

The Role of the Federal Government Regarding
Regulation in the Entertainment Industry

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Abstract

The purpose of this study is to identify the function of the federal government in regard to the various facets of the entertainment industry, including, but not limited to, the film, video games, and pornography industries. Does the United States government have the constitutional authority to regulate all forms of entertainment? If not, is it the Church's duty to regulate the entertainment industry? How might this occur? In order to answer these questions, extensive research of secondary sources was conducted that explained of the government's limitations via the First Amendment, as well as the entertainment industry's effects on human beings. This thesis affirms that the government has no authority to regulate the entertainment industry, and therefore, must provide the means to allow for its effective self-regulation. The research presented provides valuable insight as to the entertainment industry's possible adverse influence on violence, rape, and divorce, and the government's function in the private sector regarding entertainment.

The Role of the Federal Government
Regarding Regulation in the Entertainment Industry

In the past century, the entertainment industry has evolved from going to the theatre or reading a book to, presently, watching a movie on your home television, playing a video game with your friends, perusing the Internet, or even enjoying social media. As this “explosion” of entertainment has occurred, so too has regulation by the United States government. The federal government originally began to regulate the radio industry through the Federal Communications Commission (FCC) to stop monopolies from forming on the airwaves and to prohibit newspapers from controlling the radio stations (Chapman, 2010). While this was the first regulation placed on the entertainment industry, federal governmental policy has slowly begun to encompass all aspects of it, leading to preemptive self-regulation by these industries. In the current political atmosphere, there is an increased level of distress associated with the film and video game industry in regard to an increase of violence correlated with extended exposure to these entertainment elements. Pornography is assumed to increase sexual violence among Americans and throughout the world’s populations. Regulations continue to be proposed to curb the negative influences of the entertainment industry. Before any regulation is passed, there must be clear evidence of an adverse change in behavior associated with these aspects of the entertainment industry.

This thesis tracks the role of governmental and self-regulation as relating to the various facets of the entertainment industry. Additionally, it will focus upon the biblical-historical aspect of regulation as promoted through the Bible and espoused by the Founding Fathers of the United States through the U.S. Constitution. Links will be drawn

between these periods, along with evidence of an adverse influence, if any, that the video game, film, and pornography industries have on human behavior. This paper will then conclude with recommendation to protect the American population from any harm incurred from substantial or limited use of these entertainment mediums, or their regulation by the federal government.

The Film Industry

The film industry is one of the predominant forms of entertainment in America. The Motion Picture Association of America (MPAA) affirms this in their 2012 study: “More than two-thirds of the U.S./Canada population (68%) – or 225 million people – went to the movies at least once in 2012, consistent with prior years” (MPAA, 2012, p. 1). While there are many “family” movies released yearly, it may be argued that more violent films are released than non-violent films. In fact, according to a study prepared by the American Academy of Pediatrics, gun violence in American PG-13 films has tripled since 1985 (DiLeo, 2013). Gun violence has risen 100% in America from 1950-era films (DiLeo, 2013). Currently, a substantial portion of the American public may view PG-13 films, which do not require any form of identification to view, but instead, assume that parental approval has been granted. In a study on gun violence in films, researchers from the Annenberg Public Policy Center and Ohio State University concluded that there was more gun violence in PG-13-rated movies than in R-rated movies in 2012. While no official conclusions were drawn from the study, it was hinted that gun violence in movies precedes gun violence in real life. As no official evidence was forthcoming correlating gun violence in films with actual gun violence, researchers were left to hypothesize regarding the findings of this particular study.

Another study using the same information as the previous one came to a similar conclusion (Bushman, Jamieson, Weitz, & Romer, 2013). Exposing young children to gun violence in movies may increase aggression, but the results were, again, inconclusive. The mere proposition that violence in artificial entertainment can lead to violence in actuality is often researched, but never actually proven. The MPAA has attempted to curb this sort of assumption through the use of their universal rating system, which allows for age-appropriate viewing of films. However, evidence has shown that the system is flawed at best and non-functional at worst.

The MPAA's Subjective Rating System

In another study released a mere three weeks after the aforementioned report from the Annenberg Public Policy Center, an analysis was filed regarding the interrelationship between the adult elements found in both PG-13-rated movies and R-rated movies. Unsurprisingly, as the article's writer, Paul Bond (2013), points out, "There was very little statistical difference between PG-13 and R-rated films, except when it came to pairing tobacco with violence, which was the case in 30.1 percent of PG-13 films and 57 percent of R-rated films" (para. 9). This analysis leads one to question the effectiveness of the MPAA and their regulation of the film industry. For instance, the MPAA will allow excessive and extreme violence in a PG-13 movie, but is averse to the depiction of nudity among cast members (DeLuca, 2004). It follows that the MPAA believes that young children viewing graphic representations of the human body is more damaging than the graphic violence presented in most modern PG-13 films. If this were the case legally and in actuality, public nudity would be a crime equal, or greater, to that of violent action committed against another human being. The MPAA, therefore, has an

inconsistent outlook on what constitutes “graphic” in a film. This outlook, as shown through research, has done little to differentiate PG-13 and R-rated movies, except regarding the use of tobacco.

It is certain from the data presented that the MPAA is not operating as effectively as possible. However, the actual banning of underage children from watching explicit films cannot occur except through governmental regulation. While there may be a severe problem with the current self-regulation of the entertainment industry, it is not the government’s job to excessively regulate this industry. For example, in a speech at the Virginia Convention to ratify the United States Constitution, James Madison said, “Since the general civilization of mankind, I believe there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments of those in power, than by violent and sudden usurpations...” (1788, para. 4). Madison is suggesting here that regulatory acts of government should be limited in nature, so as not to bring about tyranny or repression.

Regulation of the affairs of private life is not in accordance with American law, and thereby defies the freedom of commercial speech subset, found in the freedom of speech element of the First Amendment to the U.S. Constitution. When testing for governmental regulation of commercial speech, the court must establish the following:

1. Whether the commercial speech concerns a lawful activity and is not misleading;
2. Whether the government interest asserted to justify the regulation is “substantial”;
3. Whether the regulation “directly advances” that government interest; and

4. Whether the regulation is no more extensive than necessary to serve that interest.
(In a later case, this prong of the test was redefined as requiring only that the “fit” between the state’s goal and the challenged regulation be “reasonable.”) □ *Central Hudson*, 447 U.S. at 566. (Troy, 1998, para. 2)

The government has never found the film industry in violation of commercial speech as the industry has preemptively self-regulated. Therefore, since governmental regulation is not an option, the form of self-regulation found in the MPAA allows for a concept not typically researched; that of familial approval.

The Family and Regulation in Film

The typical American family may acknowledge that certain films are not acceptable for children. For instance, a family would not allow its young children to watch an R-rated movie that focuses on the torture of human beings. Instead, the family would perhaps prefer an animated film of the variety produced by Disney or DreamWorks. However, just because a film has a certain rating, or is part of a certain genre, does not constitute its appropriateness for viewers. An R-rated movie may technically be appropriate for 17-year olds, though it may not be suitable for view by any segment of society. As the MPAA states directly on their website:

Audiences and film critics make these determinations [regarding appropriateness]. The ratings are not intended to approve, disapprove or censor any movie. Rather, ratings offer guidance to parents regarding the level of content in a movie. (MPAA, 2013, para. 4)

As admitted by even the MPAA, families are directly responsible for the content they allow their children to watch. It is the role of the parents or guardian, not the federal

government, to monitor and regulate what their children view. This is especially applicable to Christian parents, who must, “Teach a youth about the way he should go; even when he is old he will not depart from it” (Proverbs 22:6, Holman Christian Standard Bible).

It is quite simple for a parent to, before allowing their children to view a film without researching it, check its ratings and age-appropriateness. In fact, various Christian resources such as *PluggedIn Online*, found at <http://www.pluggedin.com>, are available for parents to utilize in determining the appropriateness of a film. This is the authority of the parent or guardian, and is a form of Christian self-regulation that is necessary and essential for minimizing government intrusion into the entertainment industry. It must be strongly emphasized, however, that though self-regulation is of paramount importance for safeguarding the blessings of liberty for the American people, it is assumed that parents have the right to allow their children to view films of a violent nature, too. This is why the policymaker is extremely valuable in providing information on the entertainment industry and preventing governmental intrusion, a topic discussed later in the thesis.

The Video Game Industry

The video game industry is one of the most controversial consumer industries in the American market today. There have been numerous attempts to regulate this industry through government, all of which have failed. Video games such as *DOOM*, *Call of Duty*, *Mortal Kombat*, and *Grand Theft Auto* are frequently cited as violent influences upon those who have committed acts of gun violence in schools and movie theatres. As recently as 2013, according to the *Huffington Post*, Vice President Joe Biden met with

industry leaders at the White House to discuss video games and violence (Knafo, 2013) and possible governmental intervention. If video games are proven to cause violent behavior among the American people, they will be prone to governmental oversight. However, have video games actually been proven to cause violent behavior in people?

Video Games and Violence

Jason Schreier, a journalist with one of the premier video game information websites, Kotaku, wrote a definitive article combining all of the research regarding video games and their supposed connection with violence. According to the research presented by Ohio State University, