character being caught and killed in a mechanical door was edited by removing 38 frames of film, amounting to 1 and 1/2 seconds of running time. See David J. Fox, "Trade Group Seeks Rating Modifications," Los Angeles Times, 20 August 1990, Calendar. Also, In the Cold of the Night was trimmed by 36 seconds to earn an R. See Steve Pond, "Ratings: A Matter of Seconds," Washington Post, 24 August 1990, C7.

³²Quoted in Alex Patterson, "Let X = X," Village Voice, 31 July 1990, 59.

³³Quoted in David J. Fox, "Rating System Faces Challenges on Two Fronts," Los Angeles Times, 21 July 1990, Calendar.

³⁴Quoted in Fox, "Rating System Faces Challenges on Two Fronts."

³⁵Quoted in Michael Fleming, "Rating Rift Reaches Majors: Will Studio Make A OK?" Variety, 20 June 1990, 22.

³⁶Fleming, "Rating Rift Reaches Majors: Will Studio Make A OK?" 1.

³⁷Mathews, "Top Directors Join New Drive to Overhaul X."

³⁸Quoted in Carla Hall, "Directors, MPAA Chief Meet on Film Ratings," Washington Post, 10 August 1990.

³⁹Perhaps Lynch would have publicly criticized CARA but the Board only asked him to edit one shot in Wild at Heart. He applied a smoke effect over the sight of Willem Dafoe's head rolling on the ground after being blown off by a shotgun. See Jay Carr, "'Wild at Heart' Altered to Get 'R,'" Boston Globe, 29 July 1990.

⁴⁰See Jack Mathews, "David Lynch's 'Wild at Heart' Wows Cannes," Los Angeles Times, 21 May 1990, Calendar

⁴¹Francis Ford Coppola, Spike Lee, Barry Levinson, Sidney Pollack, and Ridley Scott were some of the many names that appeared on the petition. More directors signed the petition that was personally sent to Valenti. See Hall, "Directors, MPAA Chief Meet on Film Ratings."

⁴²"An Open Letter to Jack Valenti," Hollywood Reporter, 25 July 1990. An "A" rating had been proposed as early as 1972 by Arthur Knight in order to differentiate between those films classified by CARA as X and those films, such as sexploitation and pornography, that self-imposed the rating. See "Knight at the Movies," Hollywood Reporter, 15 May 1972.

⁴³The "biggest point of contention," said Mark Lipsky, president of Silverlight, was a scene where a character peruses a porn magazine featuring pregnant women, called "Poppin' Mamas." See Vicki Sabatini, "Silverlight might use own 'A' rating for Wang's 'Life,'" Hollywood Reporter, Weekly International Edition, 24 July 1990, pgs. 1, 65. Another reason reported for the X was a scene depicting a character eating a candy bar extricated from a mound of dog feces.

⁴⁴Quoted in David Fox, "Distributor Rejects X Rating, Gives Its Adult Film an A," Los Angeles Times, 25 July 1990, Calendar. In advertising copy submitted to newspapers, a disclaimer read "This film contains adult themes or images that may not be appropriate for viewers under 18 years of age. This film does not carry a rating issued by the MPAA. Many leading filmmakers believe the MPAA's current rating system promotes censorship and does not serve the best interests of the public." Shapiro-Glickenhau also released Frankenhooker with an A rating.

⁴⁵The term "crisis of confidence" comes from Charles Champlin, "MPAA Ratings: A Crisis of Confidence," Los Angeles Times, 24 July 1990, Calendar.

⁴⁶Champlin, "MPAA Ratings: A Crisis of Confidence."

⁴⁷Mathews, "A Rational Look at an Irrational System."

⁴⁸Jack Mathews, "Henry Miller Meets the MPAA," Los Angeles Times, 27 August 1990, Calendar.

⁴⁹Quoted in Jack Kroll, "X Marks the Trouble Spot," Newsweek, 17 September 1990, 58.

⁵⁰Quoted in Gary Arnold, "Films Escape X, but Battle over Ratings Continues," Washington Times, 9 August 1990, E6.

⁵¹Joan Graves, "Rating Board Replies," Los Angeles Times, 30 June 1990, Calendar.

⁵²Quoted in Fleming, "Rating Rift Reaches Majors: Will Studio Make A OK?" 22.

⁵³Quoted in David J. Fox, "Jack Valenti Says Change Possible for Film Ratings," Los Angeles Times, 10 August 1990, Calendar. Also, see David J. Fox, "Writers Guild Urges Changes in MPAA Rating System," Los Angeles Times, 6 August 1990, Calendar; and Will Tusher, "Helmets Apparently Satisfied with Film Ratings Roundtable," Variety, 15 August 1990, pgs. 3, 24. The people who attended the meeting were Brian Walton, executive director of the Writers Guild of America, Glenn Gumpel, national executive director of the Directors Guild of America, and Phil Alden Robinson, Barry Levinson, John Landis, Walter Hill, Edward Zwick, Menahem Golan, Mark Lester, and Harold Becker.

⁵⁴See Will Tusher, "Helmets Apparently Satisfied with Film Ratings Roundtable," Variety, 15 August 1990, pgs. 3, 24; and Martin Kasindorf, "Future of X-rating Debated," Newsday, 9 August 1990.

⁵⁵Quoted in Tessa Horan, "The X Effect: Distributors Challenge MPAA Ratings," Independent Film and Video Monthly, November 1990, 4-5.

⁵⁶As late as September 26, the very day the X was scrapped and replaced with an NC-17, Valenti was quoted saying, "I have always been opposed to (creating an adults rating. It's not even being considered." See Jack Mathews, "MPAA May Adopt New Rating by End of Week," Los Angeles Times, 26 September 1990, Calendar. A day earlier, Valenti said, "I have no problem with a new rating, but not one that's adult only, between X and R." See Charles Fleming and David Kissinger, "Film Critics Put Weight Behind Adults-Only Rating," Daily Variety, 25 September 1990, 27.

⁵⁷Quoted in Hall, "Directors, MPAA Chief Meet on Film Ratings."

⁵⁸Fox, "Trade Group Seeks Rating Modifications."

⁵⁹"New Movie Rating System Takes Effect; PRS Accuses MPAA of Abuse of Trust," PR Newswire, 28 August 1990.

⁶⁰Even after the overthrow of the X, one could still find proposals for a new movie rating system. See Carole Lieberman's editorial on MIND--Movies Influence Neuropsychological Development--and its three rating categories (Child-Safe, Teen-Safe, and Adult-Only) in "Counterpunch: A Psychological Approach to Rating Movies," Los Angeles Times, 1 October 1990.

⁶¹David Kissinger, "X-Rated 'June' Could Ignite Major Revolt against MPAA," Variety, 10 September 1990, 3.

⁶²Kroll, "X Marks the Trouble Spot," 58.

⁶³The Right Stuff was nominated for eight Academy Awards and won four while The Unbearable Lightness of Being won best film and best director awards from the National Society of Film Critics.

⁶⁴The fact that no major studio head ever exercises this option attests to the cooperation between studio and the filmmaker that must exist for the rating system to run smoothly.

⁶⁵Quoted in Mathews, "Henry Miller Meets the MPAA."

⁶⁶Quoted in Richard Corliss' remarks on Henry & June in Time, 17 September 1990, 70.

⁶⁷See Stephen Farber, "A Major Studio Plans to Test the Rating System," New York Times, 4 September 1990. Universal marketing executives even prepared newspaper advertising with the R rating attached in anticipation of a rating reversal. See, David J. Fox, "The First Impact of the New Movie Rating," Los Angeles Times, 28 September 1990, Calendar.

⁶⁸See Michael Sragow, "X Rating Threatens Henry Miller Film," San Francisco Examiner, 27 August 1990, pg. A-16; and Farber, "A Major Studio Plans to Test the Rating System." Tom Pollock, Universal president, says in the article, "I see other films that have a combination of sexuality and violence, which I feel is far more destructive than anything in Henry and June, and those films are rated R."

⁶⁹Quoted in Mathews, "Henry Miller Meets the MPAA."

⁷⁰Farber, "A Major Studio Plans to Test the Rating System."

⁷¹Kissinger, "X-Rated 'June' Could Ignite Major Revolt against MPAA," 8. The San Francisco Chronicle reported, however, that some theater owners were told by their bookers that Universal would release Henry & June without a rating on its scheduled release date even if the company lost its appeal. See Judy Stone, "Last Minute Scramble on Kaufman Film," San Francisco Chronicle, 25 September 1990.

⁷²Quoted in Farber, "A Major Studio Plans to Test the Rating System."

⁷³Quoted in Jack Mathews, "Oct. 3 Marks the Spot for Movie Showdown," Los Angeles Times, 15 September 1990, Calendar.

⁷⁴At the same time, the MPAA announced they would be adding explanations to R ratings, telling parents whether films contain violence, explicit language, and sex.

⁷⁵Quoted in Kroll, "X Marks the Trouble Spot." _

⁷⁶Quoted in Collins, "Guidance or Censorship?"

⁷⁷Quoted in Richard Corliss' remarks on Henry & June in Time, 17 September 1990, pg. 70.

⁷⁸Quoted in Larry Rohter, "A 'No Children' Category to Replace the 'X' Rating," New York Times, 27 September 1990.

⁷⁹Quoted in Kissinger, "X-Rated 'June' Could Ignite Major Revolt against MPAA," 3. Also see Mathews, "Oct. 3 Marks the Spot for Movie Showdown."

⁸⁰Kroll, "X Marks the Trouble Spot."

⁸¹See Rohter, "A 'No Children' Category to Replace the 'X' Rating."

⁸²Mathews, "Oct. 3 Marks the Spot for Movie Showdown." _

⁸³Quoted in Hal Hinson, "Film Industry Revises Rating System," Washington Post, 27 September 1990.

⁸⁴Jack Mathews, "What Change in Film Rating System Means," Los Angeles Times, 27 September 1990, Calendar.

⁸⁵Quoted in Richard Gold, "X Gets the Ax but Exhibitors, Papers May Not Buy NC-17," Variety, 1 October 1998, pgs. 3, 103.

⁸⁶Quoted in Hinson, "Film Industry Revises Rating System."

⁸⁷Quoted in Vicki Sabatini, "MPAA Dumps its X-Rated Policy," Hollywood Reporter, 27 September 1990, pgs. 1, 6.

⁸⁸Quoted in Jay Carr, "Hollywood Drops 'X' Rating," Boston Globe, 27 September 1990, 88.

⁸⁹Quoted in David J. Fox, "X Film Rating Dropped and Replaced by NC-17," Los Angeles Times, 27 September 1990.

⁹⁰Janet Maslin, "Is the NC-17 an X in a Clean Raincoat?" New York Times, 21 October 1990.

⁹¹Quoted in Jay Carr, "X No Longer Marks the Spot," Boston Globe, 30 September 1990.

⁹²Quoted in Michael Phillips, "Waiting for the Reviews," San Diego Union-Tribune, 2 October 1990.

⁹³Hal Lipper, "At Last, an Adult Decision," St. Petersburg Times, 29 September 1990.

⁹⁴MPAA press release, "Major Changes for Motion Picture Rating System," 27 September 1990.

⁹⁵Richard Corliss, "Taking the Hex out of X," Time, 8 October 1990, 79.

⁹⁶Quoted in Will Tusher, "Question of Porn Nags NC-17," Daily Variety, 13 November 1990, pgs. 1, 26.

⁹⁷Quoted in Fox, "X Film Rating Dropped and Replaced by NC-17."

⁹⁸Quoted in Marc Berman, "Miramax to Reopen 'Tie Me Up' with NC-17," Variety, 15 October 1990, 40.

⁹⁹See Gold, "X Gets the Ax but Exhibitors, Papers May Not Buy NC-17," pgs. 3, 103.

¹⁰⁰For example, the New York Times and Los Angeles Times both had accepted artwork for NC-17 films. NBC would review commercials on a case basis (never to air before 11:30 PM) while CBS and NBC would air ads after 10 PM. See David J. Fox, "The First Impact of the New Movie Rating," Los Angeles Times, 28 September 1990, Calendar; and David J. Fox, "Ads for NC-17 Film Find Acceptance," Los Angeles Times, 5 October 1990, Calendar.

¹⁰¹Martin A. Grove, "Hollywood Report," Hollywood Reporter, 10 October 1990, 5.

¹⁰²William F. Kartoizian, "Ratings Revisited," NATO News (March 1991): 2.

¹⁰³Martin A. Grove, "Hollywood Report," Hollywood Reporter, 10 October 1990, 5.

¹⁰⁴Fox, "The First Impact of the New Movie Rating."

¹⁰⁵See Gold, "X Gets the Ax but Exhibitors, Papers May Not Buy NC-17," pgs. 3, 103.

¹⁰⁶See Will Tusher, "Town Fathers Force Withdrawal of NC-17-Rated 'Henry & June,'" Variety, 8 October 1998, 5; and David J. Fox, "'Henry and June' Ban Called an 'Isolated Situation,'" Los Angeles Times, 6 October 1990, Calendar. The Dedham Board of Selectmen soon after adopted a hands-off policy on the showing of NC-17 films after being threatened with legal action by Philip Kaufman and high-profiled attorney Alan Dershowitz. See Will Tusher, "Dedham Decision Hailed, But 'June' Still Shut Out," Daily Variety, 11 October 1990, pgs. 3, 24.

¹⁰⁷Catherine Gewertz, "Movie Rated NC-17 Creates Scuffle Outside," Los Angeles Times, Orange County Ed., 6 October 1990.

¹⁰⁸Quoted in Jack Mathews, "Sell-Out Crowds for 'Henry & June,'" Los Angeles Times, 8 October 1990, Calendar.

¹⁰⁹See "Florida Town Mulls NC-17 Ordinance," Los Angeles Times, 15 November 1990, Calendar; David J. Fox, "Building Controversy over NC-17," Los Angeles Times, 20 November 1990, Calendar; David J. Fox, "NC-17 Movie Rating Law Defeated in Florida," Los Angeles Times, 22 November 1990, Calendar; and Will Tusher, "Kissimmee Kisses NC-17 Law Goodbye," Daily Variety, 21 November 1990, pgs. 1, 8.

¹¹⁰Quoted in John Volland, "Religious, Right-wing Groups Seek Return of Local Film Boards," Hollywood Reporter, 1 November 1990, pgs. 1, 8. Some of the groups involved were the Parents and Teachers Association (PTA), Phyllis Schlafly's Eagle Forum, and Christians Redeem the Values of the Media in Atlanta.

¹¹¹In response to the NCTV proposal, Valenti said the plan "is not only wrong, but it would create chaos for moviegoers. Image a patchwork of dozens or hundreds of rating boards, all with their own special attitudes. It would be a confusing mess to moviegoers and to theaters. See Dennis Wharton, "Conservatives Call for Local Rating Boards," Variety, 19 November 1990.

¹¹²John Volland, "Alabama Paper Refuses 'Henry' Ad," Hollywood Reporter, 10 October 1990, pgs. 1, 21.

¹¹³"NC-17 Rating Hits a Snag as Newspapers Reject Ads," Orange County Register, 17 October 1990.

¹¹⁴Quoted in Tusher, "Porn Scorn Looms as NC-17 Threat," pgs. 1, 18.

¹¹⁵Quoted in David J. Fox, "Building Controversy over NC-17," Los Angeles Times, 20 November 1990, Calendar.

¹¹⁶William Kartoizian, "A Change and a Challenge," NATO News (November 1990): 2.

¹¹⁷Tusher, "Question of Porn Nags NC-17," pgs 1, 26.

¹¹⁸Quoted in David J. Fox, "Distributor of Sexually Explicit Film May Seek NC-17," Los Angeles Times, 7 November 1990, Calendar. Parker had already released an edited, soft-core version of Blonde Emanuelle in 3-D with an NC-17, but after poor earnings and complaints from audiences attending the show at the Nuart Theater in Los Angeles, he decided to resubmit the hard-core version.

¹¹⁹See Fox, "Building Controversy over NC-17."

¹²⁰Steve Pond, "Ratings and the Porn Purveyors," Washington Post, 9 November 1990.

¹²¹For further discussion, see Martin A. Grove, "Hollywood Report," Hollywood Reporter, 9 November 1990.

¹²²See Joseph McBride, "Two Religious Orgs Protest NC-17 Rating," Daily Variety, 28 September 1990, pgs. 1, 30; "2 Church Groups Condemn NC-17 Rating," Los Angeles Times, 29 September 1990, Calendar; M.S. Mason, "Revamped Film Rating System: Why it Changed, How It Works," Christian Science Monitor, 3 October 1990; and Ari L. Goldman, "Religion Notes," New York Times, 6 October 1990.

¹²³Quoted in M.S. Mason, "Revamped Film Rating System: Why it Changed, How It Works," Christian Science Monitor, 3 October 1990.

¹²⁴Blockbuster, of course, denies that the anti-NC-17 stance has anything to do with the American Family Association. They voiced the same denial in 1989 when they refused to carry The Last Temptation of Christ. See John Volland, "Blockbuster Blasted over NC-17 video ban," Hollywood Reporter, 15 January 1991, pgs. 4, 6.

¹²⁵Quoted in David J. Fox, "Blockbuster Video Rates NC-17 Films Unsuitable for All," Los Angeles Times, 14 January 1991, Calendar.

¹²⁶"NC-17 Rating Gets Mixed Reviews from Vid Dealers," Daily Variety, 23 January 1991, 44.

¹²⁷Quoted in Volland, "Blockbuster Blasted over NC-17 Video Ban," pgs. 4, 6.

¹²⁸Quoted in Fox, "Blockbuster Video Rates NC-17 Films Unsuitable for All."

¹²⁹Quoted in Tusher, "Question of Porn Nags NC-17," pgs. 1, 26.

¹³⁰MPAA press release, "Major Changes for Motion Picture Rating System," 27 September 1990.

¹³¹William Kartoian, "A Change and a Challenge," NATO News (November 1990): 2.

¹³²See Will Tusher, "MPAA Opens Fire in War on 350 Obscenity Bills," Daily Variety, 15 November 1990, pgs. 1, 12.

¹³³John Volland, "NC-17 Winning Acceptance as Part of American Moviegoing," Hollywood Reporter, 26 October 1990, 1.

¹³⁴Peter Rainer, "Was It Really the Last Tango?" Los Angeles Times, 15 December 1991, Calendar.

¹³⁵Jack Valenti, "Hollywood, the Rating System, and the Movie-Going Public," USA Today (magazine), September 1993.

¹³⁶Richard Maltby, Hollywood Cinema (London: Blackwell, 1995), 38.

¹³⁷Verhoeven also made sexually provocative films in his native Holland. The X was nothing new to him since his film Turkish Delight (1973) was given that rating.

¹³⁸Quoted in Bernard Weinraub, "First Major Film with an NC-17 Rating is Embraced by the Studio," New York Times, 21 July 1995.

¹³⁹According to Variety: "'Showgirls' was acquired by an affiliate of media and textile conglomerate Chargeurs in a deal that refunded all production costs on Showgirls, freeing up Carolco's funds for its big-budget Cutthroat Island (1995). As part of the agreement, Carolco has an option to buy back 50% of the picture within a certain amount of time." See Anita M. Busch, "'Showgirls' to MGM/UA," Daily Variety, 4 November 1994, 1+.

¹⁴⁰Reportedly, when Showgirls was being shopped around, Universal offered Verhoeven and Ezsterhas \$30 million if it was made to fit an R, or \$12 million if it ended up with an NC-17. See Claudia Puig, "'Showgirls' May Help give NC-17 Releases a Leg Up," Los Angeles Times, 10 October 1995, Calendar.

¹⁴¹William Grimes, "In the Wings: A Movie with Few Clothes and No Regrets," New York Times, 12 February 1995.

¹⁴²Catherine Jordan, "'Showgirls' Has Studios Shy of NC-17 Exposure," Hollywood Reporter, 5 October 1995, pgs. 1, 21.

¹⁴³Christopher Goodwin, "Naked Ambition," Sunday Times (London), 10 September 1995.

¹⁴⁴Joshua Mooney, "Nice Tits, Shame about the Film," Empire (London, England), February 1996, 65.

¹⁴⁵Quoted in Claudia Puig, "MGM Embraces NC-17 rating for 'Showgirls,'" Los Angeles Times, 21 July 1995, F1. John Calley, president of UA, echoed Mancuso's words when he said, "It's a fairly reasonable business risk." Quoted in Marshall Fine, "NC-17 'Showgirls' is Risque Business," USA Today, 7 February 1995, 4D.

¹⁴⁶Quoted in Puig, "MGM Embraces NC-17 Rating for 'Showgirls,'" F1.

¹⁴⁷Grimes, "In the Wings." Conflicting accounts place Ezsterhas' fee for the script between \$3 million and \$3.7 million.

¹⁴⁸Kevin Goldman, "Selling of 'Showgirls' Draws Keen Interest," Wall Street Journal, 8 September 1995. According to the article, the trailer was not being shown with R-rated films that attracted the teenage audience, such as Dangerous Minds.

¹⁴⁹Mike Caruso, a spokesman for Blockbuster, said, "We don't feel that families coming in our stores should be subjected to what most of society considers to be unacceptable material for public consumption." Quoted in David Holstrom, "'Showgirls': Does New Film Peddle Pornography?" Christian Science Monitor, 22 September 1995, 12.

¹⁵⁰According to Mike Dampier, who managed Tower Video on Sunset Boulevard in West Hollywood, "The first day we put [the video] out they all rented out really fast and we were completely out for two, three days." Quoted in Claudia Puig, "'Showgirls' Nets Fans with Hot Spot on Web," Los Angeles Times, 20 September 1995, Calendar.

¹⁵¹Quoted in Claudia Puig, "'Showgirls' and NC-17: Grin and Bare It," 16 September 1995, Los Angeles Times, Calendar.

¹⁵²Stephen Galloway, "'Showgirls' Will Dance with an NC-17," Hollywood Reporter, 21 July 1995.

¹⁵³In regard to the ad for Showgirls, a spokesperson for the MPAA said, "We thought long and hard about that because we've been such sticklers about nudity (in newspaper ads). But we felt ultimately that it was tasteful." Quoted in Jack Mathews, "Sensual Film Ad Passes Test," Pittsburgh Post-Gazette, 12 August 1995, C12.

¹⁵⁴This artwork is borrowed from a similar image used on a 1992 book jacket by photographer Tono Sano.

¹⁵⁵Goldman, "Selling of Showgirls Draws Keen Interest."

¹⁵⁶Gary Levin, "Ads' Basic Instinct: Show-it-all and Sell," Variety, 11-17 September 1995, 17-18.

¹⁵⁷After showing an eight-minute teaser trailer to exhibitors, Verhoeven said: "I certainly tried to pull out all the stops. I think they were intrigued, and unless they're forbidden by law, exhibitors will try to play the film. I don't want to put myself in a bad position with the MPAA, but I think it will be difficult to give this an R. Maybe impossible, I think, but you never know." Quoted in Michael Fleming, "Verhoeven Shopping Big Budget Fare to Studios," Variety, 22-28 May 1995, 2.

¹⁵⁸John Horn, "The Naked Truth: 'Showgirls' to Open with NC-17 Rating," Entertainment Today, 15 September 1995.

- ¹⁵⁹Quoted in Horn, "The Naked Truth."
- ¹⁶⁰Quoted in "Hollywood Tries an Extra Dose of Sex," U.S. News and World Report, 18 September 1995, 28.
- ¹⁶¹Quoted in Fine, "NC-17 'Showgirls' is Risque Business," 4D.
- ¹⁶²Holstrom, "'Showgirls': Does New Film Peddle Pornography?" 12.
- ¹⁶³Leonard Klady, "'Lolita' Limp, 'Pi' in the Sky," Variety, 1-7 March 1999, pgs. 9, 16.
- ¹⁶⁴Lewis Beale, "Nude Bomb or Bonanza?," Daily News (New York), 7 August 1995, 27.
- ¹⁶⁵Michael Williams, "Chargeurs Engages in Risque Pic Business," Variety, 9-15 October 1995, 9.
- ¹⁶⁶Quoted in John Brodie and Anita M. Busch, "'Girls' Nails NC-17; MGM/UA Standing Behind Pic," Daily Variety, 21 July 1995, 1+.
- ¹⁶⁷The press release, dated September 20, read: "Showgirls, rated NC-17, opens Friday, Sept. 22, on 1300 screens. It is a concentrated effort by director Paul Verhoeven, screenwriter Joe Ezsterhas and distributor MGM/UA to make X-rated, raunchy movies mainstream and acceptable to the American public. To achieve this end, the movie has been heavily advertised on TV, in print, posters, on the Internet, and in video stores. Ezsterhas said, 'I'd like to advise teenagers: don't let anyone stop you from seeing this movie.' Jack Valenti, champion of the ratings system, said Ezsterhas 'needs medical attention.' The Christian Film and Television Commission and Movieguide urges all moral Americans to boycott this movie. Refuse to attend and encourage others not to attend. With the detrimental affects of pornography well documented, all Americans would be foolish to give their money to MGM/UA."
- ¹⁶⁸Puig, "'Showgirls' Nets Fans with Hot Spot on Web."
- ¹⁶⁹Andy Seiler, "Hollywood's NC-17 Faces True Test Today," USA Today, 22 September 1995, 2D.
- ¹⁷⁰Quoted on CNN, Showbiz Today, 20 September 1995, transcript #905.
- ¹⁷¹Quoted in Puig, "'Showgirls' and NC-17: Grin and Bare It." Ezsterhas said, "It's a chauvinistic position to (advertise) this on the sports pages, because of its more sensational aspects. I want young women to see this movie because young women will respond to this movie in the same ways that they responded to [the Ezsterhas-scripted] Flashdance."
- ¹⁷²Katherine Stalter, "'Showgirls' Site Sets Web on Fire," Variety, 18-24 September 1995, 5-6.
- ¹⁷³Quoted in Horn, "The Naked Truth."
- ¹⁷⁴Quoted in John Leland, "Base Instinct," Newsweek, 25 September 1995, 88.
- ¹⁷⁵Benjamin Svetkey, "Girls, Girls, Girls: Hollywood Catches Flesh-dance Fever with 'Showgirls,'" Entertainment Weekly, 29 September 1995, 31.
- ¹⁷⁶Quoted in Holstrom, "'Showgirls': Does New Film Peddle Pornography?" 12.
- ¹⁷⁷Dana Kennedy quoted on CNN Showbiz Today, 22 September 1995, transcript #906-2.
- ¹⁷⁸Janet Maslin, "\$40 Million Worth of Voyeurism," New York Times, 22 September 1995.
- ¹⁷⁹Kenneth Turan, "The Naked Truth about 'Showgirls,'" Los Angeles Times, 22 September 1995, Calendar.
- ¹⁸⁰William Cash, "See What Nomi is Doing to the Movies," Daily Telegraph (London), 23 September 1995, 19.
- ¹⁸¹Anthony Lane, "Starkness Visible," New Yorker, 9 October 1995, 61. His italics.
- ¹⁸²Richard Corliss, Valley of the Dulls," Time, 2 October 1995.
- ¹⁸³Maltby, Hollywood Cinema, 21.
- ¹⁸⁴Levin, "Ads' Basic Instinct: Show-it-all and Sell," 18.
- ¹⁸⁵Leland, "Base Instinct," 89.

- ¹⁸⁶Tom Shone, "Just a Couple of Dumb Blondes, Times (London), 14 January 1996.
- ¹⁸⁷Quoted in Chrissy Iley, "Limping over the Shock Barrier," Sunday Times (London), 7 January 1996, sec. 3.
- ¹⁸⁸Puig, "'Showgirls' Nets Fans with Hot Spot on Web."
- ¹⁸⁹Susan King, "'Showgirls' Racking up the Orders," Los Angeles Times, Calendar.
- ¹⁹⁰Before the film's release, Verhoeven said he did not expect to cut the film for video since MGM/UA could not force him to do another version. Apparently, he changed his mind. After consuming over \$50 million in production costs and marketing while only earning \$20 million at the box office, Verhoeven felt responsible for Showgirls' failure and made two versions available to video outlets to help MGM/UA recoup their investment. At first, Blockbuster rejected an unrated version of the film and told MGM/UA video executives that they would consider carrying the video version only if they received an R from CARA. After four visits to Board, Verhoeven got an R, cutting only 61 seconds from the film while another 20 seconds were altered to change camera angles. Some sex scenes were speeded up but most of the nudity and dialogue remain intact. The R-rated movie's video box cuts the image off at Berkley's cleavage. See Galloway, "'Showgirls' Will Dance with an NC-17"; Scott Hettrick, "'Showgirls' Makes MPAA's Cuts," Hollywood Reporter, 4 December 1995; and Peter M. Nichols, "By Dropping a Minute or So, a Studio Hopes to Widen the Home Audience for 'Showgirls,'" New York Times, 8 December 1995.
- ¹⁹¹Quoted in Puig, "'Showgirls' May Help Give NC-17 Releases a Leg Up."
- ¹⁹²Quoted in Puig, "'Showgirls' May Help Give NC-17 Releases a Leg Up."
- ¹⁹³Stephen Battaglio, "THR Poll: NC-17 Can Strip Away Quarter of B.O.," Hollywood Reporter, 5 December 1995, 14.
- ¹⁹⁴Quoted in "Topless Bottoms Out," People, 23 October 1995, 18.
- ¹⁹⁵Quoted in Catherine Jordan, "'Showgirls' Has Studios Shy of NC-17 Exposure," Hollywood Reporter, 5 October 1995, pgs. 1, 21.
- ¹⁹⁶Quoted in Puig, "'Showgirls' May Help Give NC-17 Releases a Leg Up."
- ¹⁹⁷Battaglio, "THR Poll," pgs. 1, 14, 82.
- ¹⁹⁸Steve Daly, "Let's Balk about Sex," Entertainment Weekly, 6 October 1995, 41.
- ¹⁹⁹Jordan, "'Showgirls' has Studios Shy of NC-17 Exposure," 21.
- ²⁰⁰Quoted in Brodie and Busch, "'Girls' Nails NC-17," 1+.
- ²⁰¹Battaglio, "THR poll," 14.
- ²⁰²Variety, 1-7 January 1996, 54.
- ²⁰³Alyssa Katz, "'Lolita'," The Nation, 24 August 1998, 35.
- ²⁰⁴Andrew Hinds, "'Showgirls' Aside, Erotica Grinds On," Variety, 30 October - 5 November 1995, M26.
- ²⁰⁵See Chris Nashawaty, "Is T & A DOA?" Entertainment Weekly, 10 November 1995, 6-7.
- ²⁰⁶Alyssa Katz, "'Lolita,'" 35.
- ²⁰⁷Buckley said, "The movie's so over the top I thought the filmmakers had to know what they were doing. Finally I concluded it was drug damage and they had no idea."
- ²⁰⁸Trip Gabriel, "'Showgirls' Crawls Back as High Camp at Midnight," New York Times, 31 March 1996, 43; and Josh Young, "Showgirls' Remarkable Return," Sunday Telegraph (London), 21 April 1996, 7.
- ²⁰⁹Jessica Shaw, "Party Girls," Entertainment Weekly, March 1996, 21.
- ²¹⁰"Showgirls Sweeps in Awards for 1995's Worst Movies," Associated Press, 25 March 1996.
- ²¹¹Quoted in Josh Young, "Showgirls' Remarkable Return," Sunday Telegraph (London), 21 April 1996, 7.
- ²¹²Linda Ruth Williams, "Nothing to Find," Sight and Sound, January 1996, 30.

CHAPTER THREE

It is a system that punishes eroticism with an X rating, yet rewards violence--from rape to dismemberment--with an R.

Richard Corliss¹

You can cut off a breast, but you can't caress it.

Philip Kaufman²

Even though the development of an "incontestable R" enables Hollywood to once again suggest that its products were suitable for a mass audience, the films inhabiting this category still have to deliver "respectable" entertainment. Standardizing content as to what constitutes "respectable" entertainment for reform groups and politicians is the key strategy for CARA in determining the threshold between an R and X rating, although the concerns of parents, exhibitors, and media critics may also play a part in its assessment. When CARA does fail to arrange films into an "incontestable R" category--as in Cruising and Scarface--the results can damage the integrity behind Hollywood's commitment to "respectable" entertainment.

Yet, these films are isolated cases. That such controversies over the "incontestable R" do not occur with greater frequency indicates that CARA regularly negotiates the barrier between the R and NC-17 with much ease. If this is true, CARA must have a set of criteria that satisfy the requirements of the "incontestable R" category which in turn, satisfy those who carefully monitor Hollywood's commitment to "respectable" entertainment. The existence of a set of standards for the R and NC-17 ratings suggests that the industry still abides by a "production code" that targets for excision those representations that cross the line between "tastefulness" and "offensiveness," between "art" and "pornography," between "presentability" and "indecenty." By abandoning production of NC-17 films, these representations serve to delimit the boundaries of Hollywood filmmaking and

define at a given time Hollywood's conception of "respectable" entertainment.

* * *

Parents aren't interested in what isn't in the films their children will see. So our sole objective is to classify the films voluntarily submitted to us as they professedly will appear in theaters around the country. We do so only to enable concerned parents to make more meaningful judgments about the movie-going patterns of their own youngsters. And we try to meet this singular responsibility fairly, reasonably, and intelligently. Beyond this, however, we have no business commenting on any other aspect of an individual filmmaker's creative, financial, editing, merchandising, or other endeavors. We don't do so. We won't do so.

Richard Heffner³

When the MPAA replaced the X with the NC-17 in 1990, it camouflaged its real intentions behind the change--to preserve the "incontestable R"--by instituting a new policy of providing short explanations to the public for the reasons behind each R rating. The MPAA finally followed the advice offered in the "Findings, Conclusions and Recommendations" of the Movie Ratings and the Independent Producer hearings in March 1978. In its findings, the House of Representatives Subcommittee on Special Small Business Problems encouraged new attempts by CARA to make more information available to the public.

The big question remains--why can't the raters explain their ratings! They already do when they fill out cards listing their reactions to a certain film at the original rating screening. Why are they unable to make this information public!⁴

Jack Valenti replied to this query shortly thereafter.

It seems so simple to do. We could make it R-V for violence, R-S for sex, R-L for language. But how much more would that tell you? What kind of violence? How much sex? Are there a few unacceptable words or is the picture full of them? Or perhaps we could give a one-line description. Six months ago we took 100 pictures and tried to devise one-line reasons for each rating. But describing why becomes pejorative. That scene where a cop hits someone in the stomach with a nightstick may only take up 30 seconds in the film.⁵

The twelve-year delay between these suggestions and their implementation by CARA can not be sufficiently answered. Perhaps CARA saw no reason to make any changes since the Subcommittee failed to find any evidence that the Board discriminated against independent producers. The most likely explanation is that detailed descriptions would make CARA more susceptible to accusations of discrimination and censorship.

Film critic Charles Champlin questioned the purpose of these R rating explanations shortly after their announcement: "Why explain R but not NC-17? It makes no sense at all. . . . It should be the other way around."⁶ CARA, it appears, evaded such queries, and the central complaint of filmmakers and critics--that the rating system fails to distinguish between serious adult fare and pornography--through this maneuver. By adding R explanations without fundamentally changing the X rating, the MPAA and NATO could appear to respond to the needs of everyone: the public, the critics, and the filmmakers. Certainly, no church groups, moral reformers, or government officials would ever question the value of providing greater information to the public. Additionally, CARA's dumping of the X could be viewed by many filmmakers and critics as a sincere attempt to destigmatize the outermost category so that adult subject matter would not have to be "censored" into an R rating. At the same time, the industry retained its chief means of producing "respectable" entertainment--the "incontestable R"--as all NC-17 films, like the X, were avoided. Creating a legitimate space in malls and multiplexes where adults-only films could flourish has never been an objective of major studios and exhibitors.

To no surprise then, the brief explanations CARA began to provide for R ratings--later to be extended to all ratings⁷--get one no closer to understanding the Board's distinctions between an R and an NC-17. Knowing that a R was given to The Scarlet Letter (1995) "for violence and sexuality,"⁸ and awarded to The Return of the Texas Chainsaw Massacre (1994) "for demented mayhem and torture and for strong language,"⁹ says nothing about how CARA arrived at those ratings in the first place (although it may assure parents contemplating

taking their five-year old to Texas Chainsaw that there is no sexuality in it). Unfortunately, CARA denies access to their internal documents and memos, making it quite difficult, if not impossible, to determine the Board's and the Rating Appeals Board's (RAB) methodologies, thought patterns, and biases behind an "incontestable R." Equally frustrating is the fact that studios and filmmakers self-regulate themselves before submitting their films to CARA, selecting scripts and assembling footage they know from prior experience will earn an R rating. Certainly, a significant part of CARA's thirty-year success must be attributed to the confidentiality of its operations and its synergy with producers, distributors, and exhibitors.

All that is publicly known about CARA's standards originates from the Board itself. However, these guidelines only apply to the divisions between the lower categories and not the R and the NC-17. CARA admits that they follow a language rule and a drug use rule. With language, a single occurrence of any of the "harsher, sexually derived words" guarantees at least a PG-13 rating, even if the word is used as an expletive. If this word is used more than once as an expletive or once in a sexual manner, the picture gets an R. Heffner explains that the difference is between "'Oh f[uck]!'" and "'I want to f[uck] you.'"¹⁰ Director Albert Brooks puts it more crudely: "If you say, 'I'm going to fuck you over,' that's a PG-13. If you say, 'I'm going to fuck you over the desk,' that's an R."¹¹ However, a two-thirds majority vote by the Board can give a lesser rating to a film containing a word like "fuck," if they believe it to be more appropriate. Any drug-use reference also guarantees a film at least a PG-13, with a three-quarters majority of the Board needed to overturn it. Short as this list of rules might be, they still remain rules, akin to the days of the Production Code.

In these instances, ratings involve no deliberation; they are imposed automatically. However, the majority of distinctions--those involving nudity, sex and sexuality, and violence--are made on a combination of quantitative and qualitative grounds. This contradicts Valenti's oft-quoted

claim that the rating board "does not rate for quality, or the lack of it."¹² It may be true that the members of CARA do not intentionally judge how "good" or "bad" a movie is, but judging films on their "suitability" or "unsuitability" for children still depends on qualitative reasoning. Is this film too sexy for kids under 13? Might parents find this kind of violence too upsetting for a child without adult supervision? Do certain sexual activities warrant an adults-only rating? Such questions all involve assessments of quality. Valenti is much more realistic when stating that "all of our ratings are done subjectively. . . . We're not dealing with Euclidean geometry here. It is a group of parents making a judgment."¹³ Here, he acknowledges the arbitrariness of the system, an imperfect, yet internally consistent, evaluatory mechanism whose ratings are upheld two-thirds of the time by the appeals board.¹⁴

Nevertheless, qualitative rating decisions predicated on parental reasoning and responsibility must presuppose some forms of value judgments. CARA's distinction between an incontestable R and a stigmatizing NC-17 can not simply be a common sense conclusion about what most American parents would find suitable or unsuitable for children. Nor can the differentiation be easily determined by what content or imagery would disturb specific subgroups of adults. In any case, values based on some set of "national mores," as William Paul states in his discussion of the PCA, inadvertently involve morality, ethicality, and ideology.

What if the mores themselves aren't moral? And are "national mores" definable in a society made up of different classes? Whose mores determine the national mores? The point is that no code to govern the content of art can ever be value neutral. The values of a specific class at a specific time inform every aspect of the Production Code that began to be stringently enforced in 1934. From a contemporary viewpoint, this is most forcefully clear in the Code's ban on miscegenation as subject matter for a movie.¹⁵

Miscegenation and other dos and don'ts of the Production Code were obviously not proscribed in the classification system, but CARA continued to fulfill the same industry obligations as its predecessor in judging the threshold of acceptability for

Hollywood's audiences. While CARA never followed the particular ideological agenda laid out in the Declaration of Principles of the Code of Self-Regulation in 1968, the X and NC-17 rating came to be used in a parallel fashion to filter out those images, words, and themes that certain adults may find objectionable or inappropriate for Hollywood entertainment. These decisions, if not based on the "quality" of filmmaking, were certainly not "value neutral" either.

This argument is best supported by the accusations perennially made by critics and filmmakers about CARA's more lenient approach to violence in comparison to sexual matters. Arthur Knight, writing in 1969, noticed that "incest, regicide, and self-mutilation," in the G-rated Oedipus the King, "are apparently 'acceptable for all audiences, without consideration of age'--so long as they take place off screen and there are no nude scenes."¹⁶ Two decades later, the same cry is heard from critic Sam Frank: "The [B]oard's double standards are blatant. Explicit acts of nonstop murder are acceptable in an R movie but explicit sex acts are not."¹⁷ Director Phillip Noyce concurs, believing that the Board is "far more lenient about acts that end life than those that engender it."¹⁸ And Jean-Jacques Annaud, the director of The Lover (1992), claims: "There is too much violence--heads are chopped off and it's still an R. But to take the girl you love to bed is wrong. Why the hypocrisy?"¹⁹

What is surprising is that Valenti doesn't disagree with these insinuations. He publicly admits that CARA indeed treats violence less severely than sexuality, partly because violence is more difficult to classify and qualify than sex, and partly because Americans are more offended by sex than violence.

What is too much violence? Is John Wayne at Iwo Jima killing a thousand Japanese more violent than the Boston Strangler?

But with sex--there's nudity and you know what it is. There is also a deeply ingrained Puritan ethic in this country, and people who are uptight about these things tend to be more uptight about sex than violence, although violence is very much monitored by the rating system.²⁰

Given the subjectivity of the rating process, the dividing line between what is "all right" and what Valenti calls "too much" is inevitably controversial and difficult to determine.

Yet, as Valenti demonstrates, this dividing line is arbitrarily based on things that "people who are uptight" may find fault with the industry's commitment to "respectable" entertainment. He sometimes offers a few suggestions about the way in which CARA arrives at its decisions: "The intensity, graphic depiction, and accumulation of the problem play a role in how severely the film will be rated."²¹ One hit in the face might qualify for a PG, "but if that man is hit 10 times in the face and blood is shown all over, then that film is probably at least a sure PG-13."²² In cases of sexual imagery, "nudity itself is not automatic grounds for an R rating. It depends how sensuous the scene is."²³

Since CARA admits to having no fixed rules on nudity and violence, and since they must always make rating determinations over such subjective concepts as imagery, intensity, and accumulation, controversy usually erupts between them and a distributor when a first cut receives an NC-17 rating. When the Board tells a director that his or her film is "too much" for an R rating, it does so without delineating the necessary cuts for the film to avoid the stigmatized, unprofitable NC-17. Editing a film becomes a guessing game, claims one producer, who was given an NC-17 because "the film just feels too sexy."

I'm living in a vacuum. . . . I'm forced to cut my movie, but I have no parameters. The guidelines for each rating are one paragraph long, no specifics. If they'd just say, "four fucks, two goddamns and one motherfucker is an R," at least I'd know what to cut.²⁴

In certain instances, CARA pinpoints the precise scene that caused an NC-17 but still does not give advice on how to cut it for an R. "We never tell a director what he or she can or cannot put into a film," says Heffner.

We refuse to be editors. . . . If a director doesn't like the rating we give, he is welcome to bring us another version. We will look at it and change the rating or not, according to what we see. Or he can go to the appeal board.²⁵

If CARA did give advice, they would effectively be censors, and CARA's unflagging claim that they are not censors lies at the very foundation of their classification system.

However, when it comes to the NC-17, most people inside and outside the industry view CARA as a force that prohibits cinematic free expression. These claims show little knowledge of the industry itself, which through the joint cooperation of the MPAA and NATO established CARA to serve their primary economic interest: "respectable" entertainment for the maximum audience and profit. The industry's commitment to this mode of entertainment dictates that CARA must arrange its films out of an NC-17 into an R. While many critics argue that CARA alone functions as a form of de facto censorship, in fact, it is the entire industry that deserves blame for stigmatizing the outermost category in the pursuit of an "incontestable R." Valenti's standard response to accusations of censorship is, in fact, perfectly legitimate: "I can't ask or force an exhibitor to do anything, and I can't ask or force a director to cut one bit of film. Whatever he does on an economic basis is up to him."²⁶ On the other hand, Vincent Canby is equally justified in remarking that the system is not truly "voluntary": "A producer can 'volunteer' to have his film remain undistributed, unadvertised and unplayed, if he refuses to make the 'required cuts' to get an R rating."²⁷

Both arguments withstanding, the fact remains that many artists consciously knowingly sign contracts agreeing to make an R rated film in exchange for working on a Hollywood picture. CARA, in a way, just helps them to fulfill their contractual obligations. Certain directors, like Paul Schrader, find these compromises, dictated by commercial considerations, to be acts of "censorship."

This means that usually you make the movie you want, and show it to the ratings board. And they say that and this is a problem, and you change it, to get an R. So they're saying that they're not censoring anyone, but what's happening is that you have to censor yourself, and then you come back to the board, and they may imply, "You haven't censored yourself enough."²⁸

Paul Verhoeven, on the other hand, believes that cutting a film down to an R rating is a condition of working in Hollywood, where one always has to balance artistic aspiration with industrial economics: "If you want to be in this business, you have to realize that people, companies are investing money and are dependent on the success of the movie in order to survive." Consider Basic Instinct, he says. "The movie cost \$45 million, so you cannot say 'fuck you all.'" ²⁹

Verhoeven's sentiments may represent the majority of filmmakers working for the major Hollywood studios, but not all of them. Directors like Brian De Palma as well as independent filmmakers and distributors attack CARA for what they feel are unfair and arbitrary decisions made between the R and NC-17 ratings. As a result, various interviews, trade reports, and stories about a studio's dealings with CARA occasionally emerge in the press, piercing the Vatican-like secrecy of the Board's standards and practices. Most importantly, for the purposes of this dissertation, the profitability of ancillary markets has led to the availability of unrated director's cuts of theatrical R rated films on video, laser disc, and digital video disc (DVD). In many cases, supplementing the uncut film are interviews, trailers, and separate audio tracks with filmmaker and/or cast commentary. In addition, distributors release R rated video versions of NC-17 theatrical films for stores with policies barring NC-17 product. Together, these resources provide a rare opportunity for analyzing the rating process of a film, and to ascertain the list of dos and don'ts and other guidelines which define the boundary line between the R and NC-17 for CARA.

The period since the creation of the NC-17 rating provides a better opportunity to analyze the boundaries of the adult category than does the period of the X rating. Most films with both R and uncut video versions available come from this period. Scholars had to wait until 1988 before the PCA files were made public; the technologies now available can expose the guidelines that CARA keeps hidden from the public during its very tenure. To investigate these mechanisms, I adopt the eventualization/diagnosis model of censorship outlined by

Annette Kuhn and Janet Staiger and summarized in my introduction. I have thus far shown Hollywood's self-regulatory operations to be productive in the sense that they serve to constitute the notion of "respectable" entertainment--a commitment embedded within a historically specific ensemble of power relations between the film trade, reform movements, religious groups, government regulatory agencies, and other various forces. I turn now to the industry's repressive, self-regulatory practices performed for the purposes of an "incontestable R." CARA plays a much larger role in this process as Jack Valenti, the chairperson, and the examiners are primarily responsible for the excision and containment of specific words and images within the R/NC-17 boundary. While it is impossible to determine how CARA actually responds to wider social forces in addressing troublesome material within these ratings, the following analysis demonstrates that CARA's standards of operations have pretty much remained uniform within the 1992-1998 period.

* * *

A lot of times the MPAA has just said to me . . . it's just too intense, take the intensity back, and we went through this protracted battle with me sending back various cuts-- well I refused to take anything out and they would say "Well, you still have an NC-17 then."

Paul Verhoeven³⁰

The trick with scary material is to break through the audience's complacency. The way you do that is by breaking implicit rules: "Anybody civilized would not do that." You have to do that in order to unsettle them; then you can frighten them, because they're off-guard. To get to that point, you have to cross the line; usually, the first line you cross is the ratings line.

Wes Craven³¹

Case studies of two studio projects made by directors known for their explicitness can help define the boundaries between the R and NC-17 in the 1990s: Tri-Star's Basic Instinct, directed by Paul Verhoeven, and Miramax's Scream,

directed by Wes Craven. Both films initially received NC-17 ratings before they were trimmed down to an R.

Cutting films for a wider audience was nothing new to either Verhoeven or Craven. Verhoeven had to make cuts in all his earlier American films--Flesh + Blood (1985), Robocop (1987), and Total Recall (1990)--to gain an R. Craven, it seems, draws the wrath of CARA with each picture he directs, from A Nightmare on Elm Street (1984) to Deadly Friend (1986) to Shocker (1989). In each of these cases, Verhoeven and Craven were contractually obligated to deliver an R picture to the studio. Fortunately, the unedited director's cuts of Basic Instinct and Scream are available on laser disc.³²

Courting scandal after encountering a swarm of protests from gay and lesbian groups during its production,³³ Basic Instinct stirred intense discussion and gossip, especially over its graphic sex scenes, many months before the studio submitted a print to the MPAA. Sharon Stone attested to its probable ratings showdown when she said, "Michael Douglas and I went as far as anyone could go. So far in fact, that I don't know how they'll ever get a rating."³⁴ However, Verhoeven was contractually obligated to deliver an R rated Basic Instinct to Tri-Star, a division of Columbia, who depended on the \$45 million film to open wide in over 1000 theaters. Knowing he had to cut Basic Instinct for an R, Verhoeven still intended to push the limits of the rating system. The challenge for him with Basic Instinct was to see how far he could go in the United States with a major star like Michael Douglas.³⁵ In an article for Cinema Journal, Chris Holmlund acknowledged the film's boundary-testing elements when she called Basic Instinct a "thriller cum soft core porn film."³⁶

At the end of January 1992, the film received an NC-17 on its first submission to CARA for its steamy sex and violence. A spokesperson close to the Board said certain scenes were deemed "very graphic, very explicit and beyond the boundaries" of an R rating.³⁷ Verhoeven added:

[T]hey said we have problems with the violence in the first act and in the scene of the stabbing. Then we have a problem in the fifth reel, and we have a problem in reel

seven, etc. I think they had problems in four or five reels altogether. With the big love scene between Sharon and Michael, they simply said it was too long and too strong. They didn't say that shot or this shot. In fact, we tried to get them to be more specific, but they said, "We won't tell you; we're not going to cut your movie. You cut your movie; you give us something we can accept. All we can tell you is that it's too long and too strong."³⁸

Amid outrage from the political Left (National Organization of Women and Queer Nation, protesting the film's misogyny and homophobia) and the Right (Cardinal Roger M. Mahoney publicly calling for an updated Production Code), CARA had to be very careful in arranging this picture. Yet, they had no choice but to ultimately give the picture an R; Verhoeven was contractually obligated to deliver one, and Tri-Star, even without the director's permission, would continue to submit the film to CARA until they received that rating. According to one source close to the film, "The last thing the ratings board wanted to see was this movie. They just didn't want to deal with it."³⁹

After the film's first submission, Verhoeven said the Board objected to its overabundance of nudity, sexual grinding, and explicit sex and violence.⁴⁰ The ensuing ratings struggle was fought over four scenes: the icepick murder that opens the film, the violent sex scene bordering on "date rape" between Douglas and Jeanne Tripplehorn,⁴¹ the so-called "fuck of the century" scene between Douglas and Stone, and the icepick murder of George Dzundza in the elevator.⁴² Yet the Board's objections did not surprise Verhoeven, who knew from prior experience what qualified for an R rating.

All the sex scenes in Basic Instinct were shot from a lot of different angles. We realized during the shooting that some of the angles, especially the one when Michael is between Sharon's legs and licking her vagina, would not be acceptable. Even when we looked at it in the replay because we were shooting simultaneously with video, we were all really laughing... We knew we would never get away with that. But we went as far as we could, although each time I felt there could be a problem with the MPAA, I shot further away, from another angle, with a different light or whatever, so I had a lot of different possibilities. And so the MPAA could not force me to cut

things out. I always offered them another solution that was less explicit without changing the scene. So if you compare the NC-17 to the R-rated version in terms of running time, they're not very different but their intensity is different.⁴³

Verhoeven's biographer Rob van Scheers added, "For every close-up [Verhoeven] also took a medium one just in case, and for every medium shot he also recorded a wide shot." Verhoeven assure himself that he would have sufficient material on the editing table to work with in cutting the film for an R rating.⁴⁴

In preparing subsequent cuts of the film for CARA, Verhoeven replaced shots with alternative ones, omitted others, and reduced in length those images found to be NC-17 in nature. The specific cuts made are an accurate gauge of what counts as an "incontestable R" for CARA.

The ice pick murder scene: In this scene where a nude blond stabs her lover to death, the numbers of stabs visibly entering the body is reduced from six to one. Graphic long shots of stabbing, of torn flesh, and of splattering blood have been omitted. Shots have been shortened to limit the amount of sexual grinding time.

The date rape scene: The edited version suggests merely rough sex instead of rape, as several seconds have been cut. What remains in the R is Douglas throwing Tripplehorn against a couch, then immediately collapsing on top of her as the scene ends. Cut from the unrated version is everything in between: Douglas dropping his pants (revealing his bare behind) and entering Tripplehorn from behind (perhaps anal sex) as she protests "No, please, no, ow!"; medium shots of grinding below the waist, close-ups of Tripplehorn's pain/pleasure; and Douglas' orgasm.⁴⁵

The "fuck of the century" scene: Many seconds have been cut from shots between Douglas and Stone after they have engaged in sexual foreplay at a nightclub. A very explicit close-up of

cunnilingus, a long shot of fellatio, and a shot of Stone's erect nipples have been edited. Long shots of sexual thrusting and close-ups of breasts have been shortened or reduced in number.⁴⁶ The first ceiling mirror shot of Stone giving oral sex to Douglas has been shortened from approximately three and a half seconds to two seconds. The second ceiling mirror shot containing both actors in a nude sexual embrace has been cut entirely.

Elevator murder scene: Two close-up shots of Dzundza being stabbed have been removed for the edited version. A shot of the killer stabbing toward the camera with blood gushing out in the uncut version has been replaced by a long shot outside the elevator, showing Dzunda being stabbed from a distance.

In all, Verhoeven submitted eight different edits during a two-week period that eliminated 42 seconds out from the uncut European version--22 seconds were cuts and 20 seconds were replaced with closer or wider shots of the same take.⁴⁷ These included shots of oral sex, violent sex, multiple stabbing, and sexual grinding. On 10 February 1992, Basic Instinct finally received an R for "strong violence, sensuality, drug use, and language."⁴⁸ It opened domestically to \$15.1 million on 1567 screens (eventually expanding to 1866) and earned almost \$353 million worldwide.

Wes Craven is also a favorite target of CARA's scissors.⁴⁹ His films are gory like those of Verhoeven but much less sexual. Craven's pictures usually receive harsh initial ratings for their "intensity" which CARA believes unprepared children may find too disturbing even when accompanied by an adult.⁵⁰ Craven frequently calls these objections arbitrary and impossible to edit for. He describes a typical battle with the Board as one where they tell him, "Don't be so intense, that's harmful."⁵¹

The way it works is that a call comes from the MPAA that the picture is considered an "NC-17." "What," you ask, "needs to be cut? There's hardly anything visible there--we took pains not to be blatant." And the answer comes back, "Well, we appreciate that. But such sections are

simply too . . . intense. We'd like you to cut back on the intensity before we'd feel comfortable awarding an 'R.'"

And how do you do that? Well, it's suggested, you cut back the volume of the music, or remove sound effects, or do whatever is necessary to make it not so darn intense. In other words, your movie is too scary. Or too haunting. Or too . . . well, you get the picture.⁵²

Add horrific content to the mix, and CARA, says Craven, fears that children will imitate the violence on screen.⁵³ Since his films usually center on childhood trauma, the American family, and murder, CARA seems particularly cautious when handling Craven's work.⁵⁴

Scream is a case in point; in fact, the Kevin Williamson script sparked a bidding war in Hollywood before Miramax bought the project. A story of a mysterious, masked killer slicing and dicing teenagers, with characters consciously aware of the horror genre's conventions that the film operates within, Scream, like Basic Instinct, was awarded an NC-17 rating on its first submission. Certain scenes were singled out by CARA for their intensity and violence. Like Verhoeven, Craven went back and forth with the Board, negotiating content changes since he, too, was contractually obligated to submit an R film. The following controversial scenes were edited to avoid the NC-17 rating.

Entrails Scene: CARA forbid Craven to use any movement of the innards of Drew Barrymore's boyfriend as he is tied to a chair⁵⁵. The uncut version has a shot of his guts falling to the ground. The edited version rearranges a few shots and replaces the falling entrails shot with one where the boy's guts already lie on the ground.

Hanging Scene: Craven said CARA went "berserk" over this shot where a dead Drew Barrymore is hanging from a tree with a noose around her neck.⁵⁶ The edited version cuts every other frame from the original one so the shot appears 50% faster.

Throat Slashing Scene: When Courtney Cox's cameraman has his throat slashed in the uncut version, his gesture immediately afterwards where he touches his neck, sees his bloody hand, and then looks back up in the killer's face, is cut for the theatrical release. No explanation is given by Craven for the CARA's aversion to this shot.

Final Chase Scene: The edited version of the last act where the killers' identities are revealed actually runs ten seconds longer than the unrated cut. The parts where they joyously mutilate one another were at issue--both the dialogue and violence are particularly graphic. According to Craven, "This scene from the MPAA standpoint was sort of the definitive reason why this film must be an NC-17. In fact, that's the first response that I got from them. It's a wonderful film, completely compelling, and what a wonderful example of an NC-17. Which was their way of saying, "you're going to die."⁵⁷

The following two scenes made the R cut in their original form but are often reported in the press to be trimmed.

Stabbing of Drew Barrymore: This scene features the killer chasing Drew out of the house and then stabbing her in the chest. Craven said: "They wanted this shot out of the film in the worst way and I just claimed this was the only take that we did because Drew was so wrought up over it. Of course this was a bald-faced lie but I'll do anything to get my shots in."⁵⁸ This shot feature Barrymore running toward the camera as the killer chases her with a knife. The full shot reverts to slow-motion as the killer plunges a knife into her chest. Nothing is altered for the theatrical release.⁵⁹

Garage Door Scene: In the laser disc commentary track, Craven says the close-up of Rose McGowan's head being crushed by a garage door was cut for theatrical release. However when comparing the R version with the director's cut, no difference can be seen.⁶⁰

Scream took eight submissions to CARA to finally receive an R rating.⁶¹ Twenty seconds of footage were restored for the uncut laser disc version.⁶² Scream went on to earn over \$100 million at the box office.

Of the six criteria (theme, language, violence, nudity, sex, drug use) that appear on the "green" ballot completed by Board examiners in the rating process, five of them (except drug use) are manifest in these two examples. However, an additional term brandished in the above discussion by Verhoeven, Craven and the Board--the word "intensity"--I must address, as it often arises in rating controversies along with other terms such as "graphic," "explicit," and "strong" to describe the reasons behind an NC-17.

The subjective nature of these terms can best be encapsulated as the severest degree of a film's "tone," defined by Merriam-Webster's Collegiate Dictionary in part, as follows:

- 1) style or manner of expression in speaking or writing;
- 2) general character, quality or trend; or
- 3) frame of mind: mood.⁶³

When applied to cinema, tone reflects the feeling or sensation of a film. More concretely, it is the attitude that is communicated through the film's presentation of its material: stylistically, performatively, narratively. Tone is not a "green" ballot criterion itself but rather a general characterization of a film's incompatibility with a certain rating. I believe when the Board describes a film's tone as too "intense," it is due to its overabundance of one of the six "green" ballot criteria (e.g. too much sex) or its gross accumulation of several of these criteria (e.g. a mass of nudity, drug use, and language).

However, when the Board feels that a film's tone deserves an NC-17 based on its theme, language, and presentation of violence, nudity, sex, and drug use, another variable enters the rating process: the industry's commitment to "respectable" entertainment. The question is thus raised: "Is it always possible to cut a mood by ten seconds and turn an NC-17 film into an R? Cruising and Scarface demonstrated that arranging a film for an R does not always guarantee that the picture will

have a "respectful" tone or be "incontestable" to the public. Sometimes a film may "feel" NC-17, although it is rated R. This perpetual vulnerability of the rating system explains why an unfailing member commitment to distributing and exhibiting "respectable" entertainment is imperative in making sure that such occurrences rarely, or better yet, never happen.

While CARA's policies are not an exact science, Verhoeven, unlike Craven, clearly appeared to be aware when he ventured into NC-17 territory. He knew certain images would probably not be accepted under the Board's R category, so he shot additional material during production for the replacement of footage at the inevitable editing stage. His familiarity with the categorical boundaries of the R and the NC-17 further suggest that definite standards do exist at CARA. And they do, if one follows the argument of MPAA spokesperson Charlene Soltz: "The rating system is merely a guide for parents to determine what films are best for their children. It's only a voluntary system. If you choose to submit your film for rating, then you understand there are certain guidelines under the system."⁶⁴

In theory, six criteria establish the guidelines for the R/NC-17 boundary as they do for the other categories; however, rating battles over this boundary made public in the 1990s almost exclusively dealt with two of these criteria: sex and nudity. A few cases did concern themselves with language (Dice Rules, 1991, You So Crazy, 1994; Clerks, 1994; South Park: Bigger, Longer, and Uncut, 1999), but surprisingly, only one involved violence (Natural Born Killers, 1994). I can only speculate why this may be the case. First, audiences have been historically more tolerant of violence than sex; the Production Code regulated the erotic much more than the violent. Second, sex is more easily quantifiable than violence. According to Valenti, "Sex is sex. You penetrate or you don't. You see pubic hair or you don't. But violence has permutations that boggle the mind."⁶⁵ Third, in the United States, obscenity laws have exclusively been applied to cases involving sex and not violence. Therefore, films unrestricted to children can contain more violence than sex. Finally, most international

sensor boards are more tolerant of violence than sex; Hollywood studios, now more than ever, depend on these overseas markets to recoup their costs of production. It is possible that violence is regulated out of films during production rather than at the classification stage. Nevertheless, without access to CARA's documents, the available evidence points to an overwhelming amount of cases involving sex and nudity that threatened the "incontestable R" and Hollywood's commitment to "respectable" entertainment. CARA steadfastly preserved this industry strategy through a series of negotiations, believed by many to be unfair and biased, but in fact were remarkably consistent and standardized.

* * *

. . . I'm sure if I had someone pull out a gun in the middle of a particularly offensive love scene to blow out the brains of one of the lovemakers, it would have been fine. But nobody blew their brains out while they were sitting astride their lover.

Philip Noyce⁶⁶

During the first half of the 1990s, filmmakers and critics often claimed that Basic Instinct exemplified CARA's hypocritical and subjective rating practices. The consensus was that Basic Instinct received an R because of it being distributed by an MPAA company. Thomas Doherty believed that the film "emphatically" remained an NC-17 in its release version.⁶⁷ John Hartl of the Seattle Times wrote that the R rating for Basic Instinct "suggests that the ratings board can be worn down, especially by a studio with a \$50 million investment."⁶⁸ Yet, when one looks at Basic Instinct alongside other films of this period, it clearly does not violate or contradict other CARA decisions made at this time. Basic Instinct may have touched the outermost boundaries of the R rating but it certainly did not cross them. What makes Basic Instinct's R rating appear as a rating slip-up or studio bias to its detractors is the film's aggregation of troublesome areas, not its transgression of them. Lesbianism, non-traditional sex, S & M, and graphic murder may receive NC-17

consideration by CARA but they are not necessarily excluded from an R. The centrality of these elements to the fiction of Basic Instinct may create an overwhelming sense of perversity, pornography, and potency that some people believe should be restricted to adults. Basic Instinct also may serve as an example of one of those films that has an uneditable, disrespectful tone that violates the spirit of the "incontestable R," although I personally don't think this is the case. Even so, the cutting of Basic Instinct remained consistent with CARA policy that year.

Following Basic Instinct, five films in 1992 flirted with or accepted NC-17s, some with controversies, others without: two films released by MGM, an MPAA studio--The Lover and Body of Evidence--and three films from independent distributors--New Line's Damage, Aries' Bad Lieutenant, and Fine Line's (the art film division of New Line) Wide Sargasso Sea. This new wave of high-profile adult films once again led critics to question and attack the criteria for an NC-17 film. "NC-17 Rating Declares a Film is . . . What?" questioned William Grimes of the New York Times. "R vs. NC-17--What's the Difference? Filmmakers, Exhibitors, are Bewildered by Inconsistent Ratings" wrote David J. Fox of the Los Angeles Times. "Abridged Too Far?" asked Mark Harris of Entertainment Weekly.⁶⁹ In additions, the filmmakers of the above titles leveled claims of hypocrisy and favoritism against CARA when talking to the press about their ratings battles. They often referred to the initial NC-17 version of their films as being no less sexual than the R rated, final cut of Basic Instinct.

Yet, cries of arbitrariness, unfairness, or hypocrisy can easily be explained by either a critic's or filmmaker's unfamiliarity with rating procedures, or by a studio's deliberate generation of a rating controversy to generate free publicity for a film. A closer analysis of these films will reveal the rating demarcations between the R and the NC-17, a study never attempted before to my knowledge. By comparing two version of the same film in terms of camera distance, camera angle, time length of shot, and shot selection of two as I did earlier for Basic Instinct and Scream, I will demonstrate that

CARA's regulations are overwhelmingly consistent, clear-cut, and unbiased. What these cases also support is the argument that rating controversies center on sex and nudity. Even though The Lover later won its appeal from the RAB, the Board's initial NC-17 rating for the film, and the subsequent R ratings negotiated for Body of Evidence, Damage, Bad Lieutenant, and Wide Sargasso Sea, illustrate the Board shows no partiality in dealing with major and independent product.

A number of conclusions about CARA, the R, and the NC-17 can be drawn from the following analyses of these five films.

1) Plenty of confusion exists among filmmakers and critics about the Board's rating criteria. Many filmmakers are unaware of what must be cut to earn an R. Others, however, are perfectly aware of types of NC-17 shots but criticize CARA as a marketing ploy before making the necessary trims.

2) No double standard exists for male and female nudity. The penis, vagina and pubic hair are allowed in R rated films, but shots of penis entry, the close proximity of an actor's face to pubic hair, and anal sex are not permitted. Masturbation and oral sex movements are allowable off-camera and in certain cases involving long shots, darkened scenes, or obscure camera angles, but the actors must always be clothed.

3) Sexual grinding below the waist can last only a few seconds and pubic hair can not be shown in this shot. Exceptions include darkened long shots and scenes with clothed actors. However, shots of naked lovers in a missionary or female dominant position are permitted without any movement.

4) A single shot can warrant an NC-17.

5) CARA is specially troubled by images combining sex and violence.

6) The Board and the RAB function in significantly different ways, and the RAB's ability to reverse the Board's rating does

pose a threat to the consistency and apparent integrity of the MPAA's rating system. Unlike the Board, the RAB may be susceptible to charges of favoritism.

Together, these criteria show that the management of the "incontestable R" is often an easily definable and observable process revolving around sex and nudity, yet one deliberately camouflaged by CARA due to its discursive commitment to self-regulation, not censorship.

* * *

Body of Evidence

In the minds of the audience, a movie with an NC-17 rating is still seen as a sex film. Madonna's new book is about sex. [Body of Evidence] is a courtroom drama.

Stephen Deutsch, executive producer
of Body of Evidence⁷⁰

We are not a censoring agency. We've checked over the script and we feel that since Madonna's got all of her clothes on in the courtroom scenes, the use of the facility is totally appropriate for us.

Christine Yorozu, spokesperson for
the Department of General
Administration in Washington state,
after Secretary of State, Ralph
Munro, opposed the use of the State
Capitol Building for the filming of
Body of Evidence on account of
Madonna and the movie's subject
matter.⁷¹

Structurally, [Body of Evidence] is divided into two parts: Madonna without clothes and Madonna with clothes.

Duane Byrge, Hollywood Reporter⁷²

When MGM received word in August 1992 that Body of Evidence got an NC-17 for its "explicit sexual scenes," the distributor, and the film's director, Uli Edel, had no quarrel with the Board's decision. Speaking for both MGM and Edel, executive producer Steven Deutsch remarked, "We understand why they gave [Body of Evidence] the rating. The question we are now asking ourselves is 'Do we want to change it?'"⁷³ By

releasing the film with the adult rating, Body of Evidence, would be the first major studio film to test the NC-17 waters since Henry & June. However, said Deutsch, "[t]he big difference between us and (other producers who faced the NC-17 dilemma) is that we have the most famous woman in the world. What we want to research over the next several weeks is what that means to this film to go out with the NC."⁷⁴ In contemplating the economic risks associated with the adults-only rating, MGM considered the fact that the "woman" Deutsch referred to--Madonna--may be perhaps the best box office insurance an NC-17 picture could ever have. This especially would be the case if Body of Evidence turned out to contain, in the words of Deutsch, "the most explosive erotic scenes performed in any mainstream film, making Basic Instinct [look like] a cartoon" in comparison.⁷⁵

Deutsch's remarks are a bit misleading here since, at this time, he was comparing the uncut version of Body of Evidence to the R rated cut of Basic Instinct. However, even when compared to the uncut version of Verhoeven's film, Edel's uncut movie goes much farther in its sexual explicitness.

Body of Evidence tells the story of a lawyer (Willem Dafoe) brought under the spell of his client (Madonna), who is on trial for "fornicating to death" her lover in order to inherit his multi-million dollar estate.⁷⁶ Two scenes of sexual grinding and one scene of cunnilingus are longer in length and more explicit than comparable ones between Stone and Douglas in Basic Instinct: a shot of Madonna straddling Dafoe in their first sexual encounter, a scene between Dafoe and Julianne Moore making love missionary style, and a scene in which Dafoe gives oral sex to Madonna on the hood of a car. In addition to these shots of greater explicitness, Madonna's pubic hair can be clearly seen in one long shot where she kneels astride a man (but facing away from him) and makes love; Madonna masturbates under her skirt on-camera in another scene; and anal sex between Madonna and Dafoe is implied by a scene, although the diegesis does not make reference to it. In fact, the mise-en-scene of each sexual act above warrants an NC-17 on its own,

and certainly the movie could not be passed for an R in its present state.

By the end of October, two months after receiving the NC-17, MGM chose to cut Body of Evidence for an R rating. "Madonna could have overcome a lot of the stigma of the NC-17," said Deutsch about the decision, "but what we became aware of was that in the audience's mind, there is still no difference between the NC-17 and the old X."⁷⁷ While this observation is indeed true, MGM, more than likely, had never planned to adopt the NC-17 anyway. The distributor had always planned a wide release for Body of Evidence because a successful opening weekend would reassure exhibitors that it could still open films after the box office underperformance of Rush (1991), Of Mice and Men (1992), and Diggstown (1992).⁷⁸ Equivocating over an R or NC-17 also served to market the film's notoriety following bad word of mouth coming from the test screenings.

As a result of this decision, the R version of Body of Evidence (only two minutes shorter than the uncut version), is decidedly more tame. Contrary to Deutsch's generous assessment that none of the sex scenes were "totally removed"⁷⁹ and only "minor portions" of three sex scenes were cut,⁸⁰ the distributor manipulated, trimmed, or eliminated from nine scenes almost every shot of sexual grinding, masturbation, anal sex, and oral sex in the unrated version. The same rating demarcations that guided the editing of Basic Instinct applied in the case of Body of Evidence, suggesting that the Board is not arbitrary in its demands and judgments for an R rating.

Sexual grinding: All full shots have been cut or reduced in length to a few seconds: 1) The second scene of the film (Joe Mantegna's first appearance) eliminates a video monitor shot of Madonna astride a man by using alternative footage containing different angles. 2) A later video monitor shot of Madonna astride a man with her pubic hair visible is cut and replaced with alternative footage. 3) The first sex scene between Dafoe and Madonna has been shortened from 90 seconds (NC-17) to its first 39 seconds (R). Madonna is naked on top of Dafoe in a full shot; however; at the point where she begins to move her

torso in the NC-17, the R cuts to the next scene the following morning. 4) All medium shots of Dafoe and Moore's grinding torsos in the NC-17 are removed in the R (except for a one-second glimpse of Dafoe's behind). 5) A post-coital missionary full shot remains in the R, but the lovers are stationary.

Masturbation: Madonna's masturbation scene, in which she fondles herself on-screen underneath her skirt, has been cut in its entirety for the R. All that remains is Madonna wetting her finger and sticking it down her skirt, the camera cutting away before she begins to move her hand.

Anal sex: The "rape" of Madonna by Dafoe in the R version eliminates a two-second camera pan that reveals sexual grinding higher up on Madonna's behind than is customary for vaginal penetration. The audio track accompanying Madonna's close-up--the sound of her screaming in pain as Dafoe anally penetrates her off camera--has been cut from the NC-17.

Oral sex: The oral sex scene on the car is essentially cut for the R except for one brief, dark long shot of Dafoe performing cunnilingus on Madonna. Shots of Madonna's pubic hair during sexual activity have been edited out of the NC-17. However, the end of this scene in the R version contains a nine-second grinding shot not in the NC-17. The grinding is longer than generally accepted by the CARA for a full shot. But since the scene is dark and Madonna and Dafoe are almost fully clothed (Madonna is naked from the waist down), this shot may appear to test, but not actually cross the boundaries of the R category.

Perhaps MGM should have accepted the NC-17 for Body of Evidence, given that it debuted on 2052 screens on January 15, 1993, to terrible reviews. The \$20 million film opened to only \$7.5 million box office, believed to be among the ten lowest opening weekends for pictures playing on 1900 or more screens; its box office then dropped by 59% the following week.⁸¹ MGM considered pulling all prints so the NC-17 version could be reissued in two months (per MPAA rules), but decided against it

as a new run might hurt video sales.⁸² Body of Evidence was released in its R rated theatrical version and unrated video version on 16 June 1992.

* * *

Damage

Which movie deserves an NC-17 "adults only" rating: A) the escapades of an oversexed ice-pick murderer or B) a somber study of upper-class Britons? If you picked B, you too can work for the Motion Picture Association of America.

Time magazine⁸³

Louis Malle does not make films that are pornography, or that pander to baser instincts.

Michael Lynne, president of New Line⁸⁴

I am stunned, just shocked. If Basic Instinct got an R, I think I deserve a PG-13. This is a very passionate movie. But there is no ice pick. There is no murder. There is no rape.

Louis Malle⁸⁵

The same day MGM announced Body of Evidence would be trimmed for an R to avoid what MGM co-chairperson and co-CEO Alan Ladd Jr. called "the stigma of the NC-17 label,"⁸⁶ the Board handed out the adults-only rating to another film. When Damage--a story about a married politician (Jeremy Irons) having an affair with his son's fiancée (Juliette Binoche)--received an NC-17 on 29 October 1992, its internationally acclaimed director, Louis Malle, publicly criticized the Board for the label. He accused CARA of "aesthetic myopia" for failing to distinguish between art and pornography, and for giving R ratings to gratuitously violent movies like Basic Instinct.⁸⁷ Valenti or Heffner probably would agree with Malle, saying that his claims were true because the Board does not make judgments over film quality, and that parents feel more strongly about sex than violence. Malle's lack of familiarity with the Board's standards are understandable in light of his outrage, but Martin A. Grove's editorial in the Hollywood Reporter on the unrated press-screened version of Damage,

exposed how manifest the stupefaction really is about the workings of the rating system.

After watching Louis Malle's Damage last week I couldn't for the life of me understand how the MPAA could have rated that version of the film NC-17. I spent the entire evening waiting to see something on the screen that was so sexually hot it would justify the controversial rating, but found absolutely nothing of the sort. In fact, there was significantly less sex and nudity in Damage than there was in the R rated Basic Instinct. . . .

In discussing Damage . . . with others who have seen it, I couldn't find anyone who believed it really merited an NC-17. "Next to Basic Instinct, there's no comparison," observed one veteran film marketer I spoke to, who asked to be anonymous so as not to prejudice the MPAA against him or his future product. . . .

Damage . . . is simply not an erotic movie that could satisfy anyone who bought a ticket expecting the sexual titillation that NC-17 or its predecessor X rating connote. There's very little nudity in the film and the one scene that shows Miranda Richardson bare-breasted is a totally unerotic scene of grief and anger triggered by a key plot point.

New Line president and CEO Michael Lynne shared the same view as Grove: "We strongly believe that the NC-17 rating is inappropriate for this serious and important film directed by one of the world's great filmmakers. Damage is not sexually exploitative nor gratuitously violent and presents, in a powerful and meaningful way, an important moral message."⁸⁸

Grove's and Lynne's inability to discern the justification for Damage's NC-17 was due to the fact that the controversial, one-minute scene in question--where Irons and Binoche, seated on the floor naked, engage in some rough, but playful, sex--is quite unrevealing. In fact, the scene is "backlit," said Malle, "so there is no frontal nudity."⁸⁹ Nevertheless, the decision to slap an NC-17 on Damage was consistent with Board policy on sex, despite New Line Distribution president Mitchell Goldman's claim that "Basic Instinct and other controversial major studio releases have had much more explicit and violent sex scenes and have still received an R rating."⁹⁰ Although the particular lovemaking scene in Damage did not contain any genitalia or pubic hair, one particular shot drew the NC-17.

This medium long shot featured the entire nude bodies of the actors having sex and lasted twenty-five seconds: a CARA double no-no and a shot that never appears in an "incontestable R."

Goldman said New Line had "every intention of maintaining the artistic integrity of Damage as Louis Malle originally intended it,"⁹¹ but after the film lost its appeal, the economics of the R rating won out.⁹² Damage was re-edited for a wide release with Malle's cooperation; he was contractually obligated to produce an R picture.⁹³ The Board suggested he cut the scene in its entirety,⁹⁴ but Malle instead shortened the scene by three seconds,⁹⁵ breaking up the problematic shot into three above-the-waist close-ups edited together by dissolves. In these close-ups, Malle performed an optical zoom on one shot taken from the NC-17 and substituted another shot with previously unused footage. The R still contains a brief long shot of the actors in a nude embrace, but it is post-coital (like Body of Evidence) with no sexual movement.

Malle's unfamiliarity with the rating system and Lynne's public statements that its procedures were "arbitrary" and "unfair,"⁹⁶ overshadowed the fact that the Board was actually consistent in its policies. After Damage was first submitted for a rating, the Board informed New Line of the contested scene,⁹⁷ but as usual, it did not tell the distributor how to cut it. The Board then applied the same standards for the editing of Damage as it had with Basic Instinct and Body of Evidence. On the other hand, New Line exploited the media controversy over Damage by making unsubstantiated and misinformed claims about the Board, while simultaneously earning the film free publicity at the Board's expense. Malle himself admitted that New Line's wailings, in part, were designed to buy the film a month of press coverage: "My friends at New Line told me, 'we don't mind if we have an NC-17 for a while, because we'd like to get a little publicity.'"⁹⁸ However, Malle still felt that industry politics were behind the NC-17 rating of Damage:

I think it was a bad situation that simply came from the fact that it was the end of the year and the MPAA had been accused of letting a number of films like Basic Instinct,

for instance, get away with an R rating. They wanted to maybe . . . just make an example. I think we'd been taken on this controversy almost by accident. That's what I strongly believe.⁹⁹

Malle conspiracy theories join those of Body of Evidence's Stephen Deutsch, who said that CARA "is reeling from Batman Returns (1992) criticism that it applied toughness to sexuality more than violence. I believe if they had Basic Instinct to rate over again it would be NC-17."¹⁰⁰ These assumptions, I will continue to show, are untrue.

* * *

Wide Sargasso Sea

Given the difficulty of trying to be everything to a population as diverse as America's, it's a lot to ask of the M.P.A.A. to be much better than they are. They are making an honest attempt to be representative of society, and I don't see why we can't accept that there is certain material that is suitable for adults and not for children.

Ira Deutchman, president of Fine Line¹⁰¹

Wide Sargasso Sea is no more salacious than the R-rated Basic Instinct.

John Hartl, Seattle Times¹⁰²

Unlike the case of Damage but similar to that of Body of Evidence, Fine Line, the arthouse division of New Line, dutifully accepted--without any complaints or regrets--the NC-17 given to Wide Sargasso Sea in August 1992.¹⁰³ Ira Deutchman, president of Fine Line, was willing to take a chance on the NC-17--a risk forgone by MGM with Body of Evidence--hoping to bank on the rating's notoriety and the film's quality to attract arthouse audiences. Director John Duigan's adaptation of Jean Rhys' novel (itself a "prequel" to Charlotte Brontë's Jane Eyre) about sexual obsession and madness in the mid-18th century West Indies featured a lot less sex than Basic Instinct, Body of Evidence, or even Damage). Even so, Wide Sargasso Sea still violated the parameters of the R category.

As usual, many critics failed to see the rationale behind the film's NC-17. In this instance, many erroneously attributed the rating to a shot of male genitalia. Kenneth Turan of the Los Angeles Times wrote that the "NC-17 rating is apparently due in part to a brief shot of male frontal nudity." The Atlanta Journal and Constitution's Steve Murray remarked that "a frontal shot" is still a "taboo" in Hollywood, and "the main reason for the NC-17."¹⁰⁴ And Mick LaSalle of the San Francisco Chronicle declared that the NC-17 should therefore be known as the "weenie rating."¹⁰⁵ This belief that a rating double standard exists among the sexes for frontal nudity is positively and perennially false, contradicted most recently at this time by the appearance of Jeremy Irons' penis in Damage and the R rating given a few months later to Harvey Keitel's member in The Piano (1993). Jack Valenti has been forthright in stating that there are no rules against male frontal nudity in an R film, and has even clarified the point at which the representation of the penis may cross over into the NC-17 category. "If you saw a guy sidling across a room, and he turns, it's one thing. But if he's in bed and engaged in coupling, well, that's different."¹⁰⁶

Certain critics, on the other hand, correctly observed, if in somewhat broad terms, the grounds on which the Board awarded the NC-17 to Wide Sargasso Sea. Vincent Canby of the New York Times wrote the film had "complete nudity," and Variety's Lawrence Cohn described the "frequent nude and sex scenes" as "tastefully handled, though a couple briefly have the explicit content that earned 'Sargasso' an NC-17 rating."¹⁰⁷ The "completeness" and "explicitness" of Wide Sargasso Sea's love scenes that Canby and Cohn remark upon, but cannot explicate, point to the sexual images regularly edited from films to earn an R rating: a lengthy full shot of sexual grinding between a nude man and woman, a ten-second medium shot (slightly below-the-waist) of sex in the standing position, and a close-up of a man masturbating a woman underneath her dress on-screen. These shots may be non-exploitative, but their explicitness and duration still transgressed the boundaries of the R rating.

Indeed, with a few cuts, Wide Sargasso Sea could have avoided the NC-17. This was made clear in its video release when Fine Line offered the film in its original NC-17 theatrical version and an R rated video-only version. The three scenes above were removed. The R version did include the male frontal nudity from the NC-17 version; however, as I have argued, the penis featured in a non-sexual manner can be considered R material. One other shot eliminated from the NC-17 version was a close up of Karina Lombard's dress being torn apart (revealing her breasts) in a fit of marital rape by her husband. CARA's hesitancy in passing for R certification those scenes combining sex and violence may apply here or perhaps Fine Line believed this shot accounted for the NC-17. CARA rarely pinpoints the exact moments of NC-17 to a distributor so New Line may have decided to be safe rather than sorry.

* * *

Bad Lieutenant

I demanded the right to make an unrated picture contractually. I told [Pressman] up front it would be a triple-X picture... There's one version of Bad Lieutenant and that's it. It's an adult film but not necessarily for a limited audience.
director Abel Ferrara¹⁰⁸

[Harvey Keitel's] risk-taking here ups what stars can dare on screen, much the way Brando pushed the envelope 20 years ago in Bernardo Bertolucci's Last Tango in Paris.
Lawrence Cohn in Variety¹⁰⁹

Like Fine Line, Aries Film Releasing embraced the NC-17 rating when it acquired U.S. distribution rights for Bad Lieutenant in August 1992. However, unlike Wide Sargasso Sea, Bad Lieutenant, directed by Abel Ferrara, wore its NC-17 on its sleeve, containing in it almost every imaginable vice known to humanity and regulated by CARA on its "green" sheet.. Among many unpleasant things, Harvey Keitel plays the boozing, gambling, cursing, trigger-happy, scuzzball father-of four, who also happens to be a cop and the film's protagonist; he masturbates outside a car after forcing a teenage girl to

pantomime how she "sucks a guy's cock"; he graphically shoots up drugs stolen from police busts with fellow addicts; and he investigates a crime of a nun brutally raped on an alter--her vagina lacerated with a crucifix by two Latino boys. Clearly, Ferrara's uncompromising and frank treatment of corruption, decay, and redemption was not what most people would call "respectable" entertainment or what the industry would consider "incontestable R" material.

There was no controversy over the NC-17 for Bad Lieutenant because few people would deny the film deserved the tag. Even so, an edited R version was prepared in August (the NC-17 was awarded in February) for its possible release in ancillary markets.¹¹⁰ Paul Cohen, president of Aries, found editing the film to fit the R category impossible because "the Board gave the rating for the tone and you can't cut a tone."¹¹¹ Film critic Jonathan Romney best describes the nature of Bad Lieutenant's tone in the pages of New Statesman & Society:

There's no feeling of distance between us and Keitel's intense, almost exhibitionistic performance, and Ferrara makes no concessions to our pleasure. The film's intensity is like a bad drug, oppressive but addictive. And it dares do what only real hard-case films do: to be boring. Ferrara, who made his name with The Driller Killer and Ms. 45: Angel of Vengeance [1981], is hooked on extremity, and here you get it all: drugs, blasphemy, obscenity, violence and shaky camera-work.¹¹²

Aries eventually released two versions of Bad Lieutenant on video. The video release managed to meet the standards applied to other theatrically released, R rated films at this time but the editing severely mangled the original film. This R rated, video-only Bad Lieutenant demonstrates once again how the Board is not equipped to deal with a film whose tone--what Ferrara calls the "mood" of a film¹¹³--so incessantly defiles the notion of "respectable" entertainment.

Four scenes in Bad Lieutenant were drastically re-edited to obtain this R for video:

The sex and alcohol binge between Keitel and two women:
Previously unused footage replaced every NC-17 shot (except

where Keitel spills alcohol on himself). Removed are full shots of simulated sex between the two women, Keitel's dance with a topless woman, and Keitel's three-quarter shot facing the camera with full frontal nudity. The soundtrack is also rescored.

The rape: The rape scene was trimmed from forty-nine seconds to fourteen seconds. Shots of the nun's pubic hair, sexual grinding, Jesus screaming on the Cross, and close-ups of the nun screaming have been removed in the R version. The soundtrack is also rescored.

The "blow job": The entire scene where Keitel pulls over two girls from New Jersey was entirely cut after he says to them, "You do something for me and your father won't find out you took his car and you're driving without a license." The girl's simulated fellatio and Keitel's masturbation are gone for the R rating.

Heroin use: All the close-ups of the needle injection scene between Zoe Lund and Keitel have been cut for the R.

These scenes of female "perversion," unabashed frontal nudity, the rape of a nun, mock fellatio, masturbation, and realistic drug use all dealt with issues quite offensive and/or disturbing to many people and certainly disturbing for those who hold Hollywood accountable for "respectable" entertainment. Ferrara could care less. He made Bad Lieutenant his way and not the way had he been contractually required to make an "incontestable R" for a major studio. Hence, it is not unsurprising that Ferrara distributed Bad Lieutenant through Aries Entertainment, retaining final cut of a minuscule \$1.5 million film. The film's independent distribution and low budget explains how Bad Lieutenant does not violate the commercial imperatives of Hollywood cinema: it was a non-MPAA film made for an arthouse audience with the possibility of a small returns.

Accompanied by good reviews, especially for Keitel's performance, Bad Lieutenant managed to expand its release into a few mainstream venues with its NC-17. It also demonstrates that some NATO exhibitors are willing to show NC-17 films despite the rating's contestability. While these "renegade" theaterowners probably did little damage to the notion of "respectable" entertainment, these two factors revealed that a market exists for independent NC-17 films financed on small budgets. In this light, remarks Ira Deutchman, president of Fine Line, "if [an NC-17 movie] makes a couple of million at the box office, it's going to be a success."¹¹⁴

* * *

The Lover

The latest phase of virulent, injurious fornication probably began with that ridiculous but certainly vicious prologue in Basic Instinct. We were invited to become stupefied witnesses as an unidentifiable but shapely blonde enhanced orgasm by stabbing her unfortunate bedmate with an icepick to the skull.

Gary Arnold, The Washington Times¹¹⁵

Well, we made a mistake on Basic Instinct, and we can't make that mistake again.

Kathie Berlin, MGM vice president for production and marketing, about what Richard Heffner told her.¹¹⁶

The Lover was based on the Marguerite Duras novel about a 15-year-old French girl's affair with a Chinese aristocrat of 27 in 1920s Indochina. A major international success before it opened in the United States, the film received an NC-17 from CARA in April 1992. In a move described by Variety as the "quintessentially unconventional director's cut,"¹¹⁷ director Jean-Jacques Annaud cut the film at his own behest despite protests from distributor MGM, who bought the U.S. rights to the 115 minute European version. The film was eventually approved by CARA at 111 1/2 minutes then released in the U.S. in October 1992 at 103 minutes

The circumstances surrounding the rating negotiation of The Lover were more mundane than controversial.¹¹⁸ Amid a

series of conflicting trade reports, it appears that Annaud had first unofficially submitted the unrated European version to the Board for their opinion. After being told it probably would be rated NC-17, Annaud cut 3 1/2 minutes from graphic sex scenes in the film and sent it back to CARA to be officially rated. CARA still gave The Lover an NC-17, and in attempts to resubmit the film for an R, Annaud cut another 8 1/2 minutes, mostly dealing with pace. At MGM's request, Annaud then appealed the rating to the RAB and reinserted the 8 1/2 minutes back into the film for the hearing. The Lover won its appeal in July after MGM vice president Kathie Berlin argued the case with the help of Annaud, sexuality educator Lennie Roseman,¹¹⁹ and a letter of support from Seventeen editor Midge Richardson.

At the hearing, Berlin contended that the explicit sex scenes in The Lover, unlike Basic Instinct, showed romantic heterosexual love, rather than gratuitous sex and violence.

I talked about Fatal Attraction and Basic Instinct which showed violent lovemaking and lesbianism, and most of the lovemaking is Michael Douglas throwing someone over the back of the chair.¹²⁰

Even though the appeal was successful, the 8 1/2 minutes of cuts were removed once again from The Lover for its U.S. release date, thus totaling twelve fewer minutes than its European release. In addition, Annaud edited out a voice-over stating the girl's age--fifteen--because of current cultural fears of child abuse. One report states CARA demanded this cut while another report suggests Annaud chose to do it himself.¹²¹

In any case, The Lover, even in its shorter and final U.S. release version, contained perhaps the most explicit depictions of sexual intercourse ever to appear in an R rated film, even to this very day. MGM's co-chairperson and co-CEO, Alan Ladd Jr.'s statement about the 111 1/2 minute cut of The Lover--"There is no graphic sex in the entire picture and certainly nothing in this picture that you haven't seen before."¹²²--displayed a great ignorance of the policies governing CARA's decisions, at both the rating board and appeals board stage. The R version of The Lover may not include shots of oral, anal, or other forms of non-traditional sex found in Basic Instinct,

but its images of intercourse are more sexually graphic and longer in length than similar scenes in the R rated or unrated versions of Verhoeven's film.

There are five major sex scenes in the R version of The Lover and each one involves the missionary position;¹²³ Jane March appears full frontal and Tony Leung is naked from behind. The first three scenes are the most sexually explicit. Both actors are fully nude, simulating sexual intercourse in a completely realistic manner. Long and full shots of the two of them "grinding" repeatedly occupy the frame. For instance, in the third sex scene when the two nude actors make love on the floor, the camera does a one-minute slow dolly in from a long to a full shot. As can be illustrated by the case of Basic Instinct, the framing and length of this particular shot of sexual intercourse is usually replaced with alternative angles, or cut after a few seconds of grinding--neither of which were done in The Lover.

The obvious question, then, is: how did the Board certify the film as an R? The answer is: the Board didn't. As mentioned above, the Board gave MGM an NC-17, but the RAB reversed the rating on appeal. Therefore, the R for The Lover suggests arbitrariness not on CARA's part, but arbitrariness on the part of the RAB. If any blame must be placed, it should be placed upon the members of the RAB, who for some unknown reason reversed The Lover's rating. Perhaps Kathie Berlin persuaded them that the rating should be changed. She told the Los Angeles Times, "In Basic Instinct, it wasn't lovemaking, it was rough violent . . . f---ing was the word I used. I said, If you're worried about what kids are seeing worry about that!"¹²⁴ Berlin also asked the RAB, "If you have stars, is it different? Is Michael Douglas' ass an R but Tony Leung's an NC-17?"¹²⁵ Berlin's victory demonstrates that the boundaries of CARA's R rating had not been expanded by Basic Instinct, as many critics alleged, since CARA awarded The Lover an NC-17.

Perhaps the RAB felt that the exoticism and "otherness" of the characters and their surroundings would be less objectionable to parents with children or reform groups, especially in light of the fact that The Lover's arthouse

destination would bypass the family audience. Or, could MGM/UA, an MPAA signatory, have placed pressure on the RAB for an R? Whatever the case may be, it is the rating board of CARA that receives the brunt of criticism from members of the public if they disagree with an assigned rating. While the RAB serves as a check or balance for the rating system, successful appeals can establish precedents that the Board may not want to apply to future rating system. Obviously, this setup breeds inconsistency, confusion, and hostility in the rating system. Filmmakers would argue--and rightly so--that "you passed so and so movie with this and that so you must pass mine," even though the film was passed for an R only on appeal. Critics would complain--and rightly so--that the system is arbitrary and doesn't work. The fact that such inequities occur at all, especially for a sexually explicit film like The Lover, suggests that CARA and the RAB are independent of each other, but more importantly raises serious questions about the political and economic concerns influencing RAB decisions.

Filmmakers over the next few years continued to refer to Basic Instinct as the outer limit of sexual imagery for the R rating. The Lover, for some reason, never served as their cited precedent, even though it was much more graphic in its R version than the Verhoeven film and may have better served those filmmakers fighting appeals for an NC-17 rating. Subsequent attempts to imitate Basic Instinct's success by one-upping the film's notorious sex scenes failed at the box office. While the quality of these films can be debated, CARA's rating decisions can not; each film closely abided by the standards of the "incontestable R" laid out in Basic Instinct.

¹Quoted in Jill Abramson, "Burying the X," Premiere (U.S.), January 1991, pg. 30.

²Quoted in Hal Lipper, "Again, X Marks a Sore Spot," St. Petersburg Times, 24 September 1990.

³Richard Heffner, "Mailbag: In Defense of Film Rating Practices," New York Times, 24 August 1980. His emphasis.

⁴Movie Ratings and the Independent Producer, A report of the Subcommittee on Special Small Business Problems of the Committee on Small Business. House of Representatives. Ninety-Fifth Congress, Second Session. Report no. 95-996. 21 March 1978. Pg. 79.

- ⁵Quoted in Aljean Harmetz, "Movie Ratings--Too Much of a Mystery?" New York Times, 3 May 1978.
- ⁶Charles Champlin, "Good Riddance to the X, But Woes Remain," Los Angeles Times, 16 October 1990, Calendar.
- ⁷The MPAA began explaining ratings of PG and PG-13 films in July 1992.
- ⁸"MPAA Ratings," Variety, 18-24 September 1995, 18.
- ⁹"MPAA Ratings," Variety, 12-18 December 1994, 16.
- ¹⁰Quoted in Benjamin Svetkey, "Why Movie Ratings Don't Work," Entertainment Weekly, 25 November 1994, 30.
- ¹¹Quoted in Leonard J. Leff and Jerold L. Simmons, The Dame in the Kimono (New York: Grove Weidenfeld, 1990), 279.
- ¹²See Jack Valenti, "X Means Protecting Children, That's All," New York Times, 5 August 1990, 14.
- ¹³Quoted in Brooks Boliek, "3 Decades Later, Valenti Works on Ratings Sequel," Hollywood Reporter, 15-17 November, 1996, 44.
- ¹⁴As of November 1996, there have only been 250 appeals with only 1/3 of CARA's decisions reversed.
- ¹⁵William Paul, Laughing Screaming: Modern Hollywood Horror and Comedy (New York: Columbia UP, 1994), 11-12.
- ¹⁶Arthur Knight, "'G' as in Good Entertainment," Saturday Review, 1 March 1969, 40.
- ¹⁷Sam Frank, "Counterpunch: Ratings Boards an Affront to First Amendment," Los Angeles Times, 31 May 1993, Calendar.
- ¹⁸Quoted in Bruce Feld, "'Sliver' Deliverer Phillip [sic] Noyce," Drama-Logue, 27 May 1993 - 2 June 1993.
- ¹⁹Quoted in Stephen Schaefer, "Director Annaud Hates Rating Game," USA Today, 17 November 1992, 10D.
- ²⁰Quoted in R. M. Townsend, "An Interview with Movie Boss Jack Valenti," Mainliner, February 1974, 24.
- ²¹American Cinemeditor, Fall 1987, 11.
- ²²American Cinemeditor.
- ²³American Cinemeditor.
- ²⁴Quoted in Richard Natale, "CARA Mia, Why?" L. A. Weekly, 9 July 1993. According to a mid 1990s pamphlet, "Everything You Always Wanted to Know about the Movie Rating System," an R "signifies that the rating board concluded that the film rated may contain some adult material. Parents are urged to learn more about the film before taking their children to see it. An R may be assigned due to, among other things, a film's use of language, theme, violence, sensuality, or its portrayal of drug use." A NC-17 "signifies that the rating board believes that most American parents would feel that the film rated is patently adult and that children under the age of 17 should not be admitted to it. The film may contain explicit sex scenes, and/or scenes of excessive violence. The NC-17 designation does not, however, signify that the rated film is obscene or pornographic in terms of sex, language, or violence." Their emphasis.
- ²⁵Quoted in Peter Wood, "'Dressed to Kill'--How a Film Changes from X to R," New York Times, 20 July 1980.
- ²⁶Quoted in Glenn Collins, "Guidance or Censorship? New Debate on Rating Films," New York Times, 9 April 1990.
- ²⁷Vincent Canby, "Film View: Anatomy of an R Rating," New York Times, 8 March 1987.
- ²⁸Quoted in Collins, "Guidance or Censorship?"
- ²⁹Quoted in Laurent Bouzereau, The Cutting Room Floor (New York: Citadel Press, 1994), 207.
- ³⁰Director commentary from Basic Instinct, Pioneer Special Edition, laser disc.
- ³¹Quoted in Steve Biodrowski, "Wes Craven Alive and Shocking!" Cinefantastique, October 1991, 11.

³²The reader should take note that the director's cut of Basic Instinct and Scream are only available on laser disc. Miramax released a collector's edition of Scream on DVD, containing extras and director commentary not available on an earlier DVD. But the collector's edition contains the same R rated version as the first printing but pulls the commentary track from the unedited laser disc. Thus at times, Craven and Williamson are discussing footage that is not present on the DVD image.

³³For an extended discussion of the cultural politics surrounding the release of Basic Instinct, see chapter four of Charles Lyons, The New Censors: Movies and the Culture Wars (Philadelphia: Temple University Press, 1997), 107-145.

³⁴Richard Corliss quotes from Movieline in "What Ever Became of the NC-17?" Time, 27 January 1992, 64. His italics.

³⁵Director commentary from Basic Instinct, Pioneer Special Edition, laser disc.

³⁶Chris Holmlund, "Crusin' for a Bruisin': Hollywood's Deadly (Lesbian Dolls)," Cinema Journal 34, no. 1 (Fall 1994): 32.

³⁷Bernard Weinraub, "Violent Melodrama of a Sizzling Movie Bring Ratings Battle," New York Times, 30 January 1992.

³⁸Quoted in Bouzereau, The Cutting Room Floor, 210-211.

³⁹Robert W. Welkos, "Director Trims 'Basic Instinct' to get R rating," Los Angeles Times, 11 February 1992, Calendar.

⁴⁰Director commentary from Basic Instinct, Pioneer Special Edition, laser disc.

⁴¹Paul Verhoeven actually approached Linda Fiorentino for the Tripplehorn role but she wanted Stone's role. Verhoeven solicited Fiorentino by demonstrating to her, what I believe, is the "date rape" scene. According to Fiorentino, "Paul said, 'but Linda, there's all this nudity and all these sex scenes and'--he actually got up out of his chair and was hanging over the table--'and you're hanging over somebody and you're making love to them, and there would be nothing hanging down.' He didn't mean to insult me. It was funny. I thought, Is this conversation about my tits? Because if it is, it's over! I literally did not get a part because of my breasts. Well, you win some, you lose some, I guess." Quoted in Holly Millea, "If Linda Fiorentino Were a Movie, She'd be Rated NC-17," Premiere (U.S.), December 1994, 84-88.

⁴²See Trish Deitch Rohrer, Jeffrey Wells, and Juliann Garey, "Adventures in the Skin Trade: Michael Douglas Courts Scandal with Kinky Hit Thriller 'Basic Instinct,'" Entertainment Weekly, 3 April 1992; and Bouzereau, The Cutting Room Floor, 191. Bouzereau indicates a fourth scene was cut by Verhoeven that was not mentioned in the Entertainment Weekly article. Upon my viewing both versions, Bouzereau is correct.

⁴³Laurent Bouzereau, The Cutting Room Floor (New York: Citadel Press, 1994), 202-203.

⁴⁴Quoted in Rob van Scheers, Paul Verhoeven, trans. Aletta Stevens (London: Faber and Faber, 1997), 253.

⁴⁵Verhoeven said the graphic nature of this scene was in response to the anger he felt from all the activists demonstrating against his film: "I was so annoyed that I shot the date-rape scene between Nick and Beth so that there was very little leeway--only to show how far you can go as a film-maker before it becomes banal. The script only touches on that meeting--but I thought, 'If they want to take offence at something that much, then I'll give them something to take offence at!' . . . Very brave of Michael Douglas to play that so explicitly, because at that moment he did not say, as so many stars in Hollywood would have done, 'This is too risky, I have to think of my audience, I mustn't alienate them.'" Quoted in van Scheers, Paul Verhoeven, 249.

⁴⁶These comparisons are derived from four sources: a personal viewing of the unrated laser disc version of the film; Deitch Rohrer, Wells, and Garey, "Adventures in the Skin Trade"; Bouzereau, The Cutting Room Floor, 180-216; and David Morrell, "Basic Instinct (laser disc review)," Perfect Vision, 1994, 152-155.

⁴⁷Paul Verhoeven, Showgirls: Portrait of a Film (New York: Newmarket Press, 1995), 13.

⁴⁸Bouzereau, The Cutting Room Floor, 187-188.

⁴⁹For a further discussion of the myriad of cuts on his films, see Wes Craven, "MPAA: The Horror in my Life," Films in Review, (September/October 1996): 34-39.

⁵⁰See Michael Banka, "Interview on Elm Street," Cineaste 17 (February 1990); and Ian Grey, Sex, Stupidity and Greed: Inside the American Movie Industry (New York: Juno Books, 1997), 110-111.

⁵¹Todd Lippy, "Directing 'Scream': A Talk with Wes Craven," Scenario 3, no. 1 (spring 1997): 144.

⁵²Wes Craven, "MPAA: The Horror in My Life," Films in Review, (September/October 1996): 36-37. His italics.

⁵³Ian Grey, Sex, Stupidity and Greed: Inside the American Movie Industry (New York: Juno Books, 1997), pgs. 112, 114.

⁵⁴John Kenneth Muir sees the "hypocrisy of the American family" as the central ideological theme to Craven's work. See Muir's Wes Craven: The Art of Horror (Jefferson, N.C.: McFarland & Company: 1998).

⁵⁵See Chris Garcia, "One Last Scream," Fangoria (March 1997): 23; and Grey, Sex, Stupidity and Greed, 111.

⁵⁶Scream DVD.

⁵⁷Scream DVD.

⁵⁸Scream DVD and laser disc.

⁵⁹Steve Simels wrongly reports that this scene was one of the many Craven had to cut. See Steve Simels, "Slashed and Burned," Entertainment Weekly, 5 September 1997, 81

⁶⁰I don't have an explanation for this discrepancy. Perhaps Craven's memory fails him. See Steve Simels, "Slashed and Burned," Entertainment Weekly, 5 September 1997, 81; and the commentary by Wes Craven on the Scream laserdisc or DVD.

⁶¹Robin Finn, "At Lunch with: Wes Craven," New York Times, 2 January 1997.

⁶²Vern Perry, "Craven images; Laser version of 'Scream' brings out its bloody best," Tulsa World, 29 August 1997.

⁶³Merriam-Webster's Collegiate Dictionary, tenth edition (Springfield, MA: Merriam-Webster, Inc., 1994).

⁶⁴Quoted in Judy Brennan, "'Lover' Director in Cutting Mood," Daily Variety, 23 June 1992. Emphasis added.

⁶⁵John Horn, "Fear of Adults-Only Rating Prompts Changes in Madonna Movie," Associated Press, 30 October 1992.

⁶⁶Bruce Feld, "'Sliver' deliverer Phillip [sic] Noyce," Drama-Logue, 27 May 1993 -2 June 1993

⁶⁷Thomas Doherty, "Basic Instinct," Cinefantastique, October 1992, 5.

⁶⁸John Hartl, "NC-17 Can Stir Up Controversy--As Well as the Box Office," Seattle Times, 17 January 1993, L4.

⁶⁹William Grimes, "NC-17 Rating Declares a Film is . . . What?" New York Times, 30 November 1992; David J. Fox, "R vs. NC-17--What's the Difference? Filmmakers, Exhibitors, are Bewildered by Inconsistent Ratings," Los Angeles Times, 18 January 1993, Calendar; Mark Harris, "Abridged Too Far?" Entertainment Weekly, 15 January 1993

⁷⁰Quoted in Horn, "Fear of Adults-Only Rating Prompts Changes in Madonna Movie."

⁷¹Quoted in Jane Galbraith, "Politician Doesn't want Madonna's 'Body,'" Los Angeles Times, 23 April 1992, Calendar.

⁷²Duane Byrge, "'Body of Evidence,'" Hollywood Reporter, 11 January 1993.

⁷³Quoted in David J. Fox, "Madonna Set to Push Limits Once More with NC-17 Movie," Los Angeles Times, 31 August 1992.

⁷⁴Quoted in Kirk Honeycutt, "Madonna's 'Body' Film May Try NC-17 Release," Hollywood Reporter, 31 August 1992, 38. His emphasis.

⁷⁵Quoted in Judy Brennan, "MGM Planning No Appeal as 'Body' is Rated NC-17," Daily Variety, 31 August 1992.

⁷⁶Body of Evidence's similarity to Basic Instinct is remarkable. Both begin as women-on-top sex leads to murder; "One has his heart stopped by an icepick, the other by a drug and exercise-induced thrombosis." The plots involve a sexual aggressive woman who seduces the lawman whose deaths attract. They also contain a mysterious "other woman" with a hidden agenda. Both films also have plenty graphic and non-traditional sex scenes as their showpieces. See Jack Mathews, "The 'Evidence' Seems Instinctive," Newsday, 18 October 1992.

⁷⁷Quoted in David J. Fox, "Madonna Movie Will be Edited for 'R.'" Los Angeles Times, 30 October 1992, Calendar.

⁷⁸See Doris Toumarkine, "MGM Weighs NC-17 Release of 'Evidence,'" Hollywood Reporter, 12 January 1993.

⁷⁹"'Body' Checks," BPI Entertainment News Wire, 24 November 1992.

⁸⁰See Fox, "Madonna Movie Will be Edited for 'R'"; and Horn, "Fear of Adults-Only Rating Prompts Changes in Madonna Movie."

⁸¹See Kathy Tyrer, "Rules of 'Evidence'; Pundits Cast Marketing as Central in Film's Flop," Adweek, 1 February 1993. Tyrer says that "research showed that the demographics of the Madonna audience are far from that needed for a major feature film. 'From a movie marketing standpoint, the project came with built-in problems,' said a source involved with the research. 'It was a fairly narrow, young, female and also homosexual following.'"

⁸²Doris Toumarkine, "MGM Tug-of-War over Hot 'Body,'" Hollywood Reporter, 19 February 1993. When the NC-17 version of Body of Evidence finally made its appearance on video on 16 June, dealers could purchase the film, along with The Lover and a "passion pack," for a special price. The "passion pack" included: a Body of Evidence champagne bottle bubble bath, a champagne glass, an eight-inch candlestick, a lead crystal candlestick holder, and a pair of handcuffs. Last Tango in Paris and the unrated 9 1/2 Weeks were also thrown in for free with the deal. See Passion Pack Offer, June 1993 Videocassette Preview, MGM/UA home video.

⁸³"A Respected Foreign Filmmaker Duels with American Movie Ratings," Time, 4 January 1993, 16.

⁸⁴Quoted in William Grimes, "Reviewing the NC-17 Rating: Clear Guide or an X by a New Name?" New York Times, 30 November 1992.

⁸⁵Quoted in Horn, "Fear of Adults-Only Rating Prompts Changes in Madonna Movie."

⁸⁶Quoted in Kirk Honeycutt, "Stigma of NC-17 Label Driving Away Filmmakers; Malle's 'Damage,' and Madonna's 'Body' Dodge," Hollywood Reporter, 1 November 1992.

⁸⁷Quoted in Bernard Weinraub, "Louis Malle Cuts a Film and Grows Indignant," New York Times, 22 December 1992; John Evan Froom, "Malle Charges MPAA with 'Aesthetic Myopia,'" Daily Variety, 16 December 1992; and "Malle: MPAA Ratings 'Aesthetic Myopia,'" Hollywood Reporter, 16 December 1992.

⁸⁸Quoted in Andy Marx, "'Damage' Appeals Don't Sway MPAA; Even after Star-Studded Pleas, NC-17 Sticks to Malle's Pic," Daily Variety, 13 November 1992.

⁸⁹Quoted in Honeycutt, "Stigma of NC-17 Label Driving Away Filmmakers."

⁹⁰Quoted in John Evan Froom, "'Damage' Appeals NC-17; 'Body' Edited for R Rating," Daily Variety, 30 October 1992.

⁹¹"New Line Cinema to Appeal MPAA's NC-17 of Louis Malle's Damage," New Line Cinema press release, 29 October 1992.

⁹²Malle was recuperating in Los Angeles following heart surgery. He arranged for a videotaped statement to be played for the RAB. New Line President and CEO Michael Lynne and director Mike Nichols attended the hearing. See Marx, "'Damage' Appeals Don't Sway MPAA."

⁹³Judging from press reports, it appears that New Line had hoped the film would win its appeal and be rerated R without cuts. However, when it lost, all their public declarations about artistic expression and respecting the work of an international filmmaker turned out to be all marketing talk. Malle, knowing New Line needed an R and that he was contractually obligated to deliver one, re-edited Damage, however reluctantly, for a wide American release. See Chris McGowan, "Voyager Looks to Reap Spoils from 'Damage' Laser Exclusive," Billboard, 10 July 1993; and Mark Harris, "Abridged Too Far," Entertainment Weekly, 15 January 1993.

⁹⁴Timothy Gray, "Ratings Still Rankle After All These Years," Variety, 10-16 January 1994.

⁹⁵Other reports range from four to nine seconds. However, when comparing the two versions on DVD, the total clocks in around three seconds.

⁹⁶Quoted in Froom, "Malle Charges MPAA with 'Aesthetic Myopia.'"

⁹⁷In one widely circulated article, Malle denies that CARA explained what scene was objectionable. "They never tell you anything. They just tell you you will get an NC-17 but that if you want to come back with some changes, they will reconsider." See Jamie Portman, "Movie not Getting Fair Shake by U.S. Ratings System," Montreal Gazette, 21 December 1992.

⁹⁸Quoted in Harris, "Abridged Too Far."

⁹⁹Louis Malle, interview, Damage laser disc, Criterion.

¹⁰⁰Quoted in Fox, "R vs. NC-17--What the Difference?"

¹⁰¹Quoted in Grimes, "Reviewing the NC-17 Rating."

¹⁰²John Hartl, "'Wide Sargasso Sea' Sexy but Not Satisfying (review)," Seattle Times, 7 May 1993.

¹⁰³The film did not open until 16 April 1993. Wide Sargasso Sea was released on video in both NC-17 and R versions.

¹⁰⁴Steve Murray, "Crusin' with Karina: Model -Turned-Actress Sails from Steamy Role in 'Sargasso Sea' to Big-League Thrills in 'The Firm,'" Atlanta Journal and Constitution, 24 May 1993.

¹⁰⁵Kenneth Turan, "'Wide Sargasso Sea' Implausible but Atmospheric (review)," Los Angeles Times, 23 April 1993, Calendar; Mick LaSalle, "Highfalutin' Hots on the 'Wide Sargasso Sea (review)," San Francisco Chronicle, 14 May 1993.

¹⁰⁶Quoted in Suzanna Andrews, "She's Bare. He's Covered. Is There a Problem?" New York Times, 1 November 1992.

¹⁰⁷Lawrence Cohn, "Wide Sargasso Sea (review)" Daily Variety, 14 April 1993.

¹⁰⁸Quoted in Lawrence Cohn, "Aries to Release NC-17 'Lieutenant,'" Daily Variety, 3 August 1992, 8.

¹⁰⁹Lawrence Cohn, "Bad Lieutenant (review)," Daily Variety, 6 May 1992.

¹¹⁰Cohn, "Aries to Release NC-17 'Lieutenant,'" 8.

¹¹¹Quoted in Doris Toumarkine, "NC-17 Doesn't Bust 'Lieutenant,'" Hollywood Reporter, 4 December 1992.

¹¹²Jonathan Romney, "Bad Lieutenant (review)," New Statesman & Society, 19 February 1993.

¹¹³Quoted in Chris Willman, "Off Centerpiece: Abel Ferrara: Lights! Camera! Anguish!" Los Angeles Times, 3 January 1993, Calendar.

¹¹⁴Quoted in David Landis, "NC-17 Finds New Appeal," USA Today, 23 November 1992, 4D.

¹¹⁵Gary Arnold, "Erotic Thrillers; Sex on the Big Screen Leaves Very Little Unseen," Washington Times, 17 January 1993.

¹¹⁶Quoted in William Grimes, "Reviewing the NC-17 Rating: Clear Guide or an X by a New Name?" New York Times, 30 November 1992.

¹¹⁷Brennan, "'Lover' Director in Cutting Mood."

¹¹⁸My historical understanding of the situation is pulled from the following sources: Brennan, "'Lover' Director in Cutting Mood"; Steve Pond, "Editing for Effect; Drastic Cut of 'The Lover' was Director's," Washington Post, 26 June 1992, D6; Joseph McBride, "'Lover' Embraces R Rating after MPAA Dumps NC-17," Daily Variety, 17 July 1992; Colin Waters, "'Lover' Second Time Around; If not Lovelier, Franker Telling is Still Masterful," Washington Times, 25 October 1992, B6; Jane Galbraith, "Steam From Saigon," Los Angeles Times, 30 October 1992, Calendar; Stephen Schaefer, "Director Annaud Hates Rating Game," USA Today, 17 November 1992, 10D.

¹¹⁹The New York Times identified this person as Lenore Rosenman. I do not know which name is correct. See Andrews, "She's Bare. He's Covered. Is There a Problem?"

¹²⁰Quoted in Grimes, "Reviewing the NC-17." _

¹²¹See Schaefer, "Director Annaud Hates Rating Game," 10D; and Mitchell Fink, "The Hand that Robs the Cradle," People, 9 November 1992, 43.

¹²²Quoted in Brennan, "'Lover' Director in Cutting Mood."

¹²³The unrated European version never submitted to CARA, contains around twenty-five more seconds of sexual movement in its first three love scenes, while the fourth love scene includes an additional seventy second insertion of shots where March makes loves astride Leung. In the U. S. version, we see her turn over on top of him and the film cuts to a brief close-up of her astride him. However, the film then cuts immediately back to a missionary position shot. In the unrated version, a brief shot of his penis can even be seen entering her. March and Annaud both deny that she and Leung actually made love on the set. However, this shot does look pretty real.

¹²⁴Quoted in Harris, "Abridged Too Far?"

¹²⁵Quoted in Harris, "Abridged Too Far?"

CHAPTER FOUR

They'll let a picture where someone is being ice-picked get an R rating and this, showing love scenes, is having this trouble.
anonymous¹

We had no choice but to go for an R rating. It makes fiscal sense . . . so it's like a gun to your head to get an R.

Carl Mazzone, producer of Boxing Helena²

Following Basic Instinct and Body of Evidence, a succession of sexual thrillers flooded the box office in the mid-1990s. Sliver (1993), Boxing Helena (1993), Dangerous Game (1993), and Color of Night (1994) were initially awarded an NC-17 before their R rating while the filmmaker of Showgirls (1995) gleefully accepted their NC-17 as a badge of pride. Each film was a box office failure--effectively eliminating graphic cinematic sex from mass audience theatrical features. Nevertheless, their rating negotiations for an "incontestable R" for theatrical release (Showgirls for video release) justifies the integrity of the Board's practices. In addition, an analysis of the controversies surrounding these films gives greater validity and credence to the six claims set forward in the previous chapter--a argument that can only be made by a large sample group in a specific historical period. I will discuss these films in non-chronological order, as CARA's code of self-regulation at this time remained consistent and fair, uninfluenced by wider social and cultural determinants.

* * *

Sliver

Billy does things in this movie that most stars would never dream of doing. Without question, it's the sexiest leading-man role ever written for the screen.

unnamed source on William Baldwin³

I walked by the art director's office and he was laughing. I said what's so funny? He said it says here (in the paper)

we're reshooting because of the sex scenes. I go, are we? He says, naaah, I don't know where they got that. I guess it's good publicity.

Tom Berenger, on the production difficulties of Sliver⁴

There isn't a leading man who will do frontal nudity. And there isn't a leading lady who won't.

producer Robert Evans⁵

The ratings controversy surrounding Sliver was a classic tale of studio hype. Perhaps knowing that the first cut submitted to CARA transgressed the standards set for the R category, the filmmakers of Sliver nevertheless proceeded to attack the Board's policies for publicity purposes.

Sliver's marketing campaign assured audiences one thing: the film would contain more graphic sexuality than Basic Instinct. As a centerpiece, the media first reported that director Phillip Noyce had promised full-frontal male nudity, yet he later explained--conveniently a few months after Sliver's U.S. release--that his words were taken out of context.⁶ Even so, it is clear that Noyce, who was contractually obligated to deliver an R to Paramount, fueled these reports. On the set, he called CARA's rating qualifications "hypocritical and a bit of a double standard" since he believed a shot of a fully nude male--and not a female--earned a film an automatic NC-17.⁷ Like many directors and critics before him, Noyce was wrong in this assumption. The following R rated film--Damage, The Piano, the video version of Wide Sargasso Sea, The Crying Game (1992), The Waterdance (1992), Short Cuts (1993), and Schindler's List (1993)--all had full-frontal male nudity. Even so, Noyce did make good on his full-frontal promise, in a way; the R rated cut of Sliver did contain one shot of male genitalia, but they were not Baldwin's. The honors went to an extra shown on one of the many video monitors in Baldwin's apartment. Perhaps not surprisingly, it was later revealed that Baldwin actually had a clause in his contract stipulating he could only be shown nude from the back.⁸

Even without Baldwin's penis, graphic sex scenes did remain in the uncut version of the film. However, Sliver was ultimately trimmed to an R, its cuts conforming to standard Board policy at the time. Statements made by the production staff on the nature of the rating deliberations were repudiated by Richard Heffner and correctly so. Producer Robert Evans declared the NC-17 was given for its voyeurism theme, but Heffner replied: "We don't give a shit about anybody's theme."⁹ A source reported the Board asked for Paramount to make 110 cuts to receive an R.¹⁰ Heffner, in turn, laughingly remarked, "Maybe 110 frames."¹¹ And when asked if the Board demanded certain facial expressions be cut because they were deemed too orgasmic, Heffner replied "Bullshit. The expression on somebody's face?"¹² These allegations of taboo subject matter for the R category and of specific editing advice offered by CARA perpetuate the false and misleading notions of the Board's practices. More in line are the generalities postulated by Noyce. "We'd get back this list [from the Board]", he said, "and it would say, 'At 843 feet man with head between woman's legs.'"¹³ He later admitted that the NC-17 rating was for the sexual scenes deemed "too hot and steamy" and "unconventional" for the Board; "the movement of bodies, the position of lovers, [and] the bluntness of lovemaking" were the barriers to Sliver's R.¹⁴

Only the theatrical R-rated version of Sliver is available on video. Even without the benefit of the unrated version, by comparing media reports to the R version, I have been able to approximately determine that the three scenes reportedly edited involved shots typically unacceptable for an R rating: masturbation and sexual grinding.¹⁵

The first series of cuts involved the scene where Stone masturbates in a bathtub. Simulated on-screen masturbation had previously been edited out of films to achieve an R (Body of Evidence, Wide Sargasso Sea). Sliver, in its R version, conformed to this standard by not showing any on-screen movement of Sharon Stone's hand in her vaginal area. Instead, the scene contained shots of her free hand sliding along the side of the bathtub and close-ups of her face.¹⁶

The second contentious scene occurred where Stone makes love astride Baldwin. Extended shots of grinding were apparently removed and replaced by facial close-ups and medium shots above-the waist. A one-second shot of a bare-butt Stone remained in the R version. Reflecting on this scene Noyce said CARA told him the scene "might be okay as long as she didn't move but it's hard isn't it? To make love without moving."¹⁷ Noyce's statement confirms my argument that lovers can be nude astride one another as long as they remain frozen.

The third scene involved Stone standing up in front of a window and clutching a marble column as a bare-butt Baldwin penetrates her from behind. A graphic two-second, "darkened" long shot is all that remains as the scene is intercut between the all-too familiar-mediums shots and close-ups. The shot's length and degree of explicitness cohered with CARA policy. Additionally, close to two dozen separate shots were excised from video monitors that showed situations of sex, showering, masturbation with a vibrator, male frontal nudity, and an orgy.

As it happened, the second scene discussed above needed to be reshot,¹⁸ a consequence of Noyce not having alternative covering footage, unlike Verhoeven or Ferrara, for potential rating problems. Although the Australian-born Noyce directed two Hollywood films--Blind Fury (1990) and Patriot Games (1992) after the international success of Dead Calm (1989)--the male action-adventure genre that these two American pictures belonged to perhaps did not prepare him, he said, for tackling Hollywood sex scenes: "I probably got into more trouble with this picture than an American director because I am a little out of touch with the morality of this place." ¹⁹ Noyce added:

I should have been aware of possible objections such as those Louis Malle faced with Damage. When Juliette Pinoche [sic] sat astride her lover, the ratings board asked Louis to cut the image. It seemed so silly because if they're worried about an image of sex that is upsetting or violating or something, its arguable that there's nothing more violating than the missionary position. The position they objected to is a sharing position, and the image in question is quite beautiful . . . as it was in the original cut of Sliver. Nevertheless, that was one of the images they particularly took exception to.²⁰

Despite Noyce's personal opinion of the invasionary nature of the missionary position, CARA did not share his belief or treated Sliver any differently than Damage. If the unrated version of Sliver is ever released, the roughly 50 cuts (totaling around 40 seconds) should confirm that Noyce trimmed footage regularly edited from other films to receive an R.²¹

* * *

Color of Night

After The Lover, any love scene is TV--nothing!
Jane March²²

Because I appeared naked in the film, because you see me frontal nude, you're going to assign an X rating to it. I mean, why is it okay for Sharon Stone to go, "Hello, everyone, I'm Sharon Stone," and that's okay?
Bruce Willis²³

The controversy manufactured by Walt Disney with Color of Night in the first half of 1994 rivals outrivals the negotiations Paramount had with Sliver. An account of the Disney's shameless machinations in promoting the film through cries of censorship points to the disingenuousness of many of the attacks directed at CARA by film studios and talent. In all probability, Disney and Cinergi, the production company for Color of Night, inflamed the polemic often suggested about the Board's double standards for male and female nudity in order to market the beleaguered picture which had received immensely negative test screenings. Director Richard Rush had already been fired off the film--an erotic thriller about an emotionally vulnerable psychologist and his therapy group--during post-production because of budget overruns (\$40 million plus) and disagreements over a releasable cut of the film.²⁴ The latter disagreement partially arose from the Board's objection to certain images of sex and violence in Rush's original cut that played at the Venice Film Festival. Since Cinergi was contractually obligated to deliver an R rated cut to Disney--who themselves would not release an NC-17 picture--

Color of Night's release was subsequently pushed back from April 29 to August 19.

Variety initially reported that the controversy involved two scenes featuring full frontal nudity of Bruce Willis and Jane March that had to be cut to avoid an NC-17.²⁵ However, the participants of Color of Night claimed the Board's rating was sexist because Willis' penis, and not March's vagina, was the barrier to an R rating. (Boston Herald critic Stephen Schaefer called this the "Will we-or-won't we see all of Willis?" campaign.)²⁶ Subsequently, Willis told CNN that the sex scenes were recut because "the female nude form gets an R rating and the male nude form gets an X rating."²⁷ Newsday linked Color of Night's rating difficulties and its penis problems to CARA's supposed "slip-up" with Basic Instinct two years earlier.²⁸ Numerous publications suggested that the only way to see his penis would be in Rush's original and unrated version of the film on video.²⁹ This is due to the fact that Rush supervised the completion of the theatrical cut dictated by Cinergi, but as part of the settled creative dispute that saw him removed from the film, Rush won the right to have his version--a director's cut--exclusively released on home video.³⁰

While director's cut are traditionally released on video in addition to, and not in place of, the theatrical film version, the peculiarity of the video version of Color of Night stems not from seventeen more minutes of footage, a different ending, additional subplots, and more sexually explicit material, but that the film still carried an R rating.³¹ This quandary raises the inevitable question: How did Color of Night keep the same rating with the supposedly "NC-17" material put back into the film?

One explanation given by Rush was that "this time the ratings board was more lenient."³² However, when looking at the video version of Color of Night, it contains nothing more explicit than what was passed in previous R films like Basic Instinct, Body of Evidence, or Sliver. Both Willis and March singly kiss each other pelvic regions, but there is no suggestive oral sex or visible pubic hair in the frame during these acts that may raise the red flag for the Board. Many

potential NC-17 shots have been trimmed through a series of dissolves to avoid lengthy, sexual grinding.³³ Perhaps objected to are three individual shots, yet these can also be explained. A five-second crane shot of March astride Willis in the pool contains little sexual movement and is questionable whether they are making love at all. A two-second close-up of their torsos reveals no pubic hair. And a brief full shot of Willis' penis in profile in the pool does not violate any standards for the R. These three shots, in my opinion, could not have been responsible for the film's potential NC-17 rating.

This opinion is validated by the fact that the U.S. video release of Color of Night is not the uncut version. Ten seconds of sex had been cut from the European theatrical cut for U.S. and Canadian video sales and rentals, and one shot involved Willis' penis.³⁴ It stands to reason that these ten seconds were too explicit for an R or else they would have been included on the North American video release. Since Disney refuses to release unrated or NC-17 films, it therefore seems to suggest that these mercurial ten seconds may have been the contentious shots arresting the film's theatrical release. The context of Willis' penis (visible in sexual grinding, proximity to face) and not just the presence of penis, would therefor be responsible for the NC-17 on Color of Night.

In an atypically frank manner, Jack Valenti alluded to this detail in Entertainment Weekly.

If Bruce Willis had stepped out of a shower and was toweling himself, or was reaching for a telephone and there was a fleeting glimpse of nudity, [the rating] would probably be an R. But if you're shown totally nude and screwing somebody on a bed, that's something else.³⁵

If we conclude from Valenti's comment that a shot of Willis' penis alone could not have warranted Color of Night an NC-17, the insinuation that CARA was sexist in its rating practices may have been part of a larger promotional campaign by Disney to attract audiences for a poorly-tested, expensively-produced film. "[Saying] there's a double standard is sheer hypocrisy," remarked Valenti in the same article. "These people are trying to get free publicity."³⁶ The U.S. video release of Rush's

director's cut in an R version supports Valenti's contention that Disney, like so many other studios, misrepresent, overstate, and fabricate controversy with CARA: the excised ten seconds most likely would have contained the problematic NC-17 shots.

This argument is greatly substantiated by the fact that the European video release of Color of Night contained different nude footage than appeared in the North American video release. The aforementioned two scenes of full frontal nudity of Willis and March that Variety suggested were supposedly the causes for the NC-17 may actually have been shots--and these two shots are featured in the European video. Both occur underwater and they involve separate medium shots of pubic hair and a lover's face in the same frame. Willis kisses the inside of March's thigh and her pubic hair is revealed; March kisses the inside of Willis' thigh and his penis is revealed. These two shots are always given automatic NC-17s by CARA. Significantly, they also last ten seconds, the amount of time reportedly cut from Color of Night for its domestic release on video.

Oddly, the European video version is not Rush's extended director's cut as reported in the press, but the theatrical European release (117 minutes) that was subsequently cut for U.S. theatrical release and unreleased on video. The inclusion of the three individual shots I earlier discounted as possible problematics for the R rating, together with these two new full frontal shots, suggest one of two things: CARA did not advise Disney of the exact shots necessary to avoid an NC-17, or Disney knew about the cuts but manufactured a controversy instead. Despite the truth, the fact that Disney management stirred up a ratings dispute was confirmed by Richard Rush.

From the beginning this was a kinky picture. It was Disney's plan all along to use the erotic elements to attract an audience. There was a tacit conspiracy between the press and the PR department to exploit the NC-17. Most of the papers suggested I was fighting for an NC-17, which was wrong. I had signed a contract to deliver an R-rated film.³⁷

Rush admitted in January, seven months before the film's release in August 1994, that he was unsure his original cut would earn an R rating from CARA.³⁸ However, he never accused the Board of any arbitrary or erratic practices in the following months. As I have shown, Rush's silence on the matter points to subterfuge and deceptiveness not on the part of the Board, but on the part of Disney.

* * *

Boxing Helena

We're not given a set of parameters and . . . without those guidelines, I can only go by other sexy movies that got an R, like The Lover and Basic Instinct. I can honestly say this movie doesn't have near as much as those movies did.

Carl Mazzocone, producer of Boxing Helena³⁹

The numerous sex scenes are good and steamy. At the same time, they are no more explicit than those seen in innumerable R-rated films, leading one to wonder once again what standards are in force at the MPAA where independent films are concerned.

Todd McCarthy, Variety⁴⁰

Disney never considered taking the NC-17 and appealing the Board's rating because of its policy against releasing NC-17 films. However, when the Board officially awarded Boxing Helena an NC-17 in July 1993,⁴¹ Main Line Pictures producer Carl Mazzocone and distributor Orion Classics were a lot more resistant to cutting Jennifer Chambers Lynch's picture.

The film about a beautiful woman divested of her arms and legs by a jealous surgeon and kept in a boxed shrine until she falls in love with him, was given the adults-only tag in January 1993. According to Richard Heffner, Boxing Helena did not receive an R because "the elements in the film discussed openly with the filmmakers will leave most parents to say this is out of bounds and NC-17."⁴² Boxing Helena's release was held up for eight months after two resubmissions to CARA,⁴³ a search for a domestic distributor (Orion Classics finally agreed to terms), and a widely publicized court case which ended in Kim Basinger having to pay Mazzocone \$7.4 million after she walked

out of production after verbally agreeing to play "Helena." The film was finally released in September with an R rating after the RAB reversed the Board's NC-17 with an 11-2 vote in July.⁴⁴ The appeals board may have contravened CARA rating policy with The Lover, but it appears in this instance, they may have remedied a misapplied NC-17.

This assessment is qualified by the lack of information surrounding Boxing Helena's ratings difficulty and the subsequent cuts, if any, that were made to the final U.S. release. Variety initially reported that two sex scenes bothered the Board--one between Sherilyn Fenn (Helena) and Bill Paxton, and the other between Fenn and Julian Sands.⁴⁵ The trade magazine later mentioned a third scene was also problematic, a 4 1/2 minute sex scene that Mazzocone said CARA found "too long and sexy;"⁴⁶ upon viewing, the love scene described is one that takes place between Sands and Nicolette Scorsese with Fenn as a voyeur.

Mazzocone resubmitted Boxing Helena to CARA only a few days after the Board first viewed it in January, this time with three seconds deleted from the Fenn/Paxton scene.⁴⁷ The expediency here may have resulted from Main Line wanting some rating "guarantee" for the film since it was set to premiere at the Sundance Film Festival on 23 January and in need of U.S. and international distribution. However, the Board told Mazzocone that the new cuts were not enough to warrant an R. This sequence of events suggests an unfamiliarity on the part of Main Line with the category's parameters,⁴⁸ a point alluded to by Mazzocone himself. "What upsets me," he said, after the Board only gave him a vague sense of what to cut, "is that in the area they're describing, the sex scenes, I just don't see what they're talking about."⁴⁹ Months later, after Boxing Helena won its appeal, Mazzocone said the love scene between Sands and Scorsese remained "intact."⁵⁰ Unfortunately, it is not known if the theatrical version of the film restored the footage cut in the two resubmissions to the Board.

If the U.S. release of Boxing Helena is indeed the original, uncut version of the film, it appears that Orion Classics vice-president John Hegeman and Mazzocone may have

correctly argued to the RAB that Boxing Helena was no more graphic than the R rated cuts of Sliver, The Lover, Body of Evidence, and Basic Instinct.⁵¹ In the two shorter love scenes, no NC-17 signposts appear except for a one-second, over-the-clothes self-masturbation shot by Fenn. In the four-minute sex scene, no full shots of sexual grinding are present (only a quick two-second, upward tilt revealing Sands taking Scorsese from behind), and an ambiguous fellatio shot lasts only a few seconds (Sands' back torso faces the camera, obscuring Scorsese's act). In fact, the fornication sequence almost entirely takes place in a medium, above-the waist, missionary position shot common to R rated films.

What can explain, then, the NC-17 given by the Board to Boxing Helena? Perhaps its members found the amputations and graphic nature of the love story not appropriate for children under 18; the combination of sex and violence/dismemberment may have alarmed them. Maybe it was due to the sexual frankness of the dialogue, or the length of the Sands/Scorsese sex scene, or the amount of fondling of bare breasts and behinds, or just the fleeting masturbation scene: the Board has awarded an NC-17 for a single shot. CARA may have considered the accumulation of these elements to be to "intense" a tone for an "incontestable R" while the RAB felt differently toward its impact. The subjective judgment inherent to a film's tone thus could explain my failure to find a clear-cut rationale for Boxing Helena's NC-17. Whatever the case may be, none of the film's visuals are any less graphic than the R versions of Basic Instinct, Body of Evidence, and Sliver.

* * *

Dangerous Game

Well, you know, they're not too keen on on-screen sex, you know. But I mean, I'm basically tired of giving that poor musician lip service. Because it seems like every time we talk about our films, we're talking these guys.

Abel Ferrara, on CARA⁵²

Abel Ferrara cut two scenes from the MGM-distributed Dangerous Game⁵³ to earn an R after the RAB upheld the Board's NC-17 in October 1993.⁵⁴ The movie-within-a-movie story of a director (Harvey Keitel) whose obsession with his film and its decadent stars (Madonna and James Russo) affects his real life, always had limited audience appeal; it violates the standards of mass entertainment due to its abrasiveness, a quality typical of Ferrara's work such as Ms. 45 (1981) or King of New York, 1990. However, and much like Body of Evidence, the capacity to attract a wider audience with Madonna's name as well as MGM's status as an MPAA member, most likely had led to the trimming of the film, a decision forgone by the non-MPAA-affiliated Aries Films with Bad Lieutenant.

In the first edited scene--which takes place on a television monitor--a ten-second full shot of a man taking Madonna from behind was replaced with less graphic, alternative footage in the R version. All that remains in the R was the ending close-up of the two lovers. The second scene of Russo's staged rape of Madonna was shortened by approximately twenty-five seconds. A lengthy full shot of Russo fornicating Madonna from behind on the floor is replaced with a medium above-the-waist shot of the same scene but from a different angle. Kept in both versions is the long shot up to the point where Russo tears off Madonna's underwear and proceeds to enter her. "Panty-tearing" seemed to earn an R, as similar shots were also passed in Basic Instinct and Body of Evidence. In any case, the above cuts conformed to Board policy.

Showgirls

The first time I read Joe's script for Showgirls, I knew that I could not make this film in a way to satisfy myself, ethically and artistically, and at the same time satisfy the normal studio requirement that a director must meet the MPAA Rating Board minimum standards for an "R" rating. We knew rather early in the development of this movie that sexuality and sexual power would be one of the core dramatic issues, but we didn't think in terms of ratings. The emerging prospect of trying to direct an adult movie that deals with naked dancers

within the arbitrary "R" strictures of the Rating Board made me very unhappy.

Paul Verhoeven⁵⁵

Even though Verhoeven intentionally made Showgirls as an NC-17, the sex in the film was graphically less explicit than either version of The Lover or the unrated cuts of many of the pictures previously discussed: no masturbation, no oral sex, no pubic hair "sex shots," or pubic hair and face proximity. The tameness of the theatrical cut is reflected by the fact that only 61 seconds of the film was cut for the R video version in January 1996, three and a half months after its September theatrical release.⁵⁶ Showgirls took only four submissions to CARA to earn the lower rating for video, a promptness surprising even Verhoeven.

On Basic Instinct, we went back to them nine times to get an R. We cut about 45 seconds. I thought it would be much worse with Showgirls. We'd probably lose three or four minutes. . . . Knowing the script, everybody agreed that it would not be possible to make this movie as an R without too much cutting. In fact, we were all wrong.⁵⁷

An additional twenty seconds were replaced with different camera angles or optical zooms while some sex scenes were sped up to shorten their duration.⁵⁸ Almost all the stage and sexual nudity was kept in the R version, reinforcing the argument that it is not the amount of nudity that bothers the Board, but the context and aesthetic in which it appears.

Three major scenes in the NC-17 version of Showgirls--the lap dance, swimming pool, and rape--were modified to the Board's regular R specifications. In Elizabeth's Berkley's lap dance for Kyle MacLachlan, full shots of her touching her genitals through her g-string, and touching Kyle's genitals through his pants, were replaced with close-ups of their faces. Much of Berkley's lap grinding had its NC-17 full shots replaced with above-the-waist medium shots. And MacLachlan's six-spasm orgasm, a rare occurrence for a male in commercial cinema, was reduced to one spasm.

For the hot tub lovemaking scene between Berkley and MacLachlan, the same editing techniques were employed: medium

above-the-waist shots replacing sexual grinding long shots, and an overall reduction in the length of the scene. An additional shot of Berkley reaching into the water to insert MacLachlan's penis inside her was cut for the R version. For the rape of Gina Ravera, penetration and sexual grinding full shots were entirely cut as well. A cut back to a medium shot of the rapists is also shortened.

Additionally, other scenes were trimmed for the R. During Berkley's first stripping number, a long shot of the actress sexually placing her fingers inside her g-string have been replaced with a close-up. In the same scene, a shot of fellow stripper Rena Riffel's vulva as she crawls on the floor was cut. In a later strip scene, a mock grinding performance on stage between a nude Berkley and Riffel as well as a shot of Berkley running her genitals down alongside a pole have been shortened and replaced with closer camera shots. Oddly, the "period-checking" shot during Berkley's dance-turned-lovemaking session with Glenn Plummer in his apartment was left intact in the R version. Here, Plummer places his hand in Berkley's tights because he refuses to take her word that she can not make love because of her period. Perhaps the Board felt the non-sexual nature of the shot was permissible for an R. Chances were they had never been faced with such an editing decision before--and probably never will again.

The ease in which Verhoeven edited Showgirls for an R suggests the film's tone played little part in these rating negotiations and actually reinforced the nature of "respectable" Hollywood entertainment even though it was NC-17. The few cuts that were made--and that conformed with the Board's R standards--if instituted prior to the film's theatrical release, could have enabled Showgirls to open wider and earned MGM a greater profit before the bad reviews set in. No editing could have fixed that.

* * *

You can cut off a breast, but you can't caress it. The violent majority is dictating to a tender minority.

Philip Kaufman⁵⁹

After the box office failures of these sexual thrillers and dramas, and the genre's appropriation by cable television and direct-to-video distributors, the major studios abandoned the production trend and left the field open to the independents. As a result, many films with sexual explicitness were theatrically released after 1995 either unrated or NC-17 by independent distributors since 1995. The distributors later prepared video-only R versions alongside their original versions in order to accommodate outlets like Blockbuster Video, Wal-Mart and Kmart, who have policies against carrying NC-17 movies. These films include: Delta of Venus (1995), When Night is Falling (1995) Crash (1996), Kama Sutra: A Tale of Love (1996), and Broken English (1996, released in the U.S. in 1997). By comparing the two versions, three conclusions can be drawn: 1) the R video version would most likely be the theatrical version had the producer edited his/her films for to an R; 2) Board rating standards for video releases are the same as those for theatrical releases; and 3) the six claims made about CARA's "incontestable R" in the previous chapter and in my arguments above still remain remarkably consistent through these rating negotiations in 1995 and 1996.

Fine Line's Delta of Venus was released on video in both R and NC-17 versions after premiering on the Showtime pay cable network in June 1995 and playing a limited theatrical run.⁶⁰ Inspired by the writings of Anais Nin from a book of the same name, the film stars Audie England as an aspiring young writer in 1940s France who has a brief, intense sexual affair with a famous erotic novelist played by Costas Mandylor. Their affair ends as he leaves for a book tour and England must turn to writing pornography herself in order to survive. However, England quickly realizes she can not write about things she has not experienced so she wanders through the war-torn country doing extensive first-hand research as the keys to professional and personal fulfillment.

Artistic pretensions aside, Delta of Venus still remains, writes Tony Scott in Variety, "an arty skeleton of a skinpic"⁶¹ because it was directed by Zalman King, the expert on soft porn

whose films include 9 1/2 Weeks (1986, written by King, directed by Adrian Lyne), Wild Orchid (1990), Wild Orchid 2: Two Shades of Blue (1992), and Red Shoe Diaries (1992). Eight graphically explicit scenes of various sexual acts and positions unquestionably earned Delta of Venus the NC-17 honor and made its conversion to an R quite a laborious process.

The rating explanations provided by CARA for Delta of Venus--an NC-17 for "explicit sexuality"⁶² and an R for "strong erotic content"⁶³--may appear fatuous and nonsensical to most observers. However, the distinctions between the R and the NC-17 clearly manifest themselves when viewing both versions alongside one another, and serve as a textbook example of the Board's rating practices outlined in the above case studies.

Kitchen counter scene between England and Mandylor. 1) A three-second full shot of a bare buttock thrust in the NC-17 is edited to one-second for the R version. A two-second buttock thrust (with underwear on) remains in both versions. 2) A close-up that tilts upward from her boot to their faces in the NC-17--on the way revealing naked sexual grinding--is replaced in the R with a jump cut from the boot to their faces. 3) A five-second three-quarter shot of the base of his buttocks entering her in the NC-17 version is replaced with previously unused close-up footage.⁶⁴

Living room scene between England and Mandylor.⁶⁵ Two shots of oral sex are cut from the NC-17: the first close-up shows his head visibly (but blurred) entering her pelvic region; the second close-up shows his face and her pubic hair in the same frame. In the R version, a close-up shows him kissing her pelvic region. However, since neither pubic hair nor simulated oral sex occurs in the frame, the shot remains consistent with Board policy. Additionally, a line of England's dialogue is removed for the R--"I can taste myself."

Second living room scene between England and Mandylor. For this sex scene, a medium shot of four buttock thrusts (man faces camera, buttocks are hidden but hips are shown) is cut in

the NC-17 and replaced with a two-shot close-up in the R. A medium shot in the NC-17 where she responds with groans of pleasures to five sexual thrusts is replaced in the R version with an alternative shot that shows sexual movement and less of an intense orgasm on the soundtrack. The nude statuesque long shot, permissible for an R rating, remains in both versions.

Black man/white woman scene. Certain violent, nude foreplay shots are cut for the R. Glimpses of the tip of his penis appear in both versions; however, these shots do not occur during sexual or with her face in the frame. Thirty seconds are cut from the NC-17 sex scene which contain full and long shots of sexual grinding (thrusting from behind). A few seconds of close-ups replace the series of shots that occur in the NC-17.⁶⁶

Voyeurism scene on table. As the couple make love on a table, two close-ups of nude buttock gyrations (about five seconds) in the NC-17, have been reduced to a single, one-second shot for the R. Three-quarter shots of the woman sexually gyrating astride the man (some with pubic hair in view) are either cut in their entirety or replaced with close-ups for the R version; the entire scene is ultimately shorter.

Alley scene between England and Erick Da Silva. The few one-second, dark long shots of them having sex with their clothes on are kept in both versions. The absence of nudity and the length of the shots account for this.

Orgy scene. This is the most graphic soft-core NC-17 scene studied in this dissertation. Although simulated, the sexual acts have been cut from the NC-17 by over a 1 1/2 minutes. Removed or trimmed are a multitude of CARA problematics too numerous to mention in detail: full frontal nudity, masturbation in long shot, proximity of face to pubic hair, long and full shots of sexual gyration, drug use, and oral sex.

Church scene between England and Mandylor. A minute of full and long shots of her astride him, sexually gyrating with visible pubic hair are removed for the R version. A ten-second series of three-quarter shots of her orgasm is also cut for the R.

In addition to these eight sex scenes, a close-up of a hand masturbating a woman from behind was cut and replaced with less explicit footage, and a close-up of two hands fondling a woman's vagina have been removed from the NC-17. In total, Delta of Venus perhaps suffered the greatest number of cuts for an R version than any other film.

On the opposite extreme, the New Zealand film Broken English received an NC-17 for one shot: a robust bed-breaking scene between lovers Aleksandra Vujcic and Julian Arahanga. After Sony Classics, the distributor, released the film theatrically in May 1997 with that rating, they cut the entire forty-three second shot for an R rated video version. In the shot, the camera dollies in from a full shot of the two nude lovers making love in a variation of the missionary position into a three-quarter shot above the thighs; the entire shot contains sexual grinding. The shot is undoubtedly NC-17 in nature, a fact confirmed by Broken English director Gregor Nicholas, who was told by an RAB member that he should have shot the sex from the waist up. "We can't expose the youth of America to buttock-thrusting of this type," Nicholas was told.⁶⁷ This "buttock-thrusting" was observed by Janet Maslin of the New York Times as worthy of the NC-17 rating.

Broken English is rated NC-17 (No one under 17 admitted). The reason: a sex scene that without explicitly depicting genitals is simply too acrobatic and lifelike to be fake. That forbidden rating does not reflect the larger spirit of the film.⁶⁸

Leslie Rubinkowski from the Pittsburgh Post-Gazette also noticed the self-evidence of its NC-17: "You'll be able to pick it out, no matter how good your English is."⁶⁹ These two examples demonstrate that reviewers, if not regular movie patrons, can recognize a particular shot as NC-17, and that one

of these shots can earn a film that stigmatized rating, regardless of the film's overall tone.

When Kama Sutra was given an NC-17 in February 1997, director Mira Nair, unlike Broken English's Gregor Nicholas, was completely befuddled to the reasons behind the rating. Her confusion was evident in the following statement: CARA "wanted us to cut out the full frontal nudity, and to eliminate a scene where the two women make love to each other."⁷⁰ The latter cut she described was not a traditional love scene, but a scene of one woman demonstrating on another woman how to "mark" a lover's body. However, neither situation, as I have shown, can warrant an automatic NC-17 as the mise-en-scene of the acts, and not the acts themselves, are primarily responsible for the R rating.

In any case, Trimark released the film unrated in theaters and on video and also cut approximately forty seconds from three scenes for an R video version. The first scene of foreplay between Indira Varma and Naveen Andrews had two shots removed: a full shot of Andrews pulling a red garment off of Varma and exposing her full-frontally in a full shot to the audience (this was replaced in the R version with a close-up of her face), and a close-up of Andrews kissing Varma's thigh with her pubic hair visible in the frame.

The second scene that was cut featured Ramon Tikaram astride Indira Varma. Two close-ups where his buttocks (facing the camera) gyrates as she clenches her feet have been removed.

The largest cut in Kama Sutra (thirty seconds) occurred in the "marking" scene discussed above. As Sarita Choudhury stands up in profile, Varma kneels down to kiss Choudhury's torso and legs. Medium close-ups of Choudhury's pubic hair are exposed in the same frame as Varma kisses her.

The pubic hair shots in the above scenes of Kama Sutra have always been NC-17 material due to the proximity of face to genitalia. The cuts in the second scene are standard Board rejections since lengthy sexual gyrations, especially close-ups of fornication, are mainly forbidden in the R rating. It is unclear why the shot of Varma full frontally nude in the first scene was replaced with a close-up. Perhaps the Board found

Varma's pose a bit frank, soft-core, or risqué for the R rating. A better explanation could be that Nair understood the Board's written objections to this full-frontal scene--which may have read: "250 feet: full frontal nudity"--to mean all full-frontal shots in this scene. Therefore, while the pubic hair-to-face shot would need to be removed for an R, the full shot of Varma naked could remain. Nair's confusion is the consequence of CARA's policy on not providing detailed rating explanations to filmmakers. Doing so may absolve the Board from allegations of censorship, but its private criteria invariably leads to cuts made by filmmakers and studios that may not be necessary to earn an R.

Similar charges of a double standard toward same-sex lovemaking appeared at the time When Night is Falling was awarded an NC-17 back in October 1995. Amir Malin, October partner and co-managing executive said the company was told that the rating was issued because of two scenes of lesbian lovemaking. He said, "It is our strong belief that had the two scenes involved heterosexual lovemaking, we would have received the less restrictive R rating."⁷¹ October released a statement stating that the "inappropriate NC-17 rating implies something graphic, gratuitous and pornographic, which is extremely misleading for this film, a lavishly crafted romantic love story."⁷² A spokesperson for the Board delivered CARA's standard reply to this common complaint: the two "explicit sex scenes" would be considered "out of bounds" for children under 17 by "most American parents."⁷³ October then appealed the rating (the first appeal after Showgirls) but the Board's NC-17 was overwhelmingly upheld by a 13-1 vote by the RAB.⁷⁴

Subsequently, director Patricia Rozema and critic Stephen Farber accused the Board of hypocrisy in its rating of love scenes. Rozema refused to cut or alter any of the film's love scenes, remarking, "The decision of the ratings board shows an extremely limited vision, and I don't want to honor their classification criteria by accepting this rating."⁷⁵ This "limited vision," Rozema believed, involved lesbian lovemaking and she went as far as calling the Board "homophobic": "I wish you knew how cautious I am to brandish the word homophobia, but

with the MPAA, I have to. The irony is that people looking for that really horny scene, or that new sexual position they've never seen, well they won't find it. Nothing here is designed to titillate, which is what pornography does."⁷⁶

Farber attacked the Board's rating inconsistency, rather than its sexual hypocrisy, by comparing When Night is Falling with New Line's Total Eclipse (1995), a film that earned an R for several scenes of violence-tinged gay lovemaking.

I'm befuddled that this film gets an R, while Night gets an NC-17. Having seen both films, I couldn't spot anything that would account for a tougher rating. Night didn't strike me as particularly graphic. It's a sweet, tender, lyrical movie I can't imagine shaking up many people, (while) Total Eclipse is full of very disturbing, abusive, sadomasochistic content. And it sort of reverses the MPAA's old trend, which has been to treat male homosexuality as more out of bounds than other kinds of sexual expression."⁷⁷

MPAA vice chairperson Joan Graves dismissed the idea of differing sexual standards:

[It is] a myth that frontal male nudity, for example, gets an NC-17, while female frontal nudity gets an R. The degree of graphic sex is the question in this case. It's important to remember that the board never compares one film with another--I believe that the board saw When Night is Falling and Total Eclipse several months apart."⁷⁸

Graves also denied that the NC-17 was only applied to the lesbian scenes in When Night is Falling. She said that the Board cited two sex scenes--one homosexual and one heterosexual--for the film's rating, a point confirmed by Malin.⁷⁹

Unfortunately, October never released the theatrical NC-17 cut on video to assist me in determining the exact nature of the contested lovemaking scenes. Instead, October recut the film for an R, and strangely, only released that version on video. In the R video version of When Night is Falling, none of the NC-17 signposts appeared in any of the sex scenes: close-ups of oral sex, pubic hair-to-face shots, etc. This suggests that the Board followed standard policy procedures for the R, even though I do not have the NC-17 available for

viewing. If so, Rozema and Farber, like many people before them, were incorrect in their assessment of the Board's rating practices.

Crash, on the other hand, was released on video in both an R and NC-17 version after its theatrical NC-17 release. Like Delta of Venus, the NC-17 contained numerous scenes that greatly overstepped the boundaries of the R: anal sex, masturbation, multiple partnering, homosexuality, surgical wound penetration, and other forms of perverse sexuality. Crash's distributors, Fine Line, gladly accepted the category. "This is a film that was made for adults; this is not a film for children, and therefore children should not be permitted to see it," voiced president Ruth Vitale.⁸⁰ However, for some individuals, like Ted Turner, Crash represented the worst in cinema and was clearly "non-respectable" entertainment. "I personally am appalled and am appalled by it," said the Time Warner chairman, who delayed the American release of the film from October 1996 to March 1997.⁸¹

Crash managed to secure an R rating for video release in August 1997 after earning only \$3 million at the box office. The film, centering on people turned on by re-creating the car crashes of famous celebrities, carried different box art for the R and NC-17 versions and had vastly different running times (100 minutes vs. 90 minutes). Referred to by Newsday's Jack Mathews as containing "some of the most graphic and unconventional sex scenes this side of a triple-X rating,"⁸² Crash, like Bad Lieutenant and Delta of Venus, could only secure an R by deleting entire scenes in addition to individual shots. Even with all its sexually graphic footage, the edits corresponded with CARA policy.

Deborah Kara Unger and anonymous man in airplane hangar. Twenty-six seconds are eliminated from this scene in the R. Close-ups of the man kissing her bare buttocks (including one shot of her pubic hair in the frame) are cut from the NC-17.

James Spader and female assistant at studio. The first few seconds of the scene showing Spader in close-up giving cunnilingus to the girl has been removed for the R.

Spader in hospital bed after accident with Unger at side. Two close-ups of on-screen masturbation are cut from the NC-17. The unedited first shot shows Unger's hand making an up-and-down movement underneath Spader's blanket. For the R, the shot ends as the moment before the movement begins. The second masturbation shot of the same scene is cut in its entirety for the R. Additionally, a close-up of his hand around her thigh is edited from the NC-17 as soon as her pubic hair becomes visible in the frame.

Spader and Holly Hunter in Car #1. No cuts have been made in the R since all the images are medium above-the-waist shots.

Spader and Unger on Chair. Eighteen seconds are eliminated from the twenty-nine second NC-17 version. The remaining eleven seconds contain a long shot of Unger astride Spader thrusting nine times. Even though her skirt covers her buttocks and no pubic hair is shown, this shot is normally cut down to two seconds in order to receive an R. Camera distance and the absence of nudity may explain this scene's inclusion in the R version.

Elias Koteas, Hunter, and Spader driving in car. A close up of Koteas' hand fondling Hunter underneath her skirt is cut from the NC-17.

Spader and Unger bedroom scene #1. This 3 minute and 42 second scene is entirely cut for the R. The graphic nature of this shot rivals the orgy sequence in Delta of Venus. Unger faces the camera lying on her side as Spader sodomizes her. Its R omission results from a combination of on-screen sodomy, long shot grinding, visible pubic hair during the act of sex, extended orgasm, and language.

Spader and Hunter in car #2. The twenty-second opening medium shot of this scene with Hunter astride Spader, facing away from him and toward the camera, is cut for the R. The NC-17 shot has extensive grinding and the bottomless Hunter is framed just above her pubic hair region.

Rosanna Arquette, Spader and Hunter on couch. A panning close-up of their hands masturbating one another's genitals are cut for the R.

Koteas and anonymous woman in Spader's Car. The NC-17 is cut from one minute and fifty-nine seconds to forty-four seconds for the R. All close-ups of masturbation and sexual grinding are cut except for a two-second shot of "clothed" grinding.

Koteas and Unger in car wash. Three close-ups of Koteas' fingers penetrating Unger's vagina are cut from the NC-17. A shot of Unger's fingers covered with semen is also edited for the R. Twenty-three seconds separate the two versions.

Spader and Unger bedroom scene #2. Nothing is cut for the R version. A close up of his hand around her pubic area is kept since no sexual activity is occurring.

Spader and Arquette in car. Nine seconds of medium shots of him penetrating her wound with his penis are removed from the NC-17. Most likely, these shot cuts are removed because of their sexual perversity.

Spader and Koteas in car. All shots remain in R version. A suggestion of anal sex is present but never shown.

Spader and Unger claiming car. A two-second full shot of him fondling her torso through her clothes remains in both versions. It is unclear whether he is masturbating her.

Spader and Unger on grassy knoll. The final sixty-seven seconds of the NC-17 are cut for the R. The credits begin to

roll in the R version immediately after he begins to unbuckle his pants off-screen to make love to her. The remaining NC-17 footage contains a long shot of him taking her from behind and her pubic hair is visible.

The above analyses reveal a consistency over time of the Board's standards regarding appropriate sexual imagery for the R category and its definition for "respectable" entertainment. However, what appears to have changed in the late 1990s is the Board's approach to masturbation and oral sex. Greater liberalization of sexual matter in music, television, and other cultural forms most likely account for this boundary shifting. The cunnilingus scenes in Jade (1995) set a precedent to be soon followed by Boogie Nights (1997), Two Girls and Guy (1998), There's Something About Mary (1999), and Psycho (1999). Close-ups of these acts remain taboo for the R rating, but two-second long shots now appear acceptable. The other R guidelines have remained the same. This renegotiation of the threshold for the "incontestable R" suggests that CARA occasionally adjust its standards for this category as well as the boundaries between the G, PG, PG-13, and R ratings. This argument holds much validity since the operation of CARA is dependent on making an educated estimate as to which rating most American parents will consider the most appropriate as well as which rating most "culture warriors" will find the least inappropriate.

* * *

Clean it up? Right. If you keep working on this, you'll have a PG rating before you're through.

a policeman commenting on a videotape
in Jade

Though Jade doesn't measure up to the standards of the genre Eszterhas mined in Jagged Edge and Basic Instinct, it safely can make one claim: It's better than Showgirls.

Brian Lowry, Variety⁸³

Like Showgirls, Jade was penned by Joe Eszterhas and released approximately at the same time (October 1995) to

crushing reviews and terrible box office. Both studios (MGM/UA and Paramount, respectively) used sex as their film's main selling point in its marketing campaign, particularly in trailers and poster art. MGM/UA's R rated trailer for Showgirls capitalized on Verhoeven's and Eszterhas' previous picture, Basic Instinct, by promising "Last time they took you to the edge; this time, they're taking you all the way." Paramount also hinted at "secret fantasies" and "secret lives" that "go too far" in their trailer for Jade. In the poster art for the film, Linda Fiorentino has her back to the spectator with the suggestion that she is receiving oral sex; a hand appear on her waist in the lower left corner of the poster accompanied by the words "Some fantasies go too far."⁸⁴ Highly suggestive for CARA-approved poster art, the one-sheet for Jade perhaps set a new regulatory standard for the Advertising Administration; Jade, the film, certainly did for the Board.

What was so peculiar about the rating controversy of Jade was the absence of one. Both the Hollywood Reporter and Variety carried no articles on any dispute between the filmmakers and the Board. Nor did Paramount and director William Friedkin use a potential NC-17 as a marketing ploy to stir up interest for the film. When an extended unrated version of the film was released a year later on video with twelve minutes of footage (mostly exposition) not shown in theaters, the studio's video marketing department failed to promote its added sexual elements. Yet, the video's inclusion of more explicit sexuality still did not explain the presence of certain "taboo" shots in the R version.

In many cases, the R version of Jade had cuts and alterations commonly associated with other films edited from an NC-17 or unrated film. Here, many of the unrated shots derive from a damaged videotape showing Fiorentino and Mr. Green engaged in various kinky sex acts. The first of the videotape's three diegetic viewings by the police in the unrated version contains a fifteen second S & M full shot of Fiorentino on the edge of a bed forcing the face of a man (whose hands are tied) into her crotch. This scene of oral sex, which is being viewed on a monitor by policemen, comprises

the entire frame. In contrast, the R version replaces the cunnilingus shot with a four-second long shot of a clothed Fiorentino astride Mr. Green; the shot is made more distant by it playing on a monitor within the frame. Both versions have the man taking her from behind but the unrated contains multiple sexual gyrations while the R features only one thrust--which again is played on a monitor within the frame.

In the second videotape viewing, a complete one and a half minute scene shown to Mr. Green himself featuring full frame shots of the above three sexual acts is cut for the R version. The last videotape viewing, containing two full shots of backdoor penetration from different angles, are eliminated from the unedited version: a sideview shot of a man entering and pulling out of Fiorentino four times (his penis appears to be digitally erased or between his legs), and a shot of Fiorentino facing the camera. A close-up of the latter shot remains in both versions as the man's thrusting is obscured by her proximity to the camera. All modifications here comply with Board policy; even the four-second straddling shot on the videotape can be justified by its distance and hazy, black-and-white texture.

However, in the last videotape viewing in the R, one-second of a graphic oral sex shot remains--twenty-four frames of a full shot cut from an earlier unrated scene.⁸⁵ Similar violations occur in the final sex scene: a two-second medium shot of cunnilingus is clearly visible on-screen, and two, one-second full shots of the man featured outside the frame of Jade's poster performing oral sex on Fiorentino. Previously, the degree of explicitness of the acts--even a one-second full shot of a man's face between a woman's legs or vice-versa--had been cut from all NC-17/unrated theatrical films viewed in this chapter and the last one.

Even though no pubic hair is visible during these oral sex scenes in Jade⁸⁶--Fiorentino is always partially clothed by a nightie--the Board passed these sexual aesthetics for an R, extending its one to two-second sexual grinding policy to shots of oral sex. Such precedents were necessary two years later

because if any film needed precedents it would be Boogie Nights, a film about the pornography industry.

Director Paul Thomas Anderson and New Line, the film's distributor, submitted fourteen different versions to the Board in the summer of 1997 before getting an R,⁸⁷ a dilemma described in a memo to Anderson by Boogie Nights' principal post production executive, Joe Fineman.

The board found that Boogie Nights contained much more sexually graphic material than in Showgirls or Henry and June. Remember, you have two lengthy jerking off scenes, four graphic sex scenes showing tits, humping and bare asses plus the Roller Girl's full frontal. That's a real sweatload of sex compared with the NC-17 pictures I mentioned above.⁸⁸

Mike DeLuca, New Line president of production, originally had been optimistic that the film would avoid the NC-17, especially since Anderson was contractually obligated to deliver an R. "The length of shots of people having intercourse, and the issue of violence and sex in the same shot" were not a problem for the film, he said.⁸⁹ In the end, his expectations were nearly met; only forty seconds were cut for the R, mainly from what Anderson called "Mark Wahlberg's ass, humping."⁹⁰

The remaining sexual footage in the R version led writer Peter Lehman to remark, "Boogie Nights represents porn by not representing its most notorious ingredient."⁹¹ In a sense, Lehman is correct. Compared to most films about sex, Boogie Nights was quite restrained for what it reveals to the audience. The only remaining thrusting shots from the unavailable uncut version--about two seconds of obscured grinding--occurred in the limousine scene with Heather Graham (Roller Girl) and a young guy off the street. All the intercourse scenes of Wahlberg's "humping" have been eliminated. The porno shoot between him and Julianne Moore contained close-ups, cut-aways, reactions shots, above-the-waist medium shots, and a long shot of the two actors nude in a stationary fornication position, but never any sexual grinding full shots. These shots along with Graham's and Wahlberg's non-sexual full frontal shots, conformed to Board policy. It appeared then, that Fineman, in a memo to Anderson, clearly

understood, like Verhoeven in Basic Instinct and Showgirls, the parameters of the R category: "Use only snippets of the couple screwing--I mean two seconds on each of the two shots. Only enough to say the lines."⁹²

However, scenes of masturbation and fellatio confirm the argument about the Board's new approach to oral sex. A seven second, split-screen, three-quarter shot of Graham giving fellatio to Wahlberg and a one-second, three-quarter shot of Melora Walters doing the same to Wahlberg, appear in the R cut. And Wahlberg's masturbation scene in front of a mirror, shows his hand moving up and down in a three-quarter shot, although his penis is outside the frame.⁹³ Previously, all hand movement had to occur outside the frame.

The reports of the editing of Boogie Nights never focused on the Board's liberalization of its masturbation and oral sex policies; instead; the media, especially Variety, reinforced the same untruths and distortions perpetuated about the rating system. Glenn Lovell should have done his homework about the details of Anderson's contract with New Line before reporting that the director "came up short in his battle with producers and the MPAA and had to settle for an R."⁹⁴ The usually astute Peter Bart conjured up old industry myths to account for Wahlberg's penis shot in the final image of Boogie Nights.

Since the rating board has always in effect barred male frontal nudity, the unveiling of the penis posed a similar problem. The upshot: it's there, but briefly. Does the fact that viewers get a peep rather than a full-fledged glimpse of Mark Wahlberg's 13-inch member justify an R rather than an NC-17? Perhaps, since we've been assured that the organ is a prosthetic rather than the real thing--hence the scene can be rationalized as a fantasy sequence.⁹⁵

The "peep" here actually is a "full-fledged glimpse," twelve seconds in length and atypical for most R rated shots of frontal male nudity. As I've shown, the Board has no double standards on frontal nudity as long as it occurs outside of sexuality activity (Julianne Moore in Short Cuts, 1993, and Amy Irving, Amy Locane, and Dennis Hopper in Carried Away, 1996, have plenty of non-sexual screen time as well), and the Board

cares nothing about ideological distinctions like fantasy and reality.

Whereas the R negotiation for Boogie Nights took place over a number of explicit scenes, the contretemps over Fox Searchlight's Two Girls and a Guy dealt with just one: a six-minute, silhouetted, oral sex number between Robert Downey Jr. and Heather Graham. Variety's Todd McCarthy described it as "a bout of quite hot and, at least for an American movie, unusual sex."⁹⁶ This shot was solely responsible for the film's NC-17 in November 1997 ("for a scene of explicit sexuality").⁹⁷ The "unusualness" of the scene was not lost on some members of the RAB that same month; they upheld the NC-17 in a close 7-7 vote for it being "groundbreaking" in its sexual depiction.⁹⁸ Director James Toback, who was contractually obligated to deliver an R on Two Girls and a Guy, set out to trim the scene himself. The film was finally awarded an R in April on its fourteenth submission after a rare second appeal saw the film win 7-5, but one vote shy of the two-thirds majority.⁹⁹

As always, the filmmakers and media found the process biased, and hypocritical. Toback called the Board an "absurd group of clowns,"¹⁰⁰ and said the oral sex scene "didn't just disturb them, it freaked them out totally. . . . They can be as intellectually shabby and blockheaded and inconsistent and capricious as they want to be, and they're unanswerable. You can bang your head against a wall, and it's still their wall."¹⁰¹ A source reported that Toback felt "frustrated and [felt] the decision might be personal" because of the rating controversy over his film Fingers in 1978.¹⁰² David Dinerstein of Fox Searchlight believed the oral sex scene was raw and intense but "doesn't go beyond what any other film that's currently out is doing, especially Boogie Nights."¹⁰³ The Los Angeles Times shared the same opinion in writing that "anyone's who's seen Boogie Nights . . . will probably judge 'Two Girls' to be the tamer film by far."¹⁰⁴

In fact, Two Girls and a Guy, even in this one scene, is more graphically explicit than Boogie Nights by Board standards, even though both films show no genitalia, pubic hair, or violence in their depictions of masturbation and oral

sex. In the fellatio segment, two separate three-quarter shots with Graham's back to the camera show her serving Downey Jr. for three seconds and masturbating him for two seconds. A one-second close-up of the masturbation is also present. In the cunnilingus segment, two one-second close-ups of Downey (with his back to camera) kissing Graham's buttocks are followed by a fifteen-second full shot of him licking and masturbating her genitals. This lengthy shot--the most graphic of its kind I have ever viewed in an R film although the scene is lit darkly--extends the precedent set by Jade and fortified with Boogie Nights in a most spectacular fashion.

Two Girls and a Guy clearly sets new standards for oral sex full shots and masturbation close-ups for R films. Why the Board awarded the film the rating, especially the lengthy cunnilingus segment, can only be explained by a liberalization of its standards for the R category, and perhaps the greater acceptability of such acts by the public for the "incontestable R." What is astonishing is that almost no shots were eliminated from the original cut, a point explained by Toback himself.

Not a single shot has been removed. The only thing that's happened is that several shots have been shortened. Instead of Heather Graham's elbow going up and down six times, it's three times; instead of Robert Downey being on his knees in a successful effort to give pleasure orally for seven seconds, he's doing it for 3 1/2 seconds."¹⁰⁵

However, when viewing the NC-17 video version--whose love scene runs one minute and sixteen seconds longer--a medium close-up of cunnilingus had been cut for the theatrical R version. This type of shot had never been passed for an R film. All other shots of oral sex, masturbation, and orgasm are, as Toback described, shortened but not removed.

Medium shots of male masturbation also appear in There's Something about Mary and Psycho. The hand can clearly be seen in motion within both their frames. While the genitals, of course, are not in view, the expanding presence of masturbation adds credence to Peter Lehman's notion that the late 1990s "are characterized by a new assault on the final taboo of sexually

representing the penis."¹⁰⁶ However, pubic hair-to-face shots, extended sexual grinding, and oral sex in medium shot to close-up remain off-limits for the "incontestable R" category.

At the same time certain taboos are collapsing, the Hollywood studios are tightening their grip on its mode of presentation. The acquisition of independent distributors such as Miramax, Samuel Goldwyn, and October by the MPAA companies has enabled Hollywood to contain, manage, and discard any representation they feel are unfit to play at movie houses. In many ways, "respectable" entertainment captures the essence of independent filmmaking at the millennium as much as Hollywood filmmaking does.

¹Quoted in Donna Parker, "Festgoers Back 'Boxing' on NC-17," Hollywood Reporter, 26 January 1993.

²Quoted in David J. Fox, "'Boxing Helena' Rated NC-17," Los Angeles Times, 14 January 1993, Calendar.

³Quoted in Ryan Murphy, "On Location: 'Sliver,'" Los Angeles Times, 14 February 1993, Calendar.

⁴Quoted in Jeannie Williams, "Cleaning Up Just a 'Sliver,'" USA Today, 5 May 1993, 2D.

⁵Quoted in Jess Cagle, "Chopped 'Sliver,'" Entertainment Weekly, 21 May 1993.

⁶In refuting these claims, Noyce said, "The guy never asked me if Billy Baldwin exposes himself, but by two articles later they are quoting me as having promised that there will be full frontal nudity. I never promised anything." See Alex McGregor, "Peek Viewing," Time Out (London), 14-21 July 1993, 21.

⁷See Murphy, "On Location: 'Sliver.'"

⁸See Cagle, "Chopped 'Sliver.'"

⁹Jeff Giles and Charles Fleming, "Someone to Watch over You," Newsweek, 31 May 1993, 54.

¹⁰Robert W. Welkos, "More of This . . . Less of This," Los Angeles Times, 6 May 1993, Calendar.

¹¹Quoted in Cagle, "Chopped 'Sliver.'"

¹²Quoted in Cagle, "Chopped 'Sliver.'"

¹³Quoted in McGregor, "Peek Viewing."

¹⁴Robert W. Welkos, "More of This . . . Less of This," Los Angeles Times, 6 May 1993, Calendar.

¹⁵Information about these cuts can be found in Jane Galbraith, "It's a Tough Job Fine-Tuning Those Sex Scenes," Los Angeles Times, 25 April 1993; Welkos, "More of This . . . Less of This"; Cagle, "Chopped 'Sliver'"; Bruce Feld, "'Sliver' Deliverer Phillip Noyce," Drama-Logue, 27 May 1993 - 2 June 1993; Giles and Fleming, "Someone to Watch over You," 54; and McGregor, "Peek Viewing." _

¹⁶Joe Eszterhas, the writer of Sliver, said of the masturbation scene, "It's very classily done. You can't see body parts. She's in a tub. What you see is her face and her arm moving."

¹⁷Quoted in McGregor, "Peek Viewing."

¹⁸Kirk Honeycutt, "'Sliver' Clips Too Hot for MPAA," Hollywood Reporter, 18 May 1993.

¹⁹Quoted in McGregor, "Peek Viewing."

²⁰Feld, "'Sliver' Deliverer Phillip Noyce."

- ²¹McGregor, "Peek Viewing." _
- ²²Quoted in Judy Wade, "Jane March; Actress," Cosmopolitan, May 1994.
- ²³Quoted on CNN Showbiz Today, 17 August 1994, transcript #606-3.
- ²⁴See Claudia Eller, "Who's Got the Right to 'Color' Final Cut?" Los Angeles Times, 23 April 1994, Calendar. Rush also suffered a heart attack as well.
- ²⁵Anita M. Busch, "H'w'd Pix Greenlights NC-17 'Color' Release," Daily Variety, 18 July 1994.
- ²⁶Stephen Schaefer, "Gate Beats 'Art' as Willis Flick Goes for the 'R,'" Boston Herald, 17 August 1994.
- ²⁷Quoted on CNN Showbiz Today, 17 August 1994, transcript #606-3.
- ²⁸Jane Galbraith, "Rating 'Color of Night,'" Newsday, 18 August 1994.
- ²⁹See for example, Donald La Badie, "Director Errors Shatter 'Night,' Video to Show Willis in Buff," Commercial Appeal (Memphis), 20 August 1994; Larry Light and Julie Tisner, "A Full-Frontal Assault on Sexism," Business Week, 29 August 1994, 4; Bruce Westbrook, "Artistic Concerns Rule for 'Color,'" Houston Chronicle, 26 August 1994; Frank Bruni, "Exposing the Nudity Ratings," Pittsburgh Post-Gazette, 1 October 1994.
- ³⁰Marcy Magiera, "'Color of Night' Set for Video as Director's Cut," Video Business, 9 December 1994. George Cosmatos, director of Tombstone (1993), came in to shoot new scenes for the picture after Rush was fired. Primarily, a new ending was shot by Cosmatos, but the footage was never used in either the theatrical or video version of Color of Night. See Kirk Honeycutt, "For Rush, Two Shades of 'Color,'" Hollywood Reporter, 8 August 1994.
- ³¹Richard Rush said, "My version is longer, darker, denser, more erotic. But every scene in (Cinergi topper) Andy Vajna's version I developed, shot, cast and am extremely fond of. They have shortened and juggled scenes. Theirs is a simpler movie to watch; mine is a denser and more convoluted movie." Quoted in Honeycutt, "For Rush, Two Shades of 'Color.'"
- ³²Quoted in Dennis Hunt, "A Sexier 'Night' Video Doesn't Bare All," Los Angeles Times, 3 February 1995, Calendar.
- ³³A Disney executive attests to this fact when he stated, "Let's just say there was some creative use of dissolves" to earn an R rating. Quoted in Galbraith, "'Rating 'Color of Night.'"
- ³⁴See Marcy Magiera, "'Color of Night' Set for Video as Director's Cut," Video Business, 9 December 1994; and Hunt, "A Sexier 'Night' Video Doesn't Bare All."
- ³⁵Quoted in Meredith Berkman, "Close, but No Cigar," Entertainment Weekly, 9 September 1994, 59.
- ³⁶Quoted in Berkman, "Close, but No Cigar," 59.
- ³⁷Quoted in John Brodie, "Marketers Turn Ratings Battle into Positive Publicity; Sex! Controversy! PR!" Variety, 29 August 1994 - 4 September 1994.
- ³⁸Susan Spillman, "Willis Bares All in 'Color of Night,'" USA Today, 17 January 1994, 4D.
- ³⁹Quoted in Michael Fleming, "'Helena' Boxed in by NC-17," Daily Variety, 13 January 1993.
- ⁴⁰Todd McCarthy, "Boxing Helena (review)," Daily Variety, 25 January 1993.
- ⁴¹"'Helena,' 'Zoe' pull 2 NC-17s," Daily Variety, 15 July 1993, 7.
- ⁴²Quoted in Fleming, "'Helena' Boxed in by NC-17."
- ⁴³It is unclear how many times Main Line officially or unofficially submitted Boxing Helena to CARA. As explained, CARA screened the film in January to offer their advice on what the film might be rated when it was officially submitted. In July, when the film was officially awarded an NC-17, Mazzocone said the film had been submitted to the Board three times, but it is not known if he is including in this tally the number of

times that he unofficially submitted the film. See Suzan Ayscough, "'Helena' to Do Battle with NC-17," Daily Variety, 12 July 1993.

⁴⁴Suzan Ayscough, "MPAA Board Overturns NC-17 for 'Boxing,'" Daily Variety, 26 July 1993.

⁴⁵Michael Fleming, "'Helena' out on a Limb," Variety, 25 January 1993, 18.

⁴⁶Suzan Ayscough, "'Helena' to Do Battle with NC-17."

⁴⁷David J. Fox, "'Boxing Helena' Rated NC-17," Los Angeles Times, 14 January 1993, Calendar.

⁴⁸Shauna Snow, "More Cuts Needed," Los Angeles Times, 15 January 1993, Calendar.

⁴⁹Michael Fleming, "'Helena' out on a Limb," Variety, 25 January 1993, 18.

⁵⁰Ayscough, "MPAA Board Overturns NC-17 for 'Boxing Helena.'"

⁵¹Doris Toumarkine, "NC-17: 'Boxing' Wins; 'Zoe' Loses," Hollywood Reporter, 26 July 1993.

⁵²Interview with Abel Ferrara, CNN Showbiz Today, 22 November 1993.

⁵³The film was originally titled Snake Eyes until Universal Pictures and an New York filmmaker filed a lawsuit claiming trademark infringement.

⁵⁴I am assuming here that the filmmakers appealed the NC-17 and lost. However, the trade reports are fuzzy on whether an appeal existed before the film was cut to an R. See Doris Toumarkine, "New Title, Rating for Ferrara Pic," Hollywood Reporter, 22 October 1993; and Jane Galbraith, "Madonna's 'Dangerous Game,' Sans Hype," Newsday, 11 November 1993.

⁵⁵Paul Verhoeven, Showgirls: Portrait of a Film (New York: Newmarket Press, 1995), 14.

⁵⁶The NC-17 video states 131 minutes and the R version says 128 minutes, but the latter's running time actually hovers around 130 minutes.

⁵⁷Quoted in Peter M. Nichols, "By Dropping a Minute or So, a Studio Hopes to Widen the Home Audience for 'Showgirls,'" New York Times, 8 December 1995.

⁵⁸See Susan King, "'Showgirls' Racking Up The Orders," Los Angeles Times, 21 December 1995; and Nichols, "By Dropping a Minute or So."

⁵⁹Quoted in Hal Lipper, "Again, X Marks a Sore Spot," St. Petersburg Times, 24 September 1990.

⁶⁰Most likely, the version aired on Showtime was the R video version as opposed to the NC-17 theatrical one. Variety reported that Delta of Venus received an R for New Line Home Video in December 1994 while an re-edited version got an NC-17 for Fine Line Features in September 1994. The fact that the film aired on Showtime in June 1995 then was released in theaters in October serves to prove the above assertion. See "MPAA Ratings," Variety, 12-18 December 1994; and "MPAA Ratings," Variety, 18-24 September 1995, 18.

⁶¹Tony Scott, "Delta of Venus (review)," Daily Variety, 16 June 1995.

⁶²"MPAA Ratings," Variety, 18-24 September 1995, 18.

⁶³"MPAA Ratings," Variety, 12-18 December 1994, 16.

⁶⁴Here, the length of the scene and the revealing of Mandylor's entire behind is enough to justify an NC-17.

⁶⁵A ten second, full-frontal nude full shot of England in a statuesque pose is kept in both versions. This supports my claim that Mira Nair did not need to cut a similar full frontal shot in Kama Sutra to get an R.

⁶⁶The following scene has a montage of clips from this scene as the woman types. A full shot of the fornication is again replaced with a close-up.

⁶⁷See Edward Guthmann, "A Croatian-Maori Love Story; 'Broken English' Garbles Intriguing New Zealand Tale," San Francisco Chronicle, 23 May 1997.

⁶⁸Janet Maslin, "A Freedom Fighter for Love," New York Times, 2 May 1997.

⁶⁹Leslie Rubinkowski, "Sex and Violence (Broken English review)," Pittsburgh Post-Gazette, 18 July 1997.

- ⁷⁰Quoted in Peter Stack, "Sensual 'Kama Sutra' Arouses Censors' Ire," San Francisco Chronicle, 2 March 1997, 32.
- ⁷¹Quoted in Greg Evans, "October Appeals NC-17 Rating on Lesbian-Themed 'Night,'" Daily Variety, 5 October 1995, 8.
- ⁷²Greg Evans, "MPAA Taking 2nd Look at 'Night,'" Daily Variety, 31 October 1995, 4.
- ⁷³Evans, "MPAA Taking 2nd Look at 'Night,'" 4. On a similar note, the New York Times rejected the print ad for the film (two embracing women partially concealed by a bed sheet). See Gary Dretzka, "The Sky is Falling on Film's R Rating," Chicago Tribune, 6 November 1995.
- ⁷⁴Kirk Honeycutt, "MPAA Keeps 'Night's' NC-17," The Hollywood Reporter, 3 November 1995.
- ⁷⁵Quoted in Kirk Honeycutt, "NC-17 Won't Fall at 'Night,'" Hollywood Reporter, 9 November 1995.
- ⁷⁶Quoted in Robert Koehler, "'Night is Falling' Rekindles the Ratings Controversy," Los Angeles Times, 20 November 1995, Calendar. Her emphasis. Also see, Claudia Isé, "The Underneath," Los Angeles View, 17-23 November 1995, 17.
- ⁷⁷Quoted in Koehler, "'Night is Falling' Rekindles the Ratings Controversy."
- ⁷⁸Quoted in Koehler, "'Night is Falling' Rekindles the Ratings Controversy."
- ⁷⁹Quoted in Koehler, "'Night is Falling' Rekindles the Ratings Controversy."
- ⁸⁰Quoted in Cathy Dunkley, "No Knock About 'Crash's' NC-17," Hollywood Reporter, 31 May 1996.
- ⁸¹Quoted in Jane Hall, "Turner Blasts 'Sleazy' TV Programming," Los Angeles Times, 5 November 1996
- ⁸²Crash advertisement, Video Business, 9 June 1997, 23.
- ⁸³Brian Lowry, "Jade (review)," Daily Variety, 13 October 1995.
- ⁸⁴Gary Levin, "Ads' Basic Instinct: Show-It-All and Sell," Variety, 11 September 1995, pgs. 7, 18.
- ⁸⁵This R scene also contains an unmotivated zoom of the man's backdoor thrusting that appeared in the unrated version. As a result, what was once sexual movement is now a close-up.
- ⁸⁶However, a close-up of Fiorentino's stiletto heel pressing into her lover's groin area, revealing his pubic hair, is kept in the R version.
- ⁸⁷Margy Rochlin, "Beauty, Brains, and a Knack for Giving Censors Pause," New York Times, 12 April 1998.
- ⁸⁸Quoted in Peter Bart, "Ratings Game Gets Gamier," Variety, 13-19 October 1997, 4.
- ⁸⁹Quoted in Rebecca Ascher-Walsh, "The Naked and the Dread," Entertainment Weekly, 25 April 1997.
- ⁹⁰David Rensin, "Paul Thomas Anderson (interview)," Playboy, February 1998.
- ⁹¹Peter Lehman, "Will the Real Dirk Diggler Please Stand Up?" Jump Cut 42 (1998): 34.
- ⁹²Quoted in Bart, "Ratings Game Gets Gamier," 4.
- ⁹³Wahlberg also masturbates in a truck before he gets beat up, but all hand movement takes places off-screen.
- ⁹⁴Glenn Lovell, "Getting the Dirt on DVD," Daily Variety, 16 April 1998, 48.
- ⁹⁵Bart, "Ratings Game Gets Gamier," 4.
- ⁹⁶Todd McCarthy, "Two Girls and a Guy (review)," Variety, 1-7 September 1997.
- ⁹⁷"MPAA Ratings," Daily Variety, 5 November 1997.

⁹⁸See Amy Wallace, "Rated O (for Obsessed)," Los Angeles Times, 12 November 1997, Calendar; and Gary Dretzka, "'Two Girls' and a Sex Scene," Chicago Tribune, 26 April 1998.

⁹⁹Dretzka, "'Two Girls' and a Sex Scene."

¹⁰⁰Quoted in Barry Koltnow, "If You Can't Lick 'Em, Behead 'Em," The Record (Bergen County, NJ), 19 April 1998.

¹⁰¹Quoted in Jeff Gordinier, "Dirty Movie," Entertainment Weekly, 24 April 1998.

¹⁰²Quoted in Chris Petrikin, "'Two Girls' Too Much for MPAA Ratings Board," Variety, 19-25 January 1998.

¹⁰³Quoted in Robin DeRosa, "No NC-17, Please," USA Today, 21 October 1997, 1D.

¹⁰⁴Wallace, "Rated O (for Obsessed)."

¹⁰⁵Quoted in Dretzka, "'Two Girls' and a Sex Scene."

¹⁰⁶Peter Lehman, "Will the Real Dirk Diggler Please Stand Up?" 37.

CHAPTER FIVE

What . . . is the adverse effect, if any, on the nation's independent film producers vis-a-vis the so-called major producer, distributor in the application of those criteria by which films are rated? Is the independent treated differently than the major? Does he lack the "political" muscle to get the rating to which he thinks he is entitled? Do the majors really have some kind of "insiders" advantage?

Robert W. Selig, NATO vice president¹

. . . If you really want to make something badly enough and you can work it into a budget of \$7 million or \$8 million or \$9 million, there's a good chance of getting it made. Maybe not by a major, independently, I'm talking about.

Martin Scorsese on artistic freedom in American cinema²

If you want your movie to play on the big screen, you have got to give people something they can't see on television. The major studios accomplish this by making \$18 million pictures loaded with elements that TV movies can't afford. The low budget independents usually accomplish it by featuring sex and violence portrayed more explicitly than what will be accepted on TV.

John Russo, independent filmmaker³

I said it is three hours long and it is NC-17. And [New Line President of Production, Mike DeLuca] came back the next day and said [the R] is the one concession I will ever ask you to make in making this movie Because if it's going to cost \$15 million, we got to make some money somewhere. And if it's NC-17, they can't stock it in Blockbuster, you know, and they lose a lot of money in video returns. So I said, well, I'll take the challenge to make an R rated movie and find a way to do that and mapped out to him ways that I would try to do that. And he said okay. But I said the running time is the running time and that's not going to change. So they're just happy that its twenty minutes shorter than I said it would be.

director Paul Thomas Anderson⁴

When NATO theater owners in the early 1970s assured Hollywood that they would only play films rated by CARA--even though NATO had been partners in the rating system from the start--the MPAA managed to regain the two most important components of vertical integration: distribution and exhibition. During the studio era, the PCA negotiated the classical principles of Hollywood cinema--what John Belton terms clarity, simplicity, elegance, order, economy and

symmetry⁵--as its products made their way through the production pipeline out to consumers. The MPAA's veritable monopoly on the film industry enabled its Code office to reject, withstand, or absorb practically all challenges to Hollywood's commercial stability. The period between the Paramount Decree and the MPAA/NATO union, however, saw a threat to Hollywood's original business principles with the divestment of exhibition, the rise of independent film production and distribution, and the liberation of cinematic expression among other industrial changes. After replacing the outdated and ineffective PCA, the MPAA adopted a code system administered by CARA, who not only had to begin classifying films according to their most appropriate age-groups, but also had to contend with increasingly racier products from both majors and independent distributors competing for the same theatrical venues. (Prior to the Paramount decree, films that failed to get a code seal could be effectively barred from theaters). Reestablishing ties to the exhibition circuit was a means of securing profits for the MPAA studios in the "New Hollywood," in an age of deregulation, media conglomeration, and increased profit potential of overseas, video, and other ancillary markets.

Nevertheless, the majors faced at least some degree of threat from independent distributors who were not excluded from these theaters as long as their films had a CARA rating. By sharing the same space, independent films may not have represented much of a challenge at the box office, but they posed an endangerment to the industry's commitment to "respectable" entertainment. Independent filmmaking tends to be dictated by the demands of individual artists rather than the demands of commerce. Because they operate with lower budgets and target niche audiences, independents could afford to release riskier material into the marketplace in hope that its uniqueness would generate enough controversy at the box office for the film to make a profit. Releasing films unrated or with an X/NC-17 could help to accomplish this.

This strategy worked for a short time in the early days of the rating system as both major and independent distributors and exhibitors exploited the X rating's potential. But by the

mid-1970s onward, the MPAA studios, this time with the assistance of NATO, returned to Hollywood's original commercial strategies by abandoning the X for the "incontestable R"; except in a few cases, the majors never released X/NC-17 films into the marketplace and NATO theaters rarely played X/NC-17 or unrated films. Hollywood films were once again available for all audiences, even though children, in theory, were restricted from R movies without a parent. What Richard Maltby called the self-explanatory, self-contained, self-justifying, and self-regulated features of Hollywood cinema⁶ were now in place as the only products audiences could purchase at the major motion picture houses were those negotiated by CARA.

Undoubtedly, the economics of independent filmmaking were hurt by this arrangement as access to prime theater space was largely forbidden to X/NC-17 and unrated films. Yet the industry's commitment to distinguishing major Hollywood films from other types of product already had its roots in the era of the Production Code and the PCA. As Eric Schaefer demonstrates in "Resisting Refinement: The Exploitation Film and Self-Censorship," the success of Hollywood's self-regulatory policies in the sound era lay in its ability to preclude non-industry certified films from being shown in mainstream picture houses. Schaefer argues that from 1927 until World War II, the independent films of the era (exploitation films, particularly sex hygiene films), by the process of exclusion, helped to define and shape the nature of mainstream Hollywood entertainment.

Just as surely as 'the Breen Office' was another strategy to consolidate power in the hands of the majors, it also functioned to marginalize the exploiteers by denying MPPDA seals to their pictures. Without a Code seal exploitation films were, for all intents and purposes, barred from the lucrative first-run houses in large cities which were run by the majors. The Code and its enforcement also served to shape the dominant image of what movies should be, vis-à-vis exploitation.⁷

David James also recognizes that any mode that exists as an alternative to dominant practice "speaks not only of what it is, it speaks what it is not, it speaks of the other."⁸

Therefore, Hollywood and alternative cinema should not be seen as separate entities but characterized only in relation to one another. Classical Hollywood's desire to separate itself from exploitative fare served to reinforce the conception of Hollywood films as a dependable business and to present the MPPDA as an active organization committed "harmless" and "correct" entertainment.

According to Schaefer, these efforts to separate the mainstream from the marginal were vital to Hollywood, due to the public's inability to distinguish between films made by the MPAA studios and those produced by independents. His observation that in the Production Code era, "calls for movie reform were invariably directed at Hollywood, but not necessarily Hollywood films,"⁹ is just as relevant to the policies of the film industry today. All motion pictures playing in mainstream sites are assumed by audiences to be vetted by CARA even though the Board may not have rated the film at all. Therefore, by producing and exhibiting only R pictures, the MPAA and NATO can maintain the illusion of "respectable" entertainment under the "incontestable R" banner while distinguishing themselves from the X/NC-17 or unrated films playing at the visibly marginal arthouses. As a result, CARA has far less need to contend with objections from parents, politicians, and religious groups caused by an "sensational" independent picture playing at the multiplex.

However, the creation of CARA, the strict enforcement of the R rating at the studio and exhibition level, and the efforts to shut out non-conventional films from mainstream theaters have not fully succeeded in curbing "exploitative" material from the marketplace. In the end, the rating system can never work perfectly because it is necessarily flawed in three major ways: 1) the subjective and arbitrary distinctions between categories inherently leads to mistakes, a flaw admitted to by Valenti; 2) the opportunistic nature of the film business occasionally witnesses MPAA member companies testing the boundaries of the R rating with material that may be perceived as "non-respectable" entertainment (Basic Instinct, Natural Born Killers, 8mm, 1999); and 3) vertical de-

integration has impaired the industry's efforts at self-regulation, since independent films--R, NC-17 or unrated--continue to play at first run multiplexes and upscale community arthouses. While Schaefer says that "the Hays Office and other elements in the organized industry, were often able to use exploitation films as an antithesis to deflect attention away from mainstream movies which might have otherwise attracted negative criticism,"¹⁰ I contend that the ratings era has placed the entire film business in perpetual state of alert, as the distinctions between mainstream and independent product are continually blurred.

This clash between the mainstream and independent film industries, argues Schaefer, "created a series of discourses on sexuality, tastes, mores, the nature of entertainment, and the function of motion pictures."¹¹ The present chapter explores the interplay between the majors, the independents, and CARA as a perpetual market struggle over the nature of entertainment in contemporary Hollywood. Cries of hypocrisy, unfairness, and pro-studio bias disguise the fact that the majors are intent on preserving the commercial imperatives of the industry while the independents are intent on playing against them. CARA neither actively discriminates against the independents nor deliberately embraces the majors; however, it does operate by a code of regulation invested in producing works of "respectable" entertainment--a system created, supported, and overwhelmingly financed by the MPAA and NATO.

* * *

As I understand your hearings, the question before this Subcommittee on Special Small Business Problems is whether the rating board has gone about its task in a fair and nondiscriminatory manner. Your question is whether we classify films submitted by small business in precisely the same way we classify films submitted by big business, measuring them all against precisely the same definitions of G, PG, R and X. My answer, loud and clear, is unequivocally yes.

Richard Heffner¹²

If you polled the independent film distributors and independent film producers on the MPAA ratings system, many of the responses would be X-rated. There is no question in my mind

that the system is replete with inequities favoring the major studios over the independent releasing organization, that it accomplishes much less in protecting the unaware public than it accomplishes in protecting the motion picture industry "establishment."

Roger C. Riddell, independent producer and distributor¹³

First and foremost, I think the MPAA should recognize what it is--an organization whose ratings administration is in the business of censoring motion pictures. . . . Second, I call upon Mr. Valenti to make the MPAA more representative of the motion picture industry at large. I am not a member of the MPAA, nor are any of my peers, nor is any organization of which we are members. We are in fact living under a system of censorship without representation.

Jonathan Dana, independent producer¹⁴

From the beginning, the MPAA and NATO never rallied behind the X rating, due to its obvious economic liabilities: cutting your audience in half while doubling public grievances meant less money at the box office. By "closing down production" of X films and denying their exhibition in many first-run theaters, these trade organizations eventually distanced themselves from the rating appropriated by exploiters and pornographers shortly after its creation in 1968. Eliminating unacceptable screen fare from mainstream theaters, and arranging all in-house product to fit, at least, an R category, reinforced the image of Hollywood films as "respectable" entertainment. The downside of such organized, self-regulatory attempts to maintain Hollywood's commercial strategies have been perennial accusations of industrial unfairness, censorship, and monopolistic business practices.

