

Ratings Enforcement: Legislation Isn't the Answer



NATIONAL ASSOCIATION
OF THEATRE OWNERS

Talking Points

- **NATO strongly opposes any attempt to legislate ratings enforcement.** We understand the impulse to enforce age-appropriate restrictions on entertainment—indeed, that impulse has guided our successful voluntary ratings system for more than four decades—but introducing the heavy hand of government would distort our partnership with America's parents and fail to survive the first constitutional challenge to the legislation.
- In the 1920s, the Hays Office issued its 11 Don'ts and 25 Be Carefuls, and in the 1930s, the National League of Decency backed its movie assessments with boycott threats. The Hays Office then drafted an even stricter Production Code, which entailed fines as high as \$25,000 per film.
- In *Burstyn v. Wilson* (1952), the Supreme Court recognized that motion pictures were an **important communication medium and entitled to full First Amendment protection.** But the Hays Code remained in effect into the 1960s, and local codes and government censorship proliferated.
- In 1968, the MPAA's Jack Valenti spearheaded the implementation of a **voluntary ratings system** so that the industry could communicate information to parents about the content of a movie, and locate the decision about attending a particular movie where it belonged: with parents. The MPAA created the Classification and Ratings Administration (CARA) to designate films with one of four ratings: G (general audiences), M (mature audiences), R (children under sixteen years old not admitted without parent or guardian), and X (children under seventeen years old not admitted). Three years later, M became PG (parental guidance suggested). In 1984, triggered by violence in *Indiana Jones and the Temple of Doom*, the PG-13 rating was created, which cautions parents that the film's contents may be inappropriate for children under age thirteen. In 1990, responding to criticism that the X rating unfairly lumped artistic adult films, such as *Midnight Cowboy*, with hard-core pornography, the X rating was replaced with NC-17.
- Courts have ruled numerous times that efforts by states and municipalities to ban or limit access to objectionable video games have been **struck down on constitutional grounds.** So well-established is the judicial precedent now that courts have also ordered losing jurisdictions to reimburse the entertainment retailer plaintiffs for legal fees, including: Illinois, \$510,000; Louisiana, \$91,000; Washington state, \$344,000; St. Louis, \$180,000; Indianapolis, \$318,000; and Michigan, \$182,349. These failed initiatives usually sought to make it a crime for anyone to sell or rent any violent or sexually explicit video game to a minor.
- Movie theater operators participate in voluntary ratings enforcement not simply to curry the favor of consumers (indeed, the most common complaint about the rating system we receive is from parents who are annoyed that a cinema would not let their children into an R-rated movie), but because they believe it is the right thing to do and because it is a private partnership with America's parents that works.
- **Our record of enforcement is a good one,** and the Federal Trade Commission, the government agency with by far the most experience and intimacy with entertainment marketing and ratings enforcement, agrees. The FTC has consistently applauded the private ratings systems—while encouraging continuing improvement—and rejected, on solid First Amendment grounds, legislation that would mandate enforcement of the ratings system.