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October 2, 1997

Office of the Secretary
Federal Communications Commission
1919 M Street N.W. Room 222
Washington, D.C. 20554

Re: CS Docket No. 97-55
TV Industry Proposal
For Rating Video
Programming

Dear Sir:

We understand the requirement for filing
comments requires an original and four copies.

If possible, we would like the
commissioners to have copies of our comments.
With this in mind, we file an original and
nine copies and ask that the additional copies
be sent to the Commissioners.

Sincerely,

Paul J. McGeady
General Counsel

PJM/tp

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COMMENTS OF MORALITY IN MEDIA, INC.
SUBMITTED TO FEDERAL COMMUNICATIONS COMMISSION
ON TV INDUSTRY REVISED PROPOSAL FOR RATING VIDEO PROGRAMMING
(CS Docket No. 97-55)

RECEIVED
OCT-31-1997

INTRODUCTION AND SUMMARY

The provisions of the Telecommunications Act at issue in this proceeding require (1) TV manufacturers to include a "V-Chip" in new TV sets and (2) the Federal Communications Commission to establish guidelines and procedures for identifying and rating TV programming that contains "sexual, violent or other indecent material"-- "but only if" the Commission determines that the TV Industry, after one year, has failed to establish voluntary rules of its own, which "are acceptable to the Commission."

In January 1997, the TV industry submitted a joint proposal to the Commission describing a voluntary system for rating video programming ("Original Proposal"), which was patterned in large measure after the flawed "age-based" system utilized by the Motion Picture Association of America ("MPAA"). In April 1997, Morality in Media submitted Comments ("original Comments") opposing the TV industry's Original Proposal, as did many other organizations concerned about the welfare of children.

The Commission now seeks comment on a revised proposal for rating video programming ("Revised Proposal"), submitted to the Commission in September 1997. Morality in Media urges the Commission to reject the Revised Proposal as "unacceptable," for the reason that the addition of content symbols and accompanying vague explanatory words -- (S) "sexual situations," (L) "language,"

(V) "violence," and (D) "sexual dialogue" -- do not save a rating system that remains grounded in the flawed MPAA rating system.

In support of its Original Proposal, the TV industry argued that the Proposal was "acceptable" under the statute. As used by Congress, however, the word "acceptable" was followed by the phrase "to the Commission." This clearly indicates Congress' desire to rely heavily on the expertise of the FCC to "accept" a rating system which the Commission is satisfied would accomplish the objectives of Congress. As was said in Ivor B. Clark, v. Boston Road Shopping Center, 207 N.Y.S. 2d 582, 588 (N.Y. Sup. Ct. 1960): "Under settled principles, the contract phrase 'satisfactory to' has been interpreted as meaning 'actually satisfactory' to the party 'personally.'"

We also call the attention of the Commission to Greenberg v. Continental Casualty Company, 75 P.2d 644 (Cal. Ct. App. Div. 1938), where an insurance policy on reinstatement required "Evidence of insurability satisfactory to the company." [Emphasis added] In that case we find the following:

"Neither can we eliminate from this contract the fact that this medical examination upon application for reinstatement must disclose a condition of good health satisfactory, not to the applicant nor to the physician conducting the medical examination, but to the officers of this company in whom by this contract the applicant had placed the judgment and discretion to decide, a decision they must arrive at according to the dictates of their own judgment and consciences, and which cannot be controlled or directed by the judgment or conscience of others."

Even if the words "to the Commission" did not follow the word "acceptable," the words "acceptable" or "satisfactory" (a synonym for "acceptable," used in the Joint Reply Comments of NAB, NCTA &

MPAA¹) can mean satisfactory to the person to be satisfied--in other words "personal satisfaction." Cf. Clewell v. Toledo Metal Sign & Advertising Co., as reported in Words & Phrases (Satisfactory), p.384.

The phrase "to the Commission," however, assumes that the collective mind of the FCC will make this decision. An agreement, for example, providing that an article to be furnished shall be "satisfactory to the party" to whom it is to be supplied means that the party has reserved to himself an unqualified option and the party's own determination is final and conclusive. Baltimore & O. Ry. Co. v. Brydon, 9 A. 126 (Md).

Morality in Media, Inc. is a New York City-based, national, charitable, interfaith organization, working since 1962 to stop the illegal traffic in hardcore pornography constitutionally through vigorous enforcement of federal and state obscenity laws and to uphold standards of decency in the media.

**MPAA RATING SYSTEM UNDERGIRDING
TV INDUSTRY PROPOSALS PROTECTS PRIMARILY
THE FILM INDUSTRY, NOT CHILDREN**

In defending the TV industry's Original Proposal, the Joint Reply Comments of NAB, NCTA & MPAA asserted, at pages 4-5, that the Original Proposal met the statutory standard of "acceptable," in significant measure because the Proposal is modeled on the MPAA rating system that has been in use for almost 30 years." The Joint

¹ JOINT REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF BROADCASTERS, THE NATIONAL CABLE TELEVISION ASSOCIATION, AND THE MOTION PICTURE ASSOCIATION OF AMERICA (CS Docket No. 97-55), dated May 8, 1997 (hereinafter, "Reply Comments of NAB, NAC & MPAA"), at p.4.

Reply Comments of NAB, NCTA & MPAA went on to say:

"Our research leading to adoption of the Guidelines found that the MPAA movie rating system was well understood and considered helpful by the viewing public."

Morality in Media would assert that both the TV industry's Original and Revised Proposals are "unacceptable" for the reason that both are based on the ineffective MPAA rating system. The fact that the MPAA rating system has been in use for 30 years does not prove that a TV rating system based on it is "acceptable."

Undoubtedly, the MPAA system is "acceptable" to the industry for the reason that it has effectively shielded the film industry for 30 years from angry criticism by parent, religious and professional organizations, community leaders, public officials, and parents. It has also been effective in allowing the film industry to reap untold millions in profits, while trampling on standards of decency and civility and glamorizing and/or promoting just about every form of human degradation imaginable under its "nonjudgmental" PG-13, R and NC-17 (formerly, X) ratings.

The fact that the system has survived is most assuredly a "testimony" to the effective public relations effort mounted by the MPAA and its eloquent chief spokesman, Jack Valenti, who has honed his First Amendment flag waving skills to a perfection. Fending off repeated threats of government intervention, however, is hardly a testimony to the "acceptability" of the MPAA system.

Rather than providing parents with specific information about the levels of nudity, sexual conduct (whether depicted or described), vulgarity and/or violence contained in a particular

film, the MPAA rating system provides parents with the industry's own assessment as to the film's appropriateness (or, far more frequently, inappropriateness) for various age groups.

It is Morality in Media's opinion (and that of others) that the main reason the MPAA has resisted repeated pleas for specific information about specific films is because such information would alert parents and *truly mature* adults to the utterly unacceptable nature of all too many Hollywood films.

Part of the difficulty with the MPAA rating system is that it encourages naive and/or busy parents to rely on it. The ratings encourage reliance because they are based on the MPAA's assessments as to the "age-appropriateness" of rated films. And, to some extent, the ratings are "helpful." For example, a film rated "G" is usually less problematic for children than a film rated "R."

At the same time, the letters "G," "PG" and "PG-13" do not provide, and are not intended to provide, enough information about films, so as to enable parents to make up their own minds about which films they want their children to view. As MPAA president Jack Valenti put it, the mission of the MPAA rating system:

"is not to protect children from certain movies. That is the role of parents...What the rating system does...is offer cautionary warnings to parents to help them in their guidance of their children's moviegoing."²

In particular, the PG and PG-13 ratings specify that "parental guidance" is needed. But to provide such "guidance," parents must obtain information about the film from other sources (e.g., film

² Will Tusher, 'Up' Loses Fight; Judge Comes Down on MPAA, VARIETY, 7/25/90.

reviews³ or word-of-mouth⁴). For whatever reasons, many parents don't do so, despite the fact that only a small number of films each year receive a PG or PG-13 rating.

As pointed out in the Reply Comments of NAB, NCTA & MPAA (at p.11), however, "more than 2,000 hours of television programming are distributed every day." Furthermore, the TV industry's Original and Revised Proposals are both intended to be used with a V-Chip. The idea of a "V-Chip" is to enable parents to block out entire categories of programs, not to warn them about individual programs that require "parental guidance."

Another related problem with the MPAA rating system is its lack of "procedural safeguards." While the MPAA may have had the well-being of children somewhere in mind when it crafted its rating system, it is clear that protecting the industry from government intervention and from public criticism was at the forefront of MPAA concern.⁵ The MPAA rating system has often been likened to putting a mouse in charge of the cheese or a fox in charge of the hen house, and here are several reasons why:

* The members of the Film Ratings Board are selected and

³ Multiple reviews are often necessary, because film critics often differ as to their assessment of films and also differ as to the amount of detail they provide about nudity, sex, vulgarity and violence. Most parents do not have ready access to multiple reviews of particular films.

⁴ Often the "word-of-mouth" information will arrive after the child has seen the film.

⁵ See e.g., Dale Pollock, R-Rated 'Cruising': The MPAA Seal of Disapproval, L.A. Times, 5/4/80 ("Valenti devised the rating system in 1968 when the only alternative to industry self-regulation was the specter of local, state and possibly federal regulation of movie content."); Will Tusher, 'Up' Loses Fight: Judge Comes Down on MPAA, VARIETY, 7/25/90 (In a New York state court case challenging the "X" rating given to the film, "Tie Me Up! Tie Me Down!", Justice Ramos upheld the rating but also criticized the MPAA rating system, stating in part that the ratings were designed "to create an illusion of concern for children...yet all the while facilitating the marketing of exploitative and violent films and an industry seal of approval.").

- paid by the industry and their names are kept secret.⁶
- * There are apparently no criteria or standards to guide the review board in applying the ratings,⁷ and if such exist, they are not published.
 - * The published explanations as to why particular films received the ratings are too brief and/or vague;⁸
 - * The Appeals Board is comprised of film industry exhibitors and distributors;⁹ and the public has no right to appeal the ratings.
 - * There is no procedure to enforce the ratings.¹⁰

In defending the TV industry's Original Proposal, the Joint Reply Comments of NAB, NCTA & MPAA stated, at pages 10-11:

"The fact that ratings will be assigned in the first instance by producers and distributors of that programming has also been criticized as substituting a subjective test for an objective test. For example, as Morality in Media's Comments put it, allowing producers to rate their own programs 'is like putting the mice in charge of the cheese.' Congress, however, specifically contemplated that programs would be rated by the industry...having the industry rate its own programming is the

⁶ See, e.g., Movie ratings are mirrors of parental attitudes, BAY CITY TIMES, 10/3/86. It should also be noted that all parents on the Board are from California. See, e.g., Richard Rodriguez, Growing Up Old, U.S. NEWS & WORLD REPORT, 4/7/97 (raising a question as to whether the average parent in Los Angeles is representative of the average parent in much of the rest of the nation.).

⁷ See, e.g., Jack of All Trades, BROADCASTING & CABLE, 3/18/96 ("Keep in mind that the movie ratings system is totally subjective. We don't have do's and don't's." -- comment from Jack Valenti in interview); Jami Bernard, Going to X-Tremes, N.Y. POST, 4/25/90 ("What is too much violence--is it a body count? Or is it what kind of weapon they use? You look at it and say, 'That thing goes too far!' We don't have any specific guidelines." -- comment from Jack Valenti).

⁸ For example, in BULLETIN NO. 1418 (issued by the MPAA Classification and Rating Administration) the PG-13 rated film, "Kingpin," received this brief description: "rated PG-13 for crude sex-related humor and a drug scene." Compare this brief description with the excerpts from four reviews of the film printed in APPENDIX A. Furthermore, the descriptions provided in the MPAA "BULLETINS" are not published by newspapers that carry the ads. Few parents ever see them.

⁹ See e.g., Will Tusher, 'Up' Loses Fight: Judge Comes Down on MPAA, VARIETY, 7/25/90 (In a state court case challenging the "X" rating given to the film, "Tie Me Up! Tie Me Down!," Justice Charles E. Ramos upheld the rating but also sharply criticized the MPAA appeals board because it is composed of lay people from the film industry rather than experts outside the industry (such as physicians and child psychiatrists).

¹⁰ Film producers do not have to submit films to the MPAA for a rating, and theaters do not have to enforce the ratings. See, e.g., Will Tusher, Nov. Philly Ruling Held Theaters Don't Have To Enforce Ratings, VARIETY, 6/20/84. See also, Dale Pollock, R-Rated 'Cruising': The MPAA Seal of Disapproval, L.A. TIMES, 5/4/80 (The MPAA took no action after discovering that an unedited version of the film, "Cruising," was being circulated with the R-rating given only to an edited version of the film.).

only feasible way in which the more than 2000 hours of TV programming distributed every day could be rated."

In its Original Comments, Morality in Media did say that the TV industry's Original Proposal was "like putting the mice in charge of the cheese," but our criticism was not limited to the fact that "those who do the rating are from the industry that created the problem."¹¹ Clearly, allowing producers to rate their own programming does present a conflict of interest. On the one side of the conflict is the well-being of children and the integrity of the rating system. On the other side is the greed and ideological agendas that drive many in the entertainment industry.

While it would clearly be impossible for a single ratings board, similar to the MPAA board, to rate the 2000 hours of TV programming distributed each day,¹² each studio could have its own ratings board(s) to review programming that is prerecorded.

What Morality in Media criticized in its Original Comments, however, was the system's overall lack of "procedural safeguards." If a rating system is to serve the public interest, rather than the industry's interest, there should be (as much as humanly possible) objective, definite standards for issuance of the various ratings; and those standards should be published. There should also be an independent review/appeals board, and an effective means to enforce the system against violations.

The need for objective, definite, published standards and an

¹¹ COMMENTS OF MORALITY IN MEDIA, INC. (CS Docket No. 97-55), dated April 4, 1997, at p.7.

¹² Joint Reply Comments of NAB, NCTA & MPAA, at pages 10-11.

independent review/appeals board is particularly acute if program producers are to rate their own programs. The MPA ratings board is comprised of parents, who are asked "one question alone: 'Is this rating about to apply to this movie one that most parents in America would judge to be the correct rating?'"¹³ There is no reason to assume that all or most TV producers know or care much about what America's parents think. Definite, published standards and an independent review/appeals board do not detract from the concept of a voluntary rating system, since the industry would voluntarily create it and voluntarily submit to its authority.

The need for an enforcement mechanism should also be obvious. If an entire network can thumb its nose at the American people, why should anyone be so foolish as to assume that some producers and distributors won't do the same. An enforcement mechanism does not in any way detract from the concept of a voluntary rating system, since the industry would voluntarily create and comply with it.

SPECIFIC DEFECTS IN THE REVISED PROPOSAL

While the Revised Proposal is a slight improvement over the prior system it still does not give sufficient information to parents and should be rejected by the Commission. Let us examine the categories as submitted to the FCC on September 10, 1997.

Programs Rated TV-Y

The Industry tells us that these programs are

¹³ Jack of All Trades: The Man in the Middle of the V-Chip. BROADCASTING & CABLE, 3/18/96 (interview with Jack Valenti).

designed to be "appropriate for all children" (including children from ages 2-6) and that these programs are "not to be expected to frighten children." The difficulty with this classification is that it does not give parents sufficient information as to what kinds or types of programs will be included and leaves that matter to the discretion of the Industry, which will vary from network to network and producer to producer.

Will violence be depicted? Will it be animated or live? What are the criteria by which "the themes and elements" are selected? Will there be any sexual aspects to "TV-Y" programming? Will there be any coarse or vulgar language? This cannot be left to speculation because there is no central authority to make these determinations.

We need objective criteria applicable to all programmers. We recognize that if the rating system is intended to be used primarily for the "V-Chip," we cannot expect an involved explanation to appear on the screen for last-moment parental advice. Although we would not oppose detailed explanations appearing each time a rating is used, we would suggest a simple alternative. If the Industry is sincere, they should amend the "TV-Y" rating to include the symbols "NV", "NS", "NL", meaning of course, "no violence", "no sexual activity", and "no coarse or vulgar language".

Programs Rated TV-Y7 & TV-Y7-FV

This proposed rating suffers from the same difficulties as above. It is even more subjective in that it talks about "fantasy violence" which is not defined. We need more detail. The same is true of the phrases "comedic violence" and "may frighten children under the age of 7." What is "comedic violence?" Why would it frighten children under the age of 7? What objective standards is the Industry going to use to make these determinations? Or are the determinations going to be ones that are "As long as the chancellor's foot"?

Unfortunately, in this case we have a thousand different chancellors, and each one may have a different size Brogan. In other words, to put it in legalistic terms, the criteria are "vague." If such phrases were put into a statute, it would be held unconstitutional because men or women would reasonably differ as to their application. There are a myriad of cases upholding that definition of "vagueness."

The purpose of the rating system is to give parents the ability to choose (block). The Revised Proposal ill serves that end. If the Industry is willing to add the symbols "FV" to "TV-Y7," then they should be willing to add the symbols "NFV" (no fantasy violence), or "CV" (comedic violence), followed by the symbols "NS" (no sexual situations), "NL" (no coarse or vulgar language),

and "NOV" ("no other violence").

Programs Rated TV-G

This is, in itself, an imposition on the Commission and the General Public it purports to serve. Who in the Industry has the arrogance to create a category reading, "Most parents would find this program suitable for all ages."? This is a determination they have no proven capacity to make. Give us the objective standards! Let the parents make that determination, not the Industry.

This description of the category also has the effect of pulling the wool over the eyes of the Commission and the public by the use of the phrases "little or no violence"; "little or no sexual dialogue or situations." This leaves a hole in the ratings, as they say, big enough to drive a truck through. Imagine the delight of those in the Industry who delight in "pushing the envelope." This is tailor made to their liking. The word "little" means that they have the leeway, under the category, to present a "little" explicit sex and dialogue and a "little" imitative violence and still have the benefit of a general audience and the enhanced Nielsen ratings that this category brings.

This category should be rejected. "Little" does not mean none. We suggest this category be restricted so as to apply only to non-violent, non-sexual and non-vulgar programming, with symbols following "TV-G" as follows:

"NV", "NS", NL."

Programs Rated TV-PG

Here again, without a scorecard, we cannot know what is meant by the vague terms "younger children," "moderate violence", "some sexual situations", "infrequent coarse language" or "some suggestive dialogue." Give us definitions and objective criteria!

Again those TV programmers who wish to push the envelope will find adequate room (1) to stretch the undefined elastic word "moderate" to suit their Nielsen rating goals, (2) to read "some" as meaning that exploitive sex is O.K., as long as you present it only "sometimes" in the program, (3) to interpret the word "infrequent" to mean "not as often as you want but as often as you can get away with," and (4) to interpret "some suggestive dialogue" as meaning it's OK to be in the gutter, as long as you don't do it too often.

Programs Rated TV-14

Here again the Industry has made a decision to draw a line at age 14 (really age 13). This is unacceptable. They suggest in this rating that children over 13 can suitably watch (unattended) programs containing "intense violence", "intense sexual situations", "strong coarse language" or "intensely suggestive dialogue." This is an affront to all American parents. This material is generally unsuitable for children under 18.

It seems to describe what would be considered "indecent" under 18 U.S.C. 1464. The category ignores the fact that the statute does not distinguish between children over 13 and under 18. We propose that the FCC reject this category out of hand as against public policy. In addition, it is wide open and will in effect become the "R" rated category for TV -- a category that is often obscene for minors. Again it is wide enough for any irresponsible programmer to show almost whatever he wants. Furthermore, the words "intense", "strong", "coarse" and "suggestive" are not objectively defined and leave room for irresponsibility.

Programs Rated TV-MA

We suggest that the Commission reject this category. You will recall that the word "indecent" does not require that the program be taken as a whole, or that the Commission find that it is redeemed by literary, artistic, political or scientific value. What the Industry, which includes broadcasters, appears to be proposing is that they be permitted to show "indecent" material, provided they label it "TV-MA".

We analogize this category to include "X" rated content, and the Commission should recognize it as such. Again the Industry has not defined the phrase "explicit" or "crude" and practically admits, in using the word "indecent," that they intend to test the limits of the

statute and the patience of the FCC. If the industry wants an honest symbolism we suggest substituting the symbol "TV-X."

Monitoring Board

This is an anomaly. It is supposed to insure that the guidelines are applied accurately and consistently. Where are the details? Is this the mouse watching the cheese? Are a majority of on the board to be Industry people? Are they to be the judge of their own damages? How can they possibly prevent a mislabeled program from seeing the light of the airwaves unless they apply a prior restraint (which no programmer is obliged to accept) or to prevent renegade producers from repeatedly mislabelling programs?

NBC Opposition

NBC is an integral part of the Industry. Their failure to join in the September 10, 1997 submission means that the "Industry" has not submitted a voluntary plan as provided by the statute. The FCC should make a determination to that effect and proceed to establish guidelines and procedures for identifying and rating TV programming that contains "sexual, violent or other indecent material."

CONCLUSIONS

We conclude for all the above, that the FCC should reject the

Revised Proposal and proceed, in conjunction with an advisory committee, to prescribe its own guidelines and recommend procedures for the identification and rating of video programming that contains sexual, violent or other indecent material.

Again, we point out that the Revised Proposal envision's the transmission of "indecent" programming. This should alert the FCC to the fact that some broadcasters may attempt to use the rating system as an excuse to avoid incurring liability for violation of 18 U.S.C. 1464. The FCC should be prepared to evaluate such programs (if need be, by monitoring them) and, where appropriate, issue a Notice of Apparent Liability.

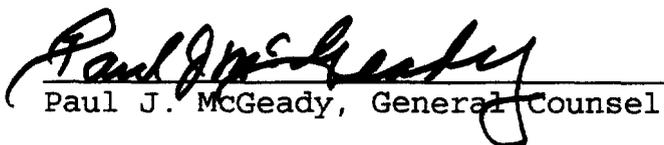
We refer the Commission to our original Comments as to how the FCC could defend its own guidelines and recommended procedures. We also incorporate by reference all comments made by this organization in its original Comments.

Set forth in Appendix A are additional criticisms of the MPAA rating system, not included our original Comments.

Dated: October 2, 1997



Robert W. Peters, President



Paul J. McGeady, General Counsel

APPENDIX A

(Morality in Media's Comments -- CS Docket No. 97-55)
Revised Industry Proposal TV Ratings

Additional Criticisms of MPAA 'Parental Guidance' Ratings

As Morality in Media pointed out in its original Comments, the film industry's "G", "PG" and "PG-13" ratings have been frequently criticized because they do not provide parents with specific information so as to enable parents to determine, in accordance with their own values, whether the films are suitable for their children. A related complaint is that parents (and others) often disagree with the "G," "PG" or "PG-13" rating given to a particular film. Set forth here is a further sampling of these criticisms.

In 1980, L.A. Times staff writer, Dale Pollock, described the MPAA response to requests from film exhibitors for more information about films for use by viewers.¹⁴ He said in part:

"Under Valenti's plan, information would be posted at the theater's box office that would identify PG-rated movies in terms of their mild language, violence or mild sensuality. Film critics...would also get the rating explanations...'I'm only doing this because I want to be responsive to exhibitors,' Valenti explained. 'I personally don't believe it's useful.' 'A parent calls us up,' Valenti positioned. '"Why is this rated PG?" For mild language. "What do you mean, mild language." To a Baptist in the South, goddamn is a profanity of a blasphemous kind. In New York City, that is very mild language. How do you accurately respond to a parent unless you describe these things in detail?'"

In 1984, Miami Herald Columnist Bill Cosford described how parents can be surprised by content in a PG-rated film:¹⁵

¹⁴ Dale Pollock, Movie Ratings: Time For Change?, L.A. TIMES, 5/6/80.

¹⁵ Bill Cosford, This column for adults only, MIAMI HERALD, 8/5/84.

"Nor...do the ratings tell parents anything about why a movie is rated what. A PG rating tells us next to nothing about the content of a movie -- is there a shootout, or do we see a breast? An R rating tells a little more -- is there a slo-mo blood bath, or do we see lots of breasts, or do we hear the f-word? On the other hand, the ratings do have a powerful impact in two areas...For one thing, they allow parents to make some facile assumptions about the movies. This is Why *Indiana Jones* surprised so many people. It was rated PG; it was made by Steven (E.T.) Spielberg...and hence it must be OK...Then comes the open-heart surgery and surprise!...Will PG-13 fix this? Sure, and it will ease Mideast tensions and bring down the deficit as well."

In 1987, nationally syndicated columnist, Mike McManus, described the problem many parents face when they attempt to rely on the MPAA rating system:¹⁶

"As the father of three boys, it used to be easy to supervise their consumption of TV and movie entertainment...As every parent knows, the task is immensely more difficult today. Most movies are R-rated these days...On top of all that, many of the PG and PG-13 films are nearly as bad as the R-rated films. Yet parents have no way to know which are OK."

In 1987, nationally syndicated columnist, Cal Thomas, wrote that an L.A. Times public opinion poll found that "nearly three quarters of American adults believe the [MPAA] ratings system offers too little information about...films their children see."¹⁷

In 1990, 25 national organizations (including the American Academy of Pediatrics, the U.S. Catholic Conference, the National Council of Churches, Focus on the Family, National PTA, and National Coalition Against TV Violence) met in Washington to protest the MPAA's new "NC-17" rating and to propose that the MPAA rating system be replaced by citizen film ratings boards to be

¹⁶ Michael J. McManus, Finally, a Way to Monitor Those Movies Your Kids So Want to See, N.Y.C. TRIBUNE, 12/11/87.

¹⁷ Cal Thomas, Movie ratings don't cut the mustard, N.Y. DAILY NEWS, 1/7/87.

set up in cities and states and appointed by city councils and state governments. In a November 16, Release, two representatives of the National Coalition Against TV Violence said in part:

"We have documented a steady deterioration in Hollywood films since the birth of the MPAA rating system. The MPAA now gives PG and PG-13 to films that would have been X-rated in 1970. G-rated films, which in 1970 made up 30% of all films, have all but disappeared...The MPAA ratings give the viewer no information and are legally unenforceable--with up to 50% of theaters and videostores ignoring them."¹⁸

"The MPAA rating system is obsolete, pretending to communicate something to parents, but giving no information. The system is not logical. It helps the industry keep the power and makes parents blissfully ignorant of what is being sold to their children...We need to protect our children's minds from those who would exploit them for personal profit."¹⁹

A 1993 poll for the Heartland Film Festival in Indianapolis showed "that 77 percent of those questioned do not feel Hollywood portrays values they themselves hold."²⁰ In other poll findings, 42 percent were "uncomfortable" at a PG movie with violence and 57 percent felt discomfort at a PG movie with sex.²¹

In 1994, the American Medical Association urged "the entertainment industry to...give consumers more precise information about violent and sexual content of motion pictures..., thereby enabling consumers to make more meaningful decisions for themselves and their children."²²

¹⁸ Dr. Thomas Radecki, psychiatrist and NCTV 's research director.

¹⁹ Dr. Carole Lieberman, psychiatrist affiliated with NCTV and script consultant on more than 100 TV and film projects.

²⁰ See, e.g., Poll: Hollywood values don't sit reel well, N.Y. POST, 5/5/93.

²¹ Moviegoers don't see their values onscreen, LANSING STATE JOURNAL, 5/1/93.

²² AMA Calls For Overhaul of Sex, Violence Ratings, REUTERS WORLD REPORT, 6/14/94.

In the summer of 1996, Metro Goldwyn Mayer released the PG-13 rated film "Kingpin." Here's how four film critics described it:

"The new bowling comedy, 'Kingpin,' wallows in the gutter...Rating: PG-13, for gross out humor."²³

"For the most part, the jokes are as tasteless and vile as imagination allows...Most of the jokes are at the expense of women, which is only natural in a movie targeted to guys who think snot jokes are the best life has to offer...(PG-13: Gross jokes, strippers)."²⁴

"'Kingpin,' with a sense of humor that makes Beavis & Butt-head look like Old World aristocrats...seeks laughter in the unlikely misuse of toilet fixtures...the facial hair of elderly women, a fistfight in which Munson aims punches at a young woman's breasts after she attacks his crotch, and a scene in which Munson grows sick to his stomach after being forced to pay his rent by having sex with his landlady. Never content with bad jokes, 'Kingpin' usually follows with an offensive line. At other moments -- as when Munson saws the feet off a horse when an Amish farmer tells him to change its shoes, or when the formerly straight laced Ishmael is found working as a stripper -- the action simply clashes with character...Kingpin is rated PG-13 (Parents strongly cautioned). It includes cruel and violent acts."²⁵

"[T]he brazenly crude Kingpin is often uproarious, but be forewarned...How low can a funny guilty pleasure go?..[A] comedy that probably should have received an R rating. (PG-13: crude humor, profanity, drug use)"²⁶ [Probably?????]