The first major outcry directed at CARA occurred with Ryan's Daughter in 1970, which led to charges by the independents that the rating system was biased toward the major studios. It was alleged that MGM threatened to withdraw its membership from the MPAA if the film's rating was not reduced from an R to a PG (which it was). In 1976, independent distributors criticized CARA for the soft ratings recently given to two studio products: Warner Bros.' The Outlaw Josie Wales (PG) and Columbia's Taxi Driver (R). That same year, it was reported that Warner Bros. threatened to cut off product to

those exhibitor members who voted against appealing the R rating for All the President's Men (1976). In the end, All the President's Men received a PG rating.¹⁵ A complaint by independent producer Earl Owensby over the rating for this film most likely led the House of Representatives' Subcommittee on Special Small Business Problems of the Committee on Small Business to conduct five hearings between March and July 1977 regarding CARA's allegedly unfair business practices.

The purpose of the hearings--entitled "Movie Ratings and the Independent Producer"--said chairperson James Russo, was to address complaints "that the rating code is being utilized to the economic benefit of the major motion picture studios and to the economic detriment of the independent producers."¹⁶ Much of the debate centered around the content of, and differences between, the PG and the R ratings, rather than being concerned with the boundaries between R and X.¹⁷ Even so, the testimony given by members from CARA (Valenti and Heffner) and NATO (Robert Selig, vice president and Sherrill Corwin, past president) as well as by film critics, producers, religious leaders, and scholars defending or opposing the existing rating system, sheds enormous light on the relationship between Hollywood and the independents and remains the most detailed and honest account of CARA's practices ever recorded.

The findings of the Subcommittee on Special Small Business Problems in March 1978 overwhelmingly supported CARA; the Subcommittee "found no evidence whatsoever of any discrimination against independent productions by the rating system."¹⁸ Although the Subcommittee acknowledged that "some problems have developed as they do in any system which is fairly new and unique," they were confident that the changes currently in process as a result of the hearings would be satisfactory in eliminating bias and prejudice from the system. The adjustments-in-progress included the following:

- 1) the MPAA would refrain from releasing names of RAB members in order to avoid "mass pressure in the future" during the appeal process,¹⁹
- 2) the MPAA would consider providing explanations for their ratings to the public, especially parents, about

- what type of violence, sexuality, and language was present in a film,
- 3) the MPAA would consider conducting research into the area of how film content affects children, and
 - 4) NATO would conduct a nationwide poll of its members on rating issues.

If these recommendations seem few, it is because the Subcommittee, in their conclusions, believed that there was mass confusion about CARA's policies, but no hypocrisy inherent in the system itself.

It was evident throughout the hearings that all independent producers did not have a complete knowledge of the rating system. While some knew the basics of how one submits a film, the actual steps of the process were not very clear. The subcommittee hopes that a reading of this report, its appendixes, and the printed hearings will provide any and all information anyone--producer of moviegoer--may need.

They ended their report by stating "that claims of discrimination were unfounded and, therefore, no such recommendations are called for."

While I agree with the Subcommittee's findings that the independent producers and distributors were unsuccessful in proving discrimination, their failure to suggest any substantial changes to CARA reveals a lack of understanding of how industrial self-regulation unfairly favors and protects the economic interests of the major studios. Many problematics broached in the hearings were overlooked in the Subcommittee's report, as they obviously felt that CARA's self-imposed standards, its concern for parents and children, its consumer approval ratings, and its due process were enough to absolve the organization of any suggestions of unfair trade practices. Yet the very concerns voiced by the independents, and subsequently ignored by the Subcommittee, continues to plague the rating system: the constitution of CARA's rating and appeals board, the secrecy of CARA's proceedings, the costs involved in obtaining a desired CARA rating, and CARA's predisposition toward "respectable" entertainment.

I will show that these four dynamics have led not to deliberate discrimination against independent producers and

distributors by CARA members, but rather to systematic discrimination in favor of films conforming to Hollywood's model of "respectable" entertainment. It is in the negotiations between the R and the X where independent filmmakers are placed at the most serious disadvantage in the American film market. In proving this claim, I want to examine more closely the four dynamics discussed during the Movie Ratings and the Independent Producer hearings. Because of the Subcommittee's obliviousness to and/or disregard of these concerns, CARA's policies have remained relatively unchanged for over twenty years.

First, the configuration of both the Board and the RAB were a site of contestation in the hearings. The two boards' preponderance of members previously employed by, or involved in dealings with, the major distributors and exhibitors led subcommittee chairperson James Russo to state that independents face "categorization without representation."²⁰ Out of the six-person Board (not including Heffner), five had worked in some previous capacity with the MPAA: Albert Van Schmus had been a staff member of the PCA since 1949; Richard Mathison was a member of the PCA since 1965; Richard McKay had been a film buyer for Paramount Theaters, publicity chief for Pacific Theaters, and a vice president at Walt Disney Productions; Janis Montgomery served as secretary to PCA chairperson Geoffrey Shurlock; and Susan Nicoletti had worked as a secretary to the advertising director of the MPAA.²¹ In the case of the twenty-two member RAB, nine were from MPAA members, eight were from NATO, and only four came from the IFIDA--the independents.²² Even with four votes, implied Sherrill Corwin, past president of NATO, the independents literally had no voice. Corwin said that the representatives rarely attended the appeals, since the IFIDA had practically disintegrated as an organization.²³ Independent producer Earl Owensby suggested a solution to the membership inequities of the Board and the RAB.

The rating of movies should be handled by nonbiased people who are not affiliated with the Motion Picture Association, NATO, or anything else. . . . You see, out of

100 percent of the movies, 70 percent are made by independents and 30 percent are made by majors. Here the majors are judging the whole thing.²⁴

When Russo addressed this discrepancy to Valenti, an ardent exchange appears to have developed between the two.

MR. RUSSO. Do you ever receive any criticism from the independents on the fact that there are not enough of them on the boards, and they produce about 70 percent of the films in this country?

MR. VALENTI. That is true, Mr. Chairman, but about 75 percent of the theater box office income is from the major films.

MR. RUSSO. So basically part of the criteria you use in setting up the appeals board would be the amount of sales?

MR. VALENTI. No, that has nothing to do with it. I threw that out as a gratuitous remark. It had no linkage to the specifications.

MR. RUSSO. It seems to be tilted toward those who produce the most films.

MR. VALENTI. I invented the rating system, and starting from scratch, I started out trying to sell it. Independents then had two members on the board. We enlarged it to four. They sit as one of three partners on the policy review committee, which is the board of directors of the rating system, and they and the theater owners and ourselves, as a group of three, make the rules for the rating system, and for the appeals board. . . This group is really the policymakers, the board of directors, of the rating system. It has been working very well for 8 1/2, almost 9 years, and I guess that is my answer.²⁵

Valenti's "gratuitous remark," as well as his circumvention of Russo's questions, does seem to suggest that the rating and appeal processes primarily benefit the major distributors and exhibitors. As independent producer Jonathan Dana remarked at the hearing, the MPAA "is geared to selling tickets. Everything else is secondary to that."²⁶

Other discouraging accounts of inequity that emerged from the hearings included the difficulties faced by independents in having their rating overturned in the appeal process. Owensby alleged that the overwhelming majority of MPAA and NATO members on the RAB led to a "'party line' vote for the independent film, Dark Sunday: the majors voted to sustain the rating and indies voted to give it a PG."²⁷ Perhaps the majors had a "psychological advantage," suggested Reverend Patrick J. Sullivan, director of the Office for Film and Broadcasting

Review of the United States Catholic Conference, since they had friendships and long associations with members of the RAB and were familiar with the procedures of the appeals process. He also added that since independents sought out the "exploitation market" they may have met with a tougher response from the RAB: "The appeals board, and I would emphasize this point, will not be lenient on a film that could be the object of legal action or widespread public criticism."²⁸ In other words, films that violate the standards of "respectable" entertainment.

These speculations must remain mere assumptions because of the veil of secrecy that envelops CARA's practices--the second dynamic discussed in the hearings. This secrecy shrouds the rating and appeals boards' deliberations, rationales, and decisions. Various testimony alluded to the fact that no one was allowed to sit in on meetings of either board,²⁹ that rating criteria were subjective, hypocritical, and unclear, and that secret ballots made the system "pseudo-judicial." Jonathan Dana viewed the appeal process of his film Sandstone as a violation of his due process: he was not permitted to know the names of his judges, he could not build a case based on previous decisions of the RAB because the system operated without precedent, and he felt the RAB's inability to set policy severely compromised the system's effectiveness.³⁰ Hence, at the hearings, Dana and others called for CARA to provide greater explanations of ratings--not for parents, as recommended by the Subcommittee, but rather for the benefit of major and independent producers and distributors alike, who were frequently in the dark about how best to cut their films for a lower rating.

The secrecy and privacy of CARA placed a further burden on the independents, because of the costs associated with submitting and re-editing a film, and with appealing its rating--the third dynamic. Economies of scale and large production budgets made these costs negligible for the majors but for the independents they could be a hefty expenditure. In the hearings, Valenti provided a film classification fee schedule which revealed the initial cost of rating a film as low as \$800 and as high as \$8000, depending on the negative

cost of the film.³¹ If any cost could be justified for the independents, this would be it. But when cuts were needed for a lower rating, many independent producers, like Dana and Owensby, did not have what they listed as \$10,000 to \$20,000 for labor, re-scoring, and remixing each time they re-cut the film.³² Often they had to spend the additional money to conform to a less restrictive category's specifications. Appealing the Board's decision may also have placed independents at a serious disadvantage, since the majors had the funds and publicity departments to mount a campaign prior to the vote. Dana described how he had neither the resources nor the funding for print costs that Warner Bros. did when they mailed hundreds of copies of All the President's Men to educators and opinion leaders around the country, so they could support a reversal of the film's R rating.³³ And in a case where he wanted to accept an X rating for a film, Dana said, he couldn't, because of the possible court costs involved in defending the legality of the work--another expense easily absorbed by Warner Bros., most notably for Carnal Knowledge.³⁴

By the time of the 1977 hearings, however, the majors had stopped defending X rated films, since they had ceased to distribute them. The X was no longer considered under the rubric of "respectable" entertainment--the fourth dynamic. NATO vice president Robert Selig admitted in the hearings that, for the most part, the X was not welcome in his association's theaters.³⁵ Since the independents, in the words of Subcommittee staff member Stephen P. Lynch, "come up with movies that the major motion pictures don't want to touch,"³⁶ it would appear that independent films, with their unconventional ideas of aesthetics, narration, and pleasure, would tend to attract the more restrictive X rating. Reverend Sullivan made a similar point, albeit in a more negative way, in a prepared statement.

When independent filmmakers, having little access to the type of financial capital and creative talent available to major studios, introduce particularly violent or strong sexual material into a film, their lack of cinematic ability frequently results in an all too obvious grossness of treatment--however identical the value content of their

films and those of the major studios may appear to be. Because the rating administration has tended to be more preoccupied with visuals over thematic content, the technical "artfulness" of a film's treatment by the major inevitably influences the board's deliberations.³⁷

This hypothesis is supported by Dana's account of his X rating for Sandstone. He received a list of thirteen shots in a three-to-four minute sequence that the Board felt in their "accumulation" was inappropriate for an R rating.³⁸ Perhaps the "artfulness" of the major filmmakers described by Sullivan may be equated to less intensity of tone exercised by the studios in making a more audience-accessible film.

In response to these hearings, CARA immediately changed the "C" in its name from "Code" to "Classification," and also altered the explanation of its PG rating from "some material may not be suitable for pre-teenagers" to "some material may not be suitable for children."³⁹ These token, cosmetic alterations failed to address CARA's systematic discrimination against independent filmmaking practices, and personified its approach to dealing with accusations of hypocrisy and bias over the next twenty-plus years. The PG-13 (1984) had little effect on independent filmmaking; the NC-17 (1990) replaced the X, but in name only; and the addition of a few independents to the RAB during the 1990s left the independents still underrepresented on the appeals board. As a result, complaints about the RAB's unfairness, the secrecy of CARA's deliberations, the editing costs involved in resubmissions, and the systematic prejudice in favor of "respectable" entertainment remain the same today as when raised in the hearings.

* * *

We make mistakes. But our mistakes are clearly the product of our own fallibility, not of venality, not of concession to pressure.

Richard Heffner⁴⁰

We never rated a film on its quality or lack of it, its cinematic values or lack of it, but only on content that would be of interest to parents.

Jack Valenti⁴¹

In a discussion of CARA's ratings policies, the most common phrase brandished by its opponents is "double standard": what passes as an R for a major would earn an X/NC-17 for an independent. This complaint is almost as old as CARA itself. Only two years after the creation of the rating system, a September 1970 Variety headline read, "Hollywood Indies Mutter that Code is More Strict against MPAA Outsiders"; following it was a report that "double-standard charges have been prevalent for months."⁴² By 1990, these frequent charges led to the well-publicized Tie Me Up! Tie Me Down! court case in which the Miramax and Almodóvar complaint charged that CARA was "motivated by a prejudice toward foreign films and a bias in favor of those made in this country, as well as a prejudice toward independent distributors."⁴³ New York Supreme Court Judge Charles E. Ramos found that there was not a "shred of substantiation" that the Board was motivated by bias against independent distributors and foreign films. The only "double standard" he recognized was the Board's tolerance of excessive violence while renouncing sexual intimacy--but this standard was applied equally to both major and independent films.

Ramos' failure to find a double standard in which major and independent films received differing treatment, however, did not mean that he failed to find a standard. In his decision, Ramos declared that CARA's "standard" for rating films--the average American parent (AAP)--was "frivolous" and "indefensible" because of its lenient policy toward violence, its lack of professional guidance, and its forms of de facto censorship. "The court," he wrote, "cannot avoid the notion that the standard is reasonable only if one agrees with it. This standard, by definition, restricts material not because it is harmful, but because it is not average fare." As a result, he continued, discrimination lay not in the members of the rating and appeals boards but in their policies.

What is offensive is the unprofessional standard itself, not the manner in which the rating board applies it. The standard of the AAP is a marketing standard, a tool to aid in promoting films. There is no basis in the record for the Court to conclude that the MPAA does not know how to

label its products for market, there is only a question as to the significance of the labeling.⁴⁴

Even if a double standard does not exist in CARA's decision-making process, a single standard definitely does, and herein can be found the locus for many of the misconceptions independents have for the rating system. Independent films, like major studio productions, are also commodities designed to ensure maximum return from the minimum investment and resources; however, they are not bound by the same commercially-driven aesthetics and commitment to "respectable" entertainment as Hollywood. Paying audiences are not guaranteed the same entertainment value from Trimark's The Doom Generation as they would be from Paramount's Sliver. In fact, audiences go see The Doom Generation precisely because it is not Sliver, precisely because Rose McGowan is not Sharon Stone.

The textual, social, and economic expectations of independent product do not have to adhere to the institutionalized qualities of Hollywood entertainment. Therefore, it is the independents' customary failure to meet and match the standards of the "incontestable R" category--and not differing criteria for applying the R category--that accounts for CARA's presumed hypocritical practices. In accepting and denying films an "R for entry" into the mainstream market, CARA inscribes an industry standard, a series of textual operations perpetually negotiated to avoid criticism from parents, reform groups, religious organizations, and government officials. Therein lies the "significance of the labeling" Ramos describes above and the definition of "average fare."

In short, Hollywood is not supposed to be countercultural and subversive; it is a medium of "respectable" entertainment--and as entertainment, argues Maltby, it must adequately conform to a "socially prescribed role."

Popular culture "deals in certainties": offering assurance that things are under control, that ambiguity is resolved, that violence is assimilable, that disorder will resolve into order, that sexuality is not anarchic, that death is not real, that injustice is a temporary state, that

rebellion is a predictable phase which will be subsumed eventually in a necessary corporate stability.⁴⁵

If maintaining the integrity of Hollywood entertainment is the primary objective behind CARA's ratings decisions, independent films are certainly at a disadvantage. First, they are usually recognized as at least attempting to fulfill artistic goals, rather than simply providing entertainment. Secondly, as "art", independent films usually target a more narrow audience. Third, by targeting a smaller audience, independent films contain subject matter and aesthetics occasionally unfamiliar to, discomfoting for, and often unwanted by mass audiences. Lastly, the fact that independent distributors are not members of the MPAA means that they are not bound by Hollywood's espoused responsibility to parents.

These four factors explain why exhibitor support is again crucial to the profitability of Hollywood's products. NATO's refusal to show X/NC-17/unrated films reifies the "incontestable R" and, as a result, its theaters become sites of "respectable" entertainment. At the same time, NATO's prohibition establishes an alternative space where disturbing, socially engaged "art" films can be separately screened. What types of films, then, might provide the rationale for this market dualism?

* * *

I'm most comfortable telling stories that oppose social laws, rules, and narrative orders and genres--against things that society constructs and maintains and governs. To me, a story has to be felt almost exclusively in relation to that power and dominance, whether it's the family or the notion of a scientist who threatens society with his discovery and becomes the monster. I think my films make you feel resistance to those structures in your own way, not necessarily by telling you how to resist them.

Todd Haynes⁴⁶

"So, what exactly is Poison?"

Michael Wilmington, Los Angeles
Times⁴⁷

Both Haynes and Wilmington pinpoint a tone absent in much of independent filmmaking but central to Hollywood entertainment: certainty, affirmation, assurance, and assimilation. In defying these very qualities, Poison is the type of film that the MPAA and NATO banished from the industry in its quest for an "incontestable R." The film may have been just another arthouse release had it not been for the campaign waged by Reverend Donald Wildmon and the American Family Association when it was released theatrically by Zeitgeist Films in 1991. Although Poison played in very few theaters, the outrage over the National Endowment for the Arts' (NEA) endorsement of the film parallels those attacks against Hollywood's "endorsement" and distribution of "non-respectable" pictures like Cruising or The Last Temptation of Christ into mainstream theaters. Poison can act then, as a perfect example of the type of film the rating system serves to stigmatize and of a type of scrutiny that Hollywood tries to avoid.

It was "a controversy that sort of happily coincided with our opening of the film," said director Todd Haynes. "It brought an unbelievable amount of attention of what was otherwise, basically, an art film."⁴⁸ Producer Christine Vachon related the furor that ensued after Wildmon publicly attacked the NEA for funding and channeling "filth" and "pornography" into the sacred domain of American movie theaters:

The upshot was chaos. Our phone literally did not stop ringing. We made all the papers. We made Entertainment Tonight. Previously, performance artists like Karen Finley had come under fire for using taxpayers' money to do naughty things with yams and chocolate syrup but movies capture the public and the media's interest in a way that "minority" arts don't. This was the first time the wrath of the Religious Right was being directed that something more than a handful of people at a time could actually see--something that could actually show in your hometown.⁴⁹

The mature nature of this film collided with and clearly violated what most people would consider entertainment. Indeed, Poison is as "art film" and "non-respectable" as you can get. A disconnected, three level narrative structure about parricide, leprosy, and homosexual rape strays pretty far from the commercial norms of Hollywood cinema.

The nature of cinematic entertainment, argues Justin Wyatt in his book about the film, would prove problematic in media negotiations over Poison, due to a mismatch between its intended audiences and actual audiences.⁵⁰ Poison's national coverage (Entertainment Tonight, Larry King Live, the national news networks) created a visibility for the work normally allotted to a Hollywood film. As a result, the mainstream audience crossed over to the arthouses to see the film, bewildering even Haynes himself: "Many of those people are people I never intended the film for, and some of them can't handle it. But a lot of them find something in it, and that surprised me. I think people want to be provoked."⁵¹ However, those people who can not handle a film like Poison, those people not wanting to be provoked in the cinema, essentially captures the rationale behind the industry's attempts to keep films like Poison out of mainstream theaters: they threaten Hollywood's image of itself as a site of "respectable" entertainemtn.

Poison is an example of one extreme of independent filmmaking: a low-budget, narrowly-targeted production, with returns expected to be minimal. Its makers recognized that it could never receive an R, and so, rather than paying for an NC-17, they released the film unrated. Quite a different example is provided by Kika (1994). October Films believed that their film's subject matter had crossover potential, and expected an R rating.

Kika was a dark satirical comedy typical of Pedro Almodóvar's work up to this time such as Matador (1986) and Women on the Verge of a Nervous Breakdown (1988). The film contained no frontal nudity, no graphic violence, and no drug use. It was a hit for mass audiences in Germany, Spain, France and Belgium. And Kika was not challenging in a sense like Poison; it played as entertainment. Unfortunately, two scenes of explicit sexuality resulted in the film's receiving an NC-17: a comic lovemaking scene involving a camera and a rape played for laughs.

The truth behind Richard Heffner's remark that "the sexuality of [Kika] was too explicit for us to give it an R."⁵²

was demonstrated by the fact that Kika contained numerous violations cited in other NC-17 films--violations that major and independent studios either cut for an R or keep for an NC-17/unrated. In the comic lovemaking scene, a close up of a woman giving oral sex and a one-minute take containing three-quarter shots of nude grinding are the culprits. In the nine-minute rape scene,⁵³ the rapist sticks an orange slice in Kika's vagina then swallows it; his grinding on top of her is shown in medium and long shots; and he masturbates off a balcony as we see his semen hit another woman in the face. Jeff Lipsky, president of October, repeated the frequently heard charge that the Board "demonstrates a definite bias against independent filmmakers and distributors when it comes to applying harsh ratings." Almodóvar suggested that CARA was a "threat against freedom of expression." And Heffner replied with the typical rationale: "The question we put to ourselves on each film is what will parents think is the most appropriate rating for this film. It doesn't matter if it's Universal or Columbia or October."⁵⁴ Nevertheless, October expected a broad release for Kika and retained first Amendment attorney Martin Garbus to help argue its appeal in April 1994. Valenti turned down requests by October to show a specially prepared cassette of rape scenes to the RAB and to allow the news media to attend the hearing.⁵⁵ In the end, Kika lost its appeal (vote unknown) and October released the film unrated, which has always been less of a financial stigma than the NC-17 since more theaters will play unrated films than NC-17 ones.

While Kika fails to support allegations that the Board members are guilty of unfair trade practices, its controversy sheds light on the inherently discriminatory structure of the system itself toward independent films. October, like many other independents, were unfamiliar with the Board's strict standards for sex in the R category. Kika's violation of these criteria led to its NC-17, much to the dismay of October who had picked up U.S. distribution rights for Kika, investing about \$2 million in prints and advertising with the assumption, it appears, that the film would be rated R.⁵⁶ That October had never before submitted a film to CARA for theatrical release

also suggests that their decision to pay for an MPAA seal was predicated on the less restrictive rating. In addition to opening the film with a wider-than-usual release, October's domestic rights deal for Kika came attached with a clause prohibiting any cuts,⁵⁷ further indicating the company's intention to secure an R rating. Therefore, October's only route to an R rating was to appeal its NC-17. However, since the composition of the RAB was primarily NATO members, Almodóvar's glib, farcical approach to rape probably played less as entertainment than as disturbance for board members viewing the film through the eyes of their future audiences. They would probably have tended to vote "better safe than sorry", especially for a film with limited box office appeal.⁵⁸

* * *

Eat, Fuck, Kill.

The promo pin for The Doom Generation

Bleak, bleak, view of the younger generation makes Kids look like The Little Mermaid.

Entry for The Doom Generation in
Leonard Maltin's 1999 Movie and Video
Guide⁵⁹

The joke going around is that when Disney first heard Miramax bought a movie about kids, they must have thought "Great, Miramax is finally on board. We see theme park rides."
a New York indie insider⁶⁰

A year later, in 1995, Gregg Araki's The Doom Generation and Larry Clark's Kids self-consciously rejected the aesthetic of American cinema, breaking down the distinctions between art and entertainment. Failing to resolve or assimilate the chaotic plight of its main characters, both pictures pervasively emphasize a raw, unnerving teenage sexuality explicitly and uncompromisingly on screen, a point made by Robin Wood.

The two films have in common the awareness that, for today's disaffected and alienated young, the pursuit of sexual experience has become the dominant aim; but whereas Larry Clark's treatment of teen sex reduces it to the merely cynical, predatory, and self-serving, Araki's is

passionate and positive, deeply romantic, seeing sex as a liberating force. Desire, thoroughly debased in Kids, is here cleansed, purged, of all meanness, and reaffirmed. Clark's "kids" are treated as passive objects for his gaze, the gaze expressing both desire and repugnance.⁶¹

The absence of constraints and inhibitions in both films, their defiance of Hollywood guarantees of pleasure, and their undeniable ability to offend mainstream audiences led The Doom Generation and Kids to be released unrated. The distribution struggles that accompanied them reveal opposite extremes at work and demonstrate what happens when an MPAA member attempts to distribute a product in complete violation of the principle of "respectable" entertainment.

Gregg Araki's films are quintessentially non-commercial and play only in arthouses. "Poetics of queerness" can best describe The Doom Generation and his earlier films such as The Living End (1992) and Totally F***ed Up (1993). Journalist Chris Chang attempted to define the essence of Araki's work prior to an interview with him.

Re-viewing his films in preparation for meeting him, I compiled a list of key words and phrases, a litany of verbal depression, a sampling of the banter you'd expect to find if you eavesdropped on a suicide hotline: pointless, boredom, futility, nothingness, hamster wheel, no fucking idea where I'm going, emptiness, no meaning, not future, no past, just a present that's really fucked up, what difference does it make, alienation, stagnation, detached, betrayed, nothing matters, everyone was bored, I was bored, teenage angst, the young and the hopeless, same old same o', eat, shit, sleep, buy CDs, etc.⁶²

This list, if nothing else, could serve as primer for what not to include in a Hollywood film. Not surprisingly, Araki's films remain unknown to mainstream audiences; their disturbing tone and explicit nature far exceed the standard of the R category. With The Doom Generation, described by the Village Voice's Gary Indiana as "fucking, sucking, come, blood, gunshot mutilations, a decapitation, castration by what looks like a large pair of pruning shears, rape, and much more, most of it in a broad comedic style, with a harsh aftertaste,"⁶³ Araki may have directed one of the most intense and graphic fiction films ever released in the United States.

The fact that the film was ever financed at all, much less distributed or exhibited, is a story in itself.⁶⁴ The Samuel Goldwyn Company first secured the domestic rights to The Doom Generation after the film shocked audiences at the Sundance Film Festival in March 1995.⁶⁵ The acquisition surprised even the employees of Goldwyn--better known for high-brow fare such as Much Ado About Nothing (1993) and The Madness of King George (1994)--who believed the company's financial straits, combined with the race for the next Pulp Fiction (1994), led its executives to purchase what many found to be an offensive film and a marketing nightmare.⁶⁶ Amid reports that chairperson Sam Goldwyn Jr., voiced trepidation about releasing The Doom Generation,⁶⁷ and that Goldwyn officials asked Araki to cut certain shots of sex and violence but he declined,⁶⁸ the company decided to sell the rights to another independent company, Trimark, who agreed to release the film without cuts.

The Doom Generation did not create a rating controversy because Trimark never submitted the film to CARA. Even without a rating, few people championed, defended, or even liked the film. It underperformed even on the arthouse circuit--earning slightly over \$250,000 in a maximum of twenty theaters--undoubtedly a result of its controversial subject matter, marketing problems, and overall unpleasantness.

Kids was hardly "respectable" entertainment either. Photographed in an unflinching documentary style with a non-judgmental point of view and tone of chronic despair, Kids was every bit as blatant and disheartening about teenage sex as The Doom Generation. However, when Miramax paid \$3.5 million for Kids' worldwide distribution rights, followed by increasing notoriety spread by word of mouth after its screenings at the Sundance and Cannes Film Festivals, the film achieved a high level of media prominence never extended to Araki's work. Reviews from Film Comment (Kids' "disturbingly erotic vision . . . may make the film unreleasable")⁶⁹ and Variety (Kids "is "poised to become one of the most controversial films ever made")⁷⁰ helped to establish the film as one of the most anticipated releases of the year. Unfortunately, the film's violation of many of the most obvious tenets of the

"incontestable R," in its frank depictions of teenage sex and drug abuse, racial violence, gay-baiting, and rape, guaranteed that it would be rated NC-17 by CARA.

Historically, Miramax had relished the chance to maximize a film's publicity by challenging the rating system. As independent distributors, Bob and Harvey Weinstein may have realized that the only way to combat a classification scheme that favored "respectable" entertainment was to induce controversy between themselves and CARA. On most of these occasions, they lost their appeals (Scandal, The Cook, the Thief, His Wife, and Her Lover, Tie Me Up! Tie Me Down!, and The Advocate, 1994); occasionally, they won (Clerks). Either way, the controversies manufactured interest in the films regardless if they cut a film for an R or released it unrated. Miramax's "any publicity is good publicity" approach to marketing was possible since as independents they were free of the usual MPAA responsibilities.

All this changed in 1993 when Miramax was purchased by Disney for approximately \$75 million and became what Justin Wyatt termed a "major independent."⁷¹ Once unfettered and autonomous, Miramax now faced obstacles previously unknown to them in producing and distributing a film, and in securing exhibition sites: 1) As a subsidiary of Disney, they had to follow Disney's corporate policy; 2) As a member of the MPAA, they could no longer release unrated films; 3) As a subsidiary of an MPAA member, they had to consider the concerns of NATO exhibitors in their production and acquisition of films; and 4) As a member of a corporation, they had become vulnerable to popular opinion expressed by politicians, religious leaders, and the press.⁷²

The intent of the merger, as Wyatt pointed out, was to keep Miramax's and Disney's business operations separate. The deal would give Disney an arthouse division, enabling the company to produce movies for the adult market that had previously eluded them. As for Miramax, the deal would make the Weinsteins personally wealthy while giving their company greater access to capital, wider distribution overseas, and better ancillary deals in home video and pay television after

years of financial strain. Shortly, however, the constraints of corporate ownership were made manifest; Miramax could no longer market films through media controversy.

In 1994, they were forced to return Martin Lawrence's verbally explicit You So Crazy to HBO (who in turn sold it to Samuel Goldwyn) after the film lost the appeal to reverse its NC-17. At the time, co-chairperson Bob Weinstein said that the NC-17 rating and Miramax's new status as a subsidiary played no part in the relinquishment.

We can and we (will release NC-17-rated films). But we felt this film had crossover appeal and that unrated was the best way to go. And now that we are a part of a major company, which is a signatory to the MPAA, that option is not available to us. We are an autonomous division (of Disney) and we have the ability to release a film as NC-17. We can run our division as we see fit. But it was not in our best interests--or Martin Lawrence's--to go out with an NC-17.⁷³

What Weinstein fails to mention here is that Miramax had no choice but to abandon the project because, in addition to Disney's commitment as an MPAA member not to release unrated films, Disney's corporate policy is not to release NC-17 films. Therefore, Miramax--whose fortunes and laurels as a genuine independent derived from their distribution of difficult, unconventional product, and "non-respectable" product--now had their hands tied as a major independent.

This "unfortunate situation,"⁷⁴ as Bob Weinstein called it, emerged once again a year later with Priest (1994), a film about a gay clergyman. Even though Priest carried only an R rating,⁷⁵ Disney was under pressure by Roman Catholic groups and company shareholders to prevent Miramax from releasing the film. This time, however, Disney's was powerless to stop the film's release; the company's charter with Miramax, explained Walt Disney Motion Picture Group chairperson Joe Roth, allowed its subsidiary to release any film within certain budgetary limits as long as it carried no rating higher than an R.⁷⁶ How long this "marital strife" could last between the major independent and its corporate parent is evidenced by two opposing quotes in Newsweek about the boycott of Priest: "We

were terrified that we wouldn't get a controversy," said a Miramax source, "They're shameless, and they're embarrassing us," said a Disney source.⁷⁷

It became apparent in the case of Kids that the Miramax/Disney relationship could not function as long as Miramax continued with their usual acquisition and marketing strategies. Spooked by reports from Cannes that Jack Valenti--even before seeing Kids--did not believe it could be edited for an R, and director Larry Clark's retort that "I'm not going to edit out a single f[uck]ing frame,"⁷⁸ Disney sold the rights to the film to the Weinsteins in June 1995 even before it was submitted for an MPAA rating. The Weinsteins, in turn, set up a new company, Shining Excalibur Pictures, created solely to distribute Kids. At the time of this maneuver, Harvey Weinstein denied that Shining Excalibur was formed as a response to Disney's worries about the film's content.

We expect Excalibur to be a one-shot deal . . . we're not in the NC-17 business. But--with Disney's consent--we'll keep it going should another one arise. The company can help us defend ourselves against the conservative right. It's protection for movies that have edge. . . . Creating this company was the perfect solution--unprecedented as far as I know. It's the opposite of going head-on. Though we're at a tremendous risk--losing Buena Vista's clout in the home video market and pay TV markets, if I were Disney, I'd have made the same decision. Especially in this political climate, they have a grand name and reputation to protect.⁷⁹

Kids received an NC-17 in July. Shining Excalibur appealed the rating and lost. Not surprisingly, in the process of the appeal the Weinsteins marketed the rating controversy just as they had with films under the Miramax banner.

This time, their campaign rallied behind the cultural urgency of the film and the obligation they had as distributors to make sure that children were not restricted from seeing Kids. Shining Excalibur CEO Eamonn Bowles led the charge: "It's our opinion that R is the correct rating. By giving it an NC-17 rating, they are taking away the parental right to take their possibly vulnerable children to see this--which might help them open a discourse about what kids have to face

today."⁸⁰ And the Weinstains, as before, solicited noted public figures for their support. Attorney Alan Dershowitz, who was earlier hired to fight the Clerks appeal, complained that "the rating system fails when it comes to a film many American parents want their children to see. They believe, rightfully so, this film could save lives."⁸¹ Former Sassy magazine editor and author Jane Pratt remarked that "Kids creates a forum for discussion between parents and their teen-agers."⁸² Finally, Valenti inadvertently helped to sensationalize the film's release by stating "that parents in America would be grateful for the decision,"⁸³ and that "if ever a movie should be barred from viewing by children, Kids may be that film. . . . I believe, and I would hope that most exhibitors would agree, that Kids is a movie that children should not see."⁸⁴

Even though the film might effectively warn children about the dangers of unsafe sex, it is evident that fear of censure from parents, pressure groups and government officials is uppermost in CARA's self-regulatory practices. Perhaps Dershowitz was correct in his charge that Bob Dole's recent attacks on Hollywood had impacted the RAB's vote.⁸⁵ Perhaps the RAB vote of more than two to one in favor of sustaining the rating was driven by fears of theater chain boycotts, and by the inability of exhibitors to police their theaters for minors.⁸⁶ These concerns demonstrate that, for CARA, impending public outcry and an adherence to "respectable" entertainment always play a dominant role in R vs. NC-17 rating decisions. Of course, independent distributors suffer the most from this arrangement, since their films are often the ones attempting to upend the safe codes of realism, certainty, and assimilation customary in Hollywood filmmaking practice.

The inherent contradiction between the independents' threat of capsizing the commercial order of Hollywood and the majors' allegiance to that order demonstrates why the major independents cannot survive as entities separate from their parent company. Larry Clark's Kids would have effectively subverted the industry's regime of self-regulation had only one of the following four factors happened: if Disney made an exception for its no-NC-17 policy, if the Board decided to

alter its criteria for the R category, if the RAB had been swayed by platitudes of social responsibility and overturned the Board's rating, or if NATO decided to show the film to Miramax's "intended audience" in mainstream theaters. Instead, these "gatekeepers" steadfastly maintained their industrial commitment to "respectable" entertainment, fit for mass consumption. The only audience Kids was able to address was the art-house crowd, an audience largely disregarded by MPAA studio practices and not primarily served by the rating system.⁸⁷

The industry's acknowledgment that subversion is antithetical to standardization explains why Kids was indeed a "one-shot deal" for Miramax; the Weinsteins never distributed another NC-17 film under the Shining Excalibur banner, or any other ad hoc company for that matter. More importantly, since 1995, Miramax has shied away from releasing any controversial product. As a subsidiary of Disney, Miramax now finances, distributes, and markets only low-to-medium budget, adult-oriented films rated no higher than an "incontestable R" which do not, as in the case of Priest, subvert the squeaky-clean Disney image. Thus, as a major independent, Miramax effectively lost its autonomy, and with it, its ability to release pictures that challenged the commercial imperatives of Hollywood filmmaking. The romance in recent films like Shakespeare in Love (1998) and She's All That (1999) is a far cry from the "romance" of Tie Me Up! Tie Me Down! and Kids.

* * *

I think the fact that I don't tell my audience rape is a bad thing and I sort of go with the assumption that my audience understands that it is a bad thing and that there's a strange humor to this movie is just too unsettling for many people. It wasn't meant for everyone.

director Todd Solondz of Happiness⁸⁸

I guess October thought they had more internal freedom than they did.

Bob Berney of Good Machine, after purchasing Happiness from October⁸⁹

The streamlining of Miramax product into artful, mass-audience entertainment suggests that "dependent independence"⁹⁰ for the major independents comes at a price: the loss of a genuine autonomous voice. Similar strains are beginning to appear in cases of other former independents after their mergers with conglomerates during the 1990s. Fine Line, who became a subsidiary of Time Warner after Time Warner bought out Turner in 1993, has never released an unrated film. Two of its NC-17s--the barely released Delta of Venus (1995) and the reissued Pink Flamingos (1997)⁹¹--hardly suggest a commitment to adult-oriented material, while the NC-17 Crash (1997) encountered a limited and delayed distribution after Ted Turner criticized the sex and violence in the picture.⁹²

Even the arthouse divisions of the MPAA companies have been reluctant to release NC-17 films. Fox Searchlight (established by Twentieth Century Fox in 1995) edited Two Girls and a Guy down to an R after a lengthy rating battle. Sony Pictures Entertainment's two arthouse divisions, Triumph and Sony Pictures Classics, did the same with Bliss (1997) and The Dreamlife of Angels (1999), respectively, to avoid the NC-17. And while Sony Pictures Classics did narrowly release the NC-17 New Zealand film, Broken English (1997), its rating resulted merely from a single, 43-second shot of explicit heterosexual sex, and not from an overall tone that would attract controversy.

The impact that corporate ownership has on provocative independent filmmaking is exemplified by the conduct of October Films, before and after its sale to Universal (who had been bought by Seagram two years earlier) in the summer of 1997. In 1994 and 1995, October had weathered two rating battles with Kika and When Night is Falling. Both films initially received NC-17s. As detailed above, at issue in Kika had been the film's sexual explicitness and tone (specifically in the rape scene). Of concern in When Night is Falling were a few heterosexual and homosexual lovemaking scenes. The RAB upheld the NC-17 for both films, so October had three options: cut the films down to an R, release them NC-17, or release them

unrated. These options were available only because October was an independent. In the end, the films were released unrated.

October had built their credibility on cases like these. So when the situation arose once again in June 1998, after they had become a major independent, the Hollywood Reporter summarized their conundrum in a headline: "Fourplay from October puts Uni in a Pickle."⁹³ The headline referred to the fact that October had four films on its release slate, all of which seemed destined to draw the dicey NC-17 rating. October's new corporate mindset can easily be identified in a statement made by Dennis Rice, its president of worldwide marketing, in response to this possibility.

At the end of the day, it's the best tribute to the filmmaker if his work can be seen by as many people as it can. Of course, it's commercially more viable to have an R rating. It opens these films up to a wider audience and a broader range of exhibitors.⁹⁴

Of the four films, only the Danish film The Celebration earned an R on its first submission to the Board. Another Danish film, The Idiots, directed by Lars Von Trier, has yet to be certified and may never be; the film features an image of hardcore sex and its release in the United States has likely been delayed by over a year for this reason. Undoubtedly, The Idiots would receive an NC-17, but it is unclear whether October, another distributor, or any exhibitor will take on the film.⁹⁵ Orgazmo, written and directed by South Park's co-creator Trey Parker, lost its appeal and was released with an NC-17. However, the raunchy spoof of the porn industry incurred no wrath from Universal, probably due to the picture's frivolity and inoffensiveness.

The same can not be said for Todd Solondz's Happiness, a disturbing nihilistic comedy about the abnormal relationships of three sisters in suburban New Jersey that touched on themes of masturbation, dismemberment, and homosexual pedophilia. Despite the fact that the film won the International Critics' Prize for Best Film at Cannes in May 1998, it was never given a chance (unlike Orgazmo) to be rated NC-17; Universal and Seagram ordered October to drop Happiness from their release

schedule prior to its submission to the Board.⁹⁶ "The reality is that there are some elements in the film that thematically are inappropriate for our parent company," remarked October partner John Schmidt about the decision, even though his company had financed and produced the \$2.5 million Happiness themselves.⁹⁷ Having no choice in the matter, October sold Happiness to the film's international distributor, Good Machine, who, in turn, formed a domestic arm specifically to release it.

October was powerless to prevent Universal from exercising a morality clause in their contract for Happiness that allowed Universal to escape their obligation to release the film. This outcome reveals the lack of options available and the mere relative autonomy of independent filmmaking under the corporate umbrella.⁹⁸ Before, as a genuine independent, October would have fought the NC-17 and released Happiness unrated, if necessary, to protect the integrity of Solondz's work. Now, as a major independent, October had to obey the wishes of its owner. Solondz understood Universal's lack of enthusiasm for the film: "If they thought my movie would gross \$100 or \$200 million, I think things would be different. But it's not worth all the flack and controversy they anticipated from such a little speck of a movie as this."⁹⁹ Even so, Universal's differential treatment of Happiness and Orgazmo points to the quagmire currently faced by all major independents: a confusion over what passes as appropriate material for its corporate bosses and "respectable" entertainment for a Hollywood film.

What is the purpose of the major independent, then, if not to finance and distribute these niche pictures while reaping the benefits of their owners' financial resources and economies of scale? "The implicit bargain between majors and independents was simple enough," wrote a critic in The Economist. "The big studios would provide cast and marketing in return for new talent and risky ideas."¹⁰⁰ However, as it turned out, the big studios would provide cast and marketing in return for new talent only if the ideas were not too risky, not too confrontational, or not too dissonant; in other words, they had to be "resepectable." Films that have the potential to

repel reform groups, shareholders, and paying audiences have rarely been welcome by the majors--arthouse division or no arthouse division. Clearly, as Degen Pener stated in Entertainment Weekly, "[The independents] aren't as independent as they used to be."¹⁰¹

With dipping stock prices and company boycotts replacing artistic integrity and alternative storytelling as the primary concerns of independent distributors, Miramax, October, Triumph, and Fine Line, once the champions of the independent filmmaker and aesthetic, may now be their nemeses. Equipped with the financial backing and the distribution machinery of their corporate heads, these major independents, as Wyatt suggests, make it quite difficult for unaffiliated independent companies to compete in the market.¹⁰² If a producer has a highly sought-after independent film for sale, why would s/he go to a small independent firm like Trimark or Lions Gate, when one of the major independents would pay a higher price, offer a larger advertising budget, and provide vastly greater penetration in overseas and video markets?

What appears to be a textbook study in media synergy has, in effect, sharply reduced the number of unrated films released in this country over the last few years. The box office share of unrated films was only .2% of the box office total in 1996, comprising thirty-five films and a little over \$10 million in ticket sales.¹⁰³ Add to this minuscule share the continuing market stigma of the NC-17, and the result is a national cinema almost completely dependent on the aesthetics of the "incontestable R." Unfortunately, it is difficult to know the number of compromises made by independent producers in order to reap the benefits of distribution by a major independent: How many more R clauses have been included in a director's contract? How many screenplays have been rewritten to eliminate an "non-respectable" moment? How many films have been renegotiated after their initial submission to the Board? The majors have made a successful industry out of such agreements; the independents often have not. What lies in store for the major independents remains to be seen.

¹A statement prepared by Robert W. Selig, Movie Ratings and the Independent Producer, Hearings before the Subcommittee on Special Small Business Problems of the Committee on Small Business. House of Representatives. Ninety-Fifth Congress, First Session. Report no. 90-916. 24 March 1977, 14 April 1977, 12 May 1977, 15 June 1977, and 21 July 1977. Pg. 72-73.

²Quoted in Roger Ebert and Gene Siskel, The Future of the Movies: Interviews with Martin Scorsese, Steven Spielberg, and George Lucas (Kansas City, MO: Andrews and McMeel, 1991), 4.

³Quoted in John Russo, Making Movies: The Inside Guide to Independent Movie Production (New York: Delacorte Press, 1989), 142.

⁴Paul Thomas Anderson, director's commentary, Boogie Nights, DVD.

⁵John Belton, American Cinema/American Culture (New York: McGraw-Hill, 1994): 22.

⁶Richard Maltby, Hollywood Cinema (Oxford: Blackwell, 1995), 45.

⁷Eric Schaefer, "Resisting Refinement: The Exploitation Film and Self-Censorship," Film History 6 (1994): 300. Schaefer also states that "Hays attempted to extract pledges from exhibitor chain members not to play the [exploitation] movies, and went further by instructing distributors not to supply any house with regular films once it had opened its screen to 'the obnoxious sex film.'" Pg. 297.

⁸David James, Allegories of Cinema: American Film in the Sixties (Princeton: Princeton UP, 1989), 12.

⁹Eric Schaefer, "Resisting Refinement," 296.

¹⁰Eric Schaefer, "Resisting Refinement," 294.

¹¹Eric Schaefer, "Resisting Refinement," 294.

¹²Movie Ratings and the Independent Producer, Hearings, 198.

¹³Movie Ratings and the Independent Producer, Hearings, 101.

¹⁴Movie Ratings and the Independent Producer, Hearings, 142.

¹⁵Movie Ratings and the Independent Producer, Hearings, 155.

¹⁶Movie Ratings and the Independent Producer, Hearings, 68.

¹⁷James Russo admits to this on page 121 of the hearings. On page four of the hearings, Valenti states that the PG rating "is probably the most criticized and the one we have the most difficulty with"

¹⁸Movie Ratings and the Independent Producer, A report of the Subcommittee on Special Small Business Problems of the Committee on Small Business. House of Representatives. Ninety-Fifth Congress, Second Session. Report no. 95-996. 21 March 1978. The following quotes appear in the "Findings, Conclusions and Recommendations" chapter of the report. Pgs. 77-80.

¹⁹This was a result of the appeal for All the President's Men, after Warner Bros. sent out prints to various educators and opinion leaders around the country. After viewing the film, these people sent letters to members of the RAB telling them the film should be rated PG instead of R so children could see it. The film was re-rated PG, perhaps as a result of the pressure felt by the RAB. The subcommittee believed, and rightly so, that the majors could have a greater advantage in future appeal cases, since the expense of such a campaign (prints and postage) could never have been waged by an independent distributor. As a result, the names of RAB members are no longer released.

²⁰Movie Ratings and the Independent Producer, Hearings, 98.

²¹Movie Ratings and the Independent Producer, Hearings, 39-40.

²²Movie Ratings and the Independent Producer, Hearings, 16.

²³Movie Ratings and the Independent Producer, Hearings, 66. In fact, the IFIDA ceased to exist in 1978.

²⁴Movie Ratings and the Independent Producer, Hearings, 128.

²⁵Movie Ratings and the Independent Producer, Hearings, 16

²⁶Movie Ratings and the Independent Producer, Hearings, 146.

²⁷Movie Ratings and the Independent Producer, Hearings, 123 and 129. Owensby said he found this out (via his boss) from an individual sitting

on the RAB who cast his decisions in the 10 to 5 vote; otherwise, this information is never made public. Since the IFIDA has only four representatives on the Board, Owensby's insider information is not completely accurate but still points to the problems that emerge from having your films being rated by your competitors.

²⁸Movie Ratings and the Independent Producer, Hearings, 156

²⁹Valenti noted that members of the film office of the Catholic and Protestant organizations have sat in on some rating appeals board meetings, and an American Humane Association representative has sat in on screenings of films involving animals. See Movie Ratings and the Independent Producer, Hearings, 44-46.

³⁰Movie Ratings and the Independent Producer, Hearings, 140.

³¹Appealing a film costs \$100, but I am unsure whether the Board charges for subsequent viewings of a film after a producer has edited it in order to obtain a lower rating. See Movie Ratings and the Independent Producer, Hearings, 44.

³²Movie Ratings and the Independent Producer, Hearings, 123, 130, and 143.

³³Movie Ratings and the Independent Producer, Hearings, 43-144.

³⁴Movie Ratings and the Independent Producer, Hearings, 141.

³⁵Movie Ratings and the Independent Producer, Hearings, 70.

³⁶Movie Ratings and the Independent Producer, Hearings, 98.

³⁷Movie Ratings and the Independent Producer, Hearings, 156.

³⁸Movie Ratings and the Independent Producer, Hearings, 139 and 146.

³⁹Variety, 27 July 1977.

⁴⁰Movie Ratings and the Independent Producer, Hearings, 197.

⁴¹Movie Ratings and the Independent Producer, Hearings, 49.

⁴²"Hollywood Indies Mutter that Code Is More Strict against MPAA Outsiders," Variety, 9 September 1970, 23.

⁴³Quoted in Andrew L. Yarrow, "Almodóvar Film's X Rating is Challenged in Lawsuit," New York Times, 24 May 1990.

⁴⁴Miramax Films Corp. v. MPAA, 560 New York Supplement, 2nd Edition, 730 (1990).

⁴⁵Richard Maltby, "'D' for Disgusting: American Culture and English Criticism," in Hollywood and Europe: Economies, Culture, National Identity: 1945-95, ed. Geoffrey Nowell-Smith and Steven Ricci (London: BFI, 1998), 106.

⁴⁶Quoted in Oren Moverman, "Human Haynes: interview with filmmaker Todd Haynes," Interview, February 1997.

⁴⁷Michael Wilmington, "'Poison': Erotic but not Explicit (review)," Los Angeles Times, 3 April 1991, Calendar.

⁴⁸Mike Cidoni, "'Poison' on the Shelf," Gannett News Service, 19 May 1992.

⁴⁹Christine Vachon, Shooting to Kill (London: Bloomsbury, 1998), 4. Her italics.

⁵⁰Justin Wyatt, Poison (Trowbridge, Wiltshire (England): Flicks Books, 1998), 35-48.

⁵¹Quoted in Michael Upchurch, "For Some, Haynes' Latest is a Difficult Film to Swallow--Controversy Swirling Around 'Poison' has Kept Director Busy," Seattle Times, 16 June 1991.

⁵²Quoted in Kirk Honeycutt, "October Plans Appeal over 'Kika's' NC-17," Hollywood Reporter, 21 April 1994.

⁵³Shawn Levy perfectly describes the both disturbing and humorous nature of the rape scene. "It begins as a news flash: porn star-turned-rapist Paul Bazzo has escaped from prison by using the self-flagellating ritual practiced on his hometown saint's day as a ruse. Having whipped blood from his back, he arrives in Madrid to visit his sister, Kika's taciturn maid. Juana is willing to let him steal, to let him tie her to a chair, to let him beat her, to let him violate her twice, but he cannot resist having his way with her mistress, first--and most jaw-slackeningly--with a segment of an orange, then with himself. A peeping Tom (whose absurdly

makeshift telephoto lens kids both Hitchcock and Powell) phones in the crime-in-progress to the police, who laze over the apartment, assuming it's a crank call. One cop is strictly killing the morning with the visit, but his partner is suddenly possessed with the spirit of the Public Good: he crashes through doors, frees the maid, and leaps into the bedroom, where the rapist is straining toward his successive orgasm.

It would be the dramatic climax of an American film, but Almodóvar pushes it all so far it becomes farce. The cops cannot stop the rapist's insane thrusts, even when they put a gun to his head and threaten to use it; a grotesque melee ensues, bodies tangling, cops straddling Kika, the rapist fleeing to the balcony; he masturbates into the street and leaps to safety, leaving the apartment and Kika's illusions of domestic tranquillity (she has been engaged for all of a day) in ruins. See "Almodóvar's 'Kika'; You Can't Keep a Good Woman Down," Film Comment, May-June 1994.

⁵⁴Quoted in Kirk Honeycutt, "October Plans Appeal over 'Kika's' NC-17," Hollywood Reporter, 21 April 1994; and Doris Toumarkine, "Almodóvar, Garbus Join in 'Kika' Appeal," Hollywood Reporter, 21 April 1994.

⁵⁵Doris Toumarkine, "Board Won't See Rape Tape," Hollywood Reporter, 26 April 1994. The six films in the "rape tape" were A Clockwork Orange (1971), Deliverance (1972), Death Wish (1974), Lipstick (1976), The Accused (1988), and Last Exit to Brooklyn (1989).

⁵⁶See Leonard Klady, "'Kika' NC-17 Appealed to Pix Ratings Board," Daily Variety, 20 April 1994.

⁵⁷Toumarkine, "Almodóvar, Garbus Join in 'Kika' Appeal."

⁵⁸Jack Mathews comments on the disproportionate membership of the RAB, using Kika's appeal as an example, in "The Politics of PG, PG-13, R and NC-17," Newsday, 8 May 1994.

⁵⁹Leonard Maltin, ed., Leonard Maltin's Movie and Video Guide. 1999 ed. (New York: Signet, 1998), 364.

⁶⁰Greg Evans and Todd McCarthy, "Will 'Kids' be Too Hot for Harvey?" Variety, 6-12 February 1995.

⁶¹Robin Wood, Sexual Politics and Narrative Film: Hollywood and Beyond (New York: Columbia UP, 1998), 337-338.

⁶²Chris Chang, "Absorbing Alternative; Filmmaker Gregg Araki," Film Comment, September 1994.

⁶³Gary Indiana, "On the Offensive: A Chat with Gregg Araki," Village Voice, 31 October 1995.

⁶⁴The film was financed by UGC in France.

⁶⁵Dan Cox, "Araki Seals 'Doom' for Goldwyn," Daily Variety, 9 March 1995.

⁶⁶Judy Brennan, "Post-'Pulp' Friction: Will 'Doom' Generate Outrage?" Los Angeles Times, 16 July 1995, Calendar.

⁶⁷Kirk Honeycutt, "Trimark takes Araki's 'Doom,'" Hollywood Reporter, 12 September 1995.

⁶⁸Leonard Klady, "Trimark takes on Doom," Daily Variety, 11 September 1995, 14.

⁶⁹Gavin Smith, "Sundance 'Kids.' Entries to the Sundance Film Festival 1995, Park City UT," Film Comment, March 1995.

⁷⁰Greg Evans and Todd McCarthy, "Will 'Kids' be Too Hot for Harvey?" Variety, 6-12 February 1995.

⁷¹See Justin Wyatt, "The Formation of the 'Major Independent': Miramax, New Line and the New Hollywood," in Contemporary Hollywood Cinema, ed. Steve Neale and Murray Smith (London: Routledge, 1998), 74-90.

⁷²These thoughts were suggested by Greg Evans and Todd McCarthy in "Will 'Kids' be Too Hot for Harvey?" Variety, 6-12 February 1995.

⁷³Quoted in Kirk Honeycutt, "Dis Denies input in 'Crazy' Move," Hollywood Reporter, 30 March 1994.

⁷⁴Quoted in Bernard Weinraub, "Miramax Turns Over Film On Outspoken Comedian," New York Times, 30 March 1994.

⁷⁵According to Degen Pener, Miramax trimmed an explicit male-male sex scene before releasing Priest. Whether this was done before or after its submission to CARA is not known. See "What Price 'Happiness'?" Entertainment Weekly, 30 October 1998.

⁷⁶Greg Evans, "Disney Stays at Arm's Length from 'Priest,'" Variety, 10-16 April 1995.

⁷⁷Quoted in Charles Fleming, "Are They Happy Together?" Newsweek, 10 April 1995, 44. Author's italics.

⁷⁸Quoted in Dan Cox, "Valenti: 'Kids' Can't Make R Cut," Daily Variety, 30 May 1995.

⁷⁹Quoted in Elaine Dutka, "Miramax Circumvents 'Kids' Controversy," Los Angeles Times, 29 June 1995.

⁸⁰Quoted in Louis B. Parks, "Ratings Ruckus; Miramax Battles Movie Board Over Giving 'Kids' an NC-17," Houston Chronicle, 14 July 1995.

⁸¹Quoted in Kirk Honeycutt, "'Kids' Appeal Denied; to be Released without Rating," Hollywood Reporter, 13 July 1995.

⁸²Quoted in Honeycutt, "'Kids' Appeal Denied."

⁸³Quoted in Paul F. Young, "Excalibur to Appeal NC-17 of 'Kids,'" Variety, 10-16 July 1995, pg. 17.

⁸⁴Quoted in Kirk Honeycutt, "Valenti Blasts Dershowitz for 'Kids' Rating Comments," Hollywood Reporter, 14 July 1995.

⁸⁵Honeycutt, "'Kids' Appeal Denied".

⁸⁶Quoted in Kirk Honeycutt, "Valenti Blasts Dershowitz for 'Kids' Rating Comments," Hollywood Reporter, 14 July 1995.

⁸⁷Kids, however, did gross \$7.4 million domestically, a lot for an unrated film.

⁸⁸Quoted in John Clark, "Producer Gets Flak--and Award--for 'Happiness,'" Los Angeles Times, 5 September 1998, Calendar.

⁸⁹Quoted in Degen Pener, "What Price 'Happiness'?"

⁹⁰I first came across this term in Elaine Dutka's "Name of the Game is Dependent Independence," Los Angeles Times, 21 June 1995, Calendar. Dutka herself got the phrase from Castle Rock CEO Alan Horn, who is quoted in the article using this term in much more celebratory fashion than I use here.

⁹¹John Waters said that New Line actually asked for an NC-17 for Pink Flamingos, even though it was released in 1972 without a rating. "I loved the idea of the ratings board having to sit down to watch it. Talk about an endless screening! It's as rude as it ever was, maybe ruder because of the political correctness issue." Quoted in Richard Harrington, "Revenge of the Gross-Out King! John Waters's 'Pink Flamingos' Enjoys a 25th-Year Revival," Washington Post, 6 April 1997.

⁹²However, Samuel Goldwyn, who became a major independent after MGM bought its parent company, Metromedia, in July 1997, did release the controversial Bent under the Goldwyn Entertainment banner, but only in a few theaters. This may perhaps be attributed to the fact that, in the past, MGM has always been more willing to take a chance on risky product (Last Tango in Paris, Showgirls) than other MPAA companies.

⁹³Thom Geier, "Fourplay from October puts Uni in a Pickle," Hollywood Reporter, 3 June 1998.

⁹⁴Quoted in Geier, "Fourplay from October puts Uni in a Pickle."

⁹⁵In Entertainment Weekly, Degen Pener wrote that October is requiring Von Trier to deliver an R cut of The Idiots. Von Trier's assistant said he's not too keen in cutting the film and is "considering putting a black box with the word censorship on it that will be moving as [the characters] have intercourse." See "What Price 'Happiness'?"

⁹⁶See Thom Geier and Josh Chetwynd, "'Happiness' Too Hot for October Owner Seagram," Hollywood Reporter, 2 July 1998; and Dan Cox, "'Happiness' over at October Films," Daily Variety, 2 July 1998.

⁹⁷Quoted in Cox, "'Happiness' over at October Films."

⁹⁸John Clark, "Producer Gets Flak--And Award for 'Happiness,'" Los Angeles Times, 5 September 1998, Calendar.

⁹⁹Quoted in Renee Graham, "The Dark Side of 'Happiness,'" Boston Globe, 18 October 1998.

¹⁰⁰"Tales of Hollywood. Hate the Sin, Hate the Sinner," The Economist, 10 October 1998, 92.

¹⁰¹Pener, "What Price 'Happiness'?"

¹⁰²Wyatt, "The Formation of the 'Major Independent,'" 87.

¹⁰³"Leaders '96: Total Domestic Boxoffice by Rating (graph)," Hollywood Reporter, 4 August 1997.

CONCLUSION

. . . [T]here was a brief moment 25 years ago when the X stood not for degradation but for hope. A moment before the rating became a moral football, kicked back and forth between zealots on both sides of the hard-core issue, when it seemed that Hollywood could deliver thoughtful adult entertainment without the world coming to an end. A moment defined by Midnight Cowboy. . . .

While a functioning ratings system would allow filmmakers to dare while protecting those who didn't care for daring fare, the breakdown of the current arrangement stigmatized the taboo breakers and meant that audiences were being denied the modern equivalents of Midnight Cowboy, robbed of the kinds of bold films that will look as good in 25 years as this film does today.

film critic Kenneth Turan, on the
25th Anniversary rerelease of
Midnight Cowboy in 1994.¹

For all its deficiencies, the present system has been an important facilitator of the useful freedom of expression American filmmakers now enjoy, and for all the complaints of a priori censorship, the costs have not been, so far as I can see, excessive.

Charles Champlin

Standard histories of self-regulation in the American cinema have concentrated almost exclusively on the era of the Production Code Administration. One reason for this is undoubtedly the fact that the PCA's internal files have been opened to scholars, while those of the Classification and Rating Administration have not. But there has also been a tendency to underestimate the self-regulatory effects of classification, since--unlike the PCA--CARA employs no public "code" of acceptable content for rating films. However, as I have shown, these impressions are inaccurate; the rating system does exert a definite force on Hollywood production, distribution and exhibition, and CARA clearly possesses a distinct code by which it makes rating decisions.

I have also demonstrated that CARA functions in precisely the same way that the PCA did: it serves the economic interests of the MPAA studios. Whether by design or not, the rating

system maximizes the commercial efficiency of its industry by minimizing sources of offense and displeasure, thereby maximizing the audience potential for any given film. Classification and vertical de-integration would seem to work directly against such economies of scale, because of the segmenting of the audience and the divorcement of production from exhibition. However, the MPAA studios rapidly managed to realign themselves with NATO exhibitors, while at the same time reimagining a mass audience for their films in spite of the existence of age restrictions. The abolishment of the PCA and the creation of CARA may have provided the opportunity for free expression, but parallel forces remained to keep Hollywood "respectable."

The reconstruction of an "undifferentiated" audience has been accomplished primarily through the collusion between the major producers, distributors and exhibitors in abandoning the X category--much of which was in effect by 1972. Studios demand mandatory-R contracts from directors, and exhibitors refuse to show unrated or beyond-R-rated films. CARA satisfies both of these imperatives by arranging each film into what I have called an "incontestable R", a product suitable for general consumption. The admittance of contentious, adults-only films to mainstream locations of distribution and exhibition would threaten this system; hence, the introduction of the NC-17 rating was never intended to alter CARA's function. The NC-17 is a ruse; a mere cosmetic relabeling of the unacceptable X category.

In this dissertation, I have described the boundaries of permissible representation between the R and the NC-17 categories. The available evidence (media reports, anecdotal testimony, and the comparisons of R and NC-17 versions of the same films) suggests that these boundaries primarily revolve around sexual content: for example, the cutting of films for an R has typically consisted of the editing of elements such as sexual grinding, pubic hair, masturbation, and "deviant" sexual practices. Negotiations over violence are surprisingly absent. Whether this difference is due to underreporting or to a genuinely greater acceptance of violence is unclear; further

research would have to include personal interviews with filmmakers and other members of the industry. Such research would also help to confirm or disconfirm the rating boundaries for sex suggested by the evidence above.

It has been alleged that independent distributors have been given harsher ratings and have lost more appeal cases than their major counterparts. If this is so, it is most likely due to the nature of the texts themselves and not to the individual biases of board members. Films rated R and below must be permissible for an all-ages under CARA's regime, just like the PCA seal before them. With the exception of rare films like Cruising and Natural Born Killers, the major studios rarely diverge from their commitment to "respectable" entertainment. The independents, on the other hand, frequently challenge the studios' uniform notion of entertainment--and do so by formulating films whose appeal lies in their "unrespectful" tone, and not merely in their content. Since CARA's shaping of films for the "incontestable R" mostly concerns matters of content, independent films usually find themselves at an effective disadvantage in rating negotiations.

The recent co-opting of the primary independent distributors (e.g., Miramax, Samuel Goldwyn, October, and most recently Gramercy) has been a way of defusing one possible threat to the incontestable R. Coupled with Hollywood's recent vertical re-integration, the purchasing of the independents has amounted to a virtual monopoly that is quite similar to the studio system of the classical era. Much like the previous system of "A" and "B" production, each studio has an "art" division which is designed to make lower-budget product for smaller audiences--and the remaining genuine independent distributors (e.g., Lions' Gate and Trimark) are left to occupy much the same marginal position as the former Monogram and Republic. As a result, films now more than ever will be exhibited only with the approving "seal" of an MPAA-created regulatory regime, making it nearly impossible for NC-17 or unrated films to exist in the marketplace. The standardizing treatments that, as Maltby and Vasey recognized, "guaranteed [classical] Hollywood's products a uniform ideological

outlook"² for a broad-based audience, may now fully exist once again. Even though the underlying "code" of CARA decisions may indeed be more flexible and tolerant than the rulings of the PCA, for the foreseeable future the rating system will univocally dictate the ideology, the aesthetics, and the reception of American cinema.

¹Kenneth Turan, "Why Joe Buck and Ratso Live On," Los Angeles Times, 20 February 1994, Calendar.

²Ruth Vasey, The World According to Hollywood, 1918-1939, (Madison: University of Wisconsin Press, 1997), 227.

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