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Jeryl S. Brunner '92

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# NC 17 - EFFECTIVE CHANGE OR ANOTHER WAY TO SPELL X ?

By Jeryl S. Brunner '92

In the past two years, the Motion Picture Association of America (MPAA) has undergone fierce scrutiny. Founded in 1968, the association currently dominates the film rating market. Although the rating system is voluntary, an unrated movie has little chance for wide release throughout the United States.

To obtain a rating, films are voluntarily submitted and reviewed by an administrative body within the MPAA. A rating is assigned by a majority vote. The party requesting the rating can change the assignment by editing the film. When Pedro Almodovar's "Tie Me Up! Tie Me Down" received an X, reluctantly, the film's distributor opted to release the film without a rating rather than cut two sexually explicit scenes. However, the MPAA's decision prompted Miramax to bring an action against the MPAA to obtain a court imposed modification of the X rating. See *Miramax Film Corp. v. Motion Picture Association of America, Inc.*, 560 N.Y.S.2d 730 (1990). Although Miramax was denied relief, the court criticized the rating system because "the rating system censors serious films by the force of economic

pressure." The court suggested that the MPAA revise its arbitrary rating guidelines.

14 months after *Miramax* was decided, the MPAA replaced the X-rating with NC-17 (no children admitted under age 17). One of the chief reasons why the x-rating was dropped was to avoid the porn stigma that was associated with X.

From its genesis, the MPAA never intended the X to be equated with sex films. In fact, X was traditionally supposed to imply that the material was unsuitable for children. The X-rating was first given to mainstream films such as "A Clockwork Orange" and "Midnight Cowboy." However, the association never registered the X as a trademark and as a result, it was used by pornographers who affixed the symbol to their films.

Does the NC-17 take the pornographic stigma out of the "adults only" rating or is it simply another name for X? Earlier this year Blockbuster Video, the largest video-store chain in the United States, pulled all NC-17 rated films from their shelves.

One of the cornerstones upon which the NC-17 rating is based is the assumption that the makers will be happy to continue using the X, and

will not submit their films to the ratings board. The MPAA believes that serious film makers will pay to have their movies rated NC-17, while porn merchants will happily remain with the old fashioned X. However, soon after the NC-17 was announced, Parliament Films submitted a toned-down version of the 1978 hardcore sex film "Disco Dolls in Hot Skin in 3-D" to the MPAA and received an NC-17 MPAA and received an NC-17.

Similar to the X-rating, NC-17 can economically damage a film. Last month, the producers of the Ken Russell film "Whore" appealed the picture's NC-rating. The association found that the movie's sensuality, language and violence warranted the controversial rating. The rating was opposed because it will undoubtedly harm the film's release. Most newspapers are reluctant to run display advertising for the picture.

It is clear that the MPAA has failed to distinguish adult films from x-rated pornography and the NC-17 is merely an X with a sanitized title.

## THE NEED TO REIMPOSE PUBLIC INTEREST AND LOCAL PROGRAMMING STANDARDS ON BROADCASTERS

By Steven Hsiang Onne '93

The Fairness Doctrine, which existed from 1929-1987, was the basis for the requirement that television broadcasters provide a minimum of five percent (5%) of programming to public interest and local programming. When the public interest and local programming requirement was repealed, annual programming reports and filing requirements were also abolished. **Broadcasters now hold licenses, worth billions of dollars in advertising revenue, free of charge and without any obligations to benefit the populations they are supposed to serve.**

One of the communities seriously affected by this failure to serve is the Asian American community. The growth and development of this community have created enormous pressures and such pressures are resulting in individual, family and community dysfunction. The need of minority groups and in particular the Asian American community to have access to the broadcast medium to circulate ideas and to provide a forum for constructing solutions to the problems is extremely urgent.

The commercial television stations in the New York metropolitan area (WCBS Channel 2, WNBC Channel 4, WNYW Channel 5, WABC Channel 7, WWOR Channel 9, WPIX Channel 11, and WNET Channel 13) fail to serve the public interest and local programming needs of the Asian American community. The station managers are aware that the Asian American community is woefully under served by their programming, but don't care. Asian Americans are not seen as a significant or necessary market share and, therefore, cannot get the attention of the television stations' managers.

Even UHF stations, which are gener-

ally regarded in New York as secondary television stations and for the most part have no audience in the New York area, fail to serve the Asian American community's public interest and local programming needs. However, there are two "UHF" stations that by chance and political affiliation have developed a measurable Asian audience. This is due in large part because these two stations are carried on cable television systems that have a substantial number of Asian subscribers. WNYE Channel 25, which is owned and operated by the New York City Board Of Education, and WNYC Channel 31, which is owned and operated by New York City, carry substantial amounts of Asian "language" programming (programming in Korean, Chinese, Japanese, Hindi, etc.).

It must be pointed out that the programming is entertainment in format and that the programming provided is entirely produced abroad and the airtime leased and is paid for by the "foreign language" producers or distributors. Despite the fact that the programming is enjoyed and viewed by a portion of the New York Asian community, the greater impetus for the stations is the revenue stream that pays for the stations' American programming. There is no commitment on the part of these stations to serve the Asian American community's need to address important social and controversial issues.

If it is universally known that one of the significant populations in the tri-state area are Asians Americans, comprising about ten percent (10%) of the entire population, why is there no obligation on the part of television broadcasters to serve the Asian American community in the tri-state area? Why do we not have locally

produced television news and public affairs programs which address Asian American issues and articulate Asian American views?

The Communications Act of 1934 mandated that broadcasters serve the community's public interest, convenience and necessity in the operation of the broadcast station and in its choice of programming. Cognitive of the power and influence of the medium, Congress created the Federal Communication Commission to regulate broadcasters and enforce its mandate. Each broadcaster, by the grant of its license, is expected to serve a geographic area and the population in that area. Yet, the Asian American community's needs are deliberately ignored and attempts to get the stations to respond to the community's needs are blocked or stonewalled by the station's management. The reasons for this are painfully obvious. Asian Americans have not cultivated a political presence and they have not made themselves known as a market force.

Perpetuating the problem, the Federal Communications Commission has failed to enforce the need for public interest and local programming. The Commission fails its congressional mandate, because it fails to serve and protect the interest of the population. Instead it is consumed by its obligation to serve the interests of the Reagan/Bush administration and to broker the power among the voracious broadcast lobbyists.

It is time that the FCC stop using its authority to advance a hidden political agenda. It is time for the FCC to reimpose public interest and local programming standards on broadcasters and force the broadcasters to respond to the needs of the communities they are supposed to serve.