Film critic Michael Medved²⁷ gave the PG-13 rated film, "Picture Perfect" (released summer of 1997), three stars for quality, but had this to say about the rating: "a very surprising

²³ Thelma Adams, 'Kingpin' won't bowl you over, NEW YORK POST, 7/26/96.

²⁴ Jami Bernard, 'Pin' headed Comedy, N.Y. DAILY NEWS, 7/26/96.

²⁵ Lawrence van Gelder, D'ja Hear the One About the Bowlers, N.Y. TIMES, 7/26/96.

²⁶ Mike Clark, 'Kingpin': Potty humor to spare, USA TODAY, 7/26/96.

²⁷ Michael Medved, 'Friends' and lovers, N.Y. POST, 8/1/97.

PG-13, despite very specific sex scenes and references."²⁸

In June 1997, a member of Morality in Media wrote to express a related concern about some films receiving the PG-13 rating:²⁹

"[W]ho can I write to complain about how 'someone' is letting movies with nudity in them end up with a PG-13 rating. This means young boys can go to movies and get an eyeful. Is this considered to be along the same lines that some people consider it to be 'cute' when young boys are caught looking at junk such as Playboy? That it's perfectly okay because that's what boys and men do -- stare at naked women?"

Movie critic Bob DeMoss³⁰ described a similar problem in the PG-rated film, "McHale's Navy" (released in the spring of 1997): "Surprising amount of objectionable language. Extended ogling over a Playboy. Heavy sexual innuendo -- especially for a PG film."³¹

And, here's how one film critic described a problem many parents faced with the PG-13 rated film, "The Lost World" (released in the summer of 1997) and other similar PG-13 rated films:³²

"Parents, consider yourselves strongly cautioned: 'The Last World'...is scarier than its' predecessor, 'Jurassic Park.' Count on the dinosaurs to be deadlier, the body count to climb higher, and the carnage to look a lot bloodier...Not that a PG-13 rating scares off many kids. Instead, the almost-adult rating is a beacon for the preteen set...In fact, insiders say that many summer blockbusters are calculated to get a PG-13 rating, because savvy Hollywood types know that it's bait for their target audience: kids and pre-teens home from school during the summer months...'It's a science. Last year's top

²⁸ The August 17, 1997 issue of TV & MOVIE GUIDE (a Catholic News Service publication), gave the film, "Picture Perfect" an "adults, with reservations" rating for "tawdry sexual situations, jokes about serious sexual matters and occasional profanity."

²⁹ Copy of letter, dated June 6, 1997, available at office of Morality in Media.

³⁰ Bob DeMoss, McHale's Navy (PG), ENTERTAINMENT TODAY, 4/22/97.

³¹ The May 11, 1997 issue of TV & MOVIE GUIDE (a Catholic News Service publication), gave the film, "McHale's Navy," an "adults" rating for "considerable stylized violence and some crude sexual innuendo."

³² Su Avasthi, Torn over flick's rating, N.Y. POST, 5/21/97.

three highest-grossing films...were all rated PG-13,' said Mike Yocco, an entertainment analyst at Paul Kagan Associates. 'The largest segment of moviegoers in the summer are young males, and all these testosterone-charged movies are geared to kids, who may patronize a movie six or ten times.'

Additional Criticism's of MPAA 'R' Rating

As Morality in Media pointed out in its Original Comments, there are also problems with R-rated films. One problem is that many films that, "in the past," would have received an X or NC-17 rating, "now" get an R-rating.³³ Part of the explanation is that American society is changing. But unlike many in Hollywood, most Americans still understand the difference between right and wrong when it comes to the depiction of sex, violence and vulgarity in movies, and they are not pleased with Hollywood's new "values."³⁴

The related problem is that minors under 17 attend R-Rated films in droves, with or without a parent or guardian. While some R-rated films are, on the whole, excellent films, with relatively

³³ See, e.g., Dale Pollock, Ratings Struggle To Stay Abreast, L.A. TIMES, May 5, 1980 ('Midnight Cowboy,' rated X in 1969, would probably be a PG today. 'All the President's Men,' instead of getting the automatic R rating because of the use of a sexually-oriented four-letter word, was given a PG on appeal.').

³⁴ See, e.g., Kevin O'Sullivan, Out of touch with America --Why H'wood doesn't hear moviegoers's message: Enough with the sex, already, N.Y. DAILY NEWS, 8/7/96; Robert W. Welkos, The Year That Hollywood Became a Punching Bag, L.A. TIMES/CALENDAR, 12/31/95 ('Senate Majority Leader Bob Dole made nationwide headlines when he characterized gratuitous violence and sex in movies, TV shows and rap music as 'nightmares of depravity'...The Times poll found that 71% of Americans surveyed sided with Dole. '); Elizabeth Kolbert, Americans Despair of Popular Culture, N.Y. TIMES, 8/30/95 ('a little more than half of the adults polled could not think of a single good thing to say about TV, about movies or popular music. In contrast, 9 out of 10 of those polled could think of something bad to say about popular culture, with a large proportion mentioning too much sex, violence and vulgarity. '); Norma Alster, A few good films, FORBES, 4/26/93 (In a USA Weekend poll last year, an overwhelming majority of readers agreed with the statement: 'Hollywood no longer reflects--or even respects--the values of most American families. '); Dear Abby, Even raunchy speech worthy of protection, N.Y. POST, 11/5/92 ([A] reader complained...about foul language in some of our 'best' movies and TV shows. I told her I agreed and asked my readers to let me know how they felt. At last count, 67,783 readers felt many movies and TV shows insult our values, intelligence and morals. Only 213 readers disagreed.').

little content that most parents would find objectionable, others push the envelope as far as possible when it comes to explicit nudity and sex, graphic violence and/or gutter-style vulgarity.

In a 1997 article, Alvin Poussaint, M.D., described his experiences while viewing an R-rated film at a local theater and expressed his opinion as to the damage that can occur when children are allowed to watch films intended for adults:³⁵

"[O]ne of the characters took a gunshot in the face, the camera lingering for long moments on the gory close-up. Fifteen rows from the big screen, a little girl...began shrieking...Her mother turned to her, hissed 'Shut up,' and gave her a stinging slap. As a professor of psychiatry at Harvard Medical School and the director of the Media Center for Children..., I try to keep up with Hollywood's new movies. That afternoon's R-rated ration of graphic sex, profanity and violence seemed no worse than usual -- until I heard the little girl's screams.

"It wasn't just the slap that bothered me; it's what that little girl was doing there in the first place. No one under 17 is supposed to be admitted to an R-rated movie without adult supervision...And yet, as I looked around, it became clear...that at least a third of the audience was made up of unaccompanied children who weren't close to...seventeen.

"As an educator and psychiatrist who has worked with children for 30 years, I'm convinced that watching sex and violence is damaging...I've seen terrified children at R-rated films beg their parents to take them home. I've seen children hide their faces in embarrassment at stimulating, big screen displays of adult sexual behavior. I've seen children return home from such movies to become fearful or...aggressive."

A particularly disturbing part of the world of R-rated films are films which feature teenage characters and issues. That problem was described by Sally Salter in a recent article:³⁶

"You've probably watched...at least one of these movies.

³⁵ Alvin Poussaint, M.D., Taking Movie Ratings Seriously, GOOD HOUSEKEEPING, April 1997.

³⁶ Sally Salter, Under 17 not admitted, REACT, July 8-14, 1996 (published in BAY CITY TIMES).

After all, they feature teenage characters and issues--like getting by in school, dealing with peer pressure, and fitting in. But they're also R-rated, which means if you're under 17, you pretty much aren't suppose to see them. As our poll on page 5 shows, many react readers have in fact seen R-rated movie. They've accomplished this feat either by dragging along an adult, getting past a distracted or indifferent doorperson or just waiting for the video to come out...The big question is, why don't more teen-oriented flicks have ratings that would allow teens to see them?...Some experts think filmmakers often purposely seek R ratings for their teen-oriented movies in hopes of attracting older crowds--specifically, men in their 20s and 30s. What's so special about this portion of the moviegoing public? As Louis Giannetti, film professor at Cleveland's Case Western Reserve University and author of *Understanding Movies*, explains: 'The male group between the ages of 18 and 34 is the largest single block of repeat movie goers.' In other words, make films appeal to these guys (you know, with lots of nudity and violence), and they'll see those movies over and over...Another reason film people make R-rated teen flicks is because they believe teens prefer them. In fact, some think teens avoid anything rated PG-13 or below."

The article "Limping 'Buffy' Gets a Lift from WB,"³⁷ should dispel any notion that TV producers would never pander to a male adult audience by sexing up a teen-oriented TV program:

"Bob Bibb, Warner Brothers marketing director and pitchman for 'Buffy,' acknowledges that the national ratings for 'Buffy' aren't commensurate with the hoopla. But he says he expects 'Buffy' will pick up viewers older than the show's core teen audience. Mr. Whedon, creator of 'Buffy,' is a former writer on 'Roseanne,' and his goal with 'Buffy' is to appear to a number of different viewers on different levels. Indeed, the network has taken pains not to pitch 'Buffy' as only a high-school comedy...Instead, ads for the TV 'Buffy' play up the show's horror aspect, and WB research has found that Buffy usually wins its time period in New York and Los Angeles among men between ages 18 and 40. (Mr. Bibb is quick to acknowledge that the presence of Ms. Gellar and her similarly halter topped classmates may induce male viewership.)"

³⁷ Kyle Pope, Limping 'Buffy' Gets a Lift from WB, WALL STREET JOURNAL, 5/14/97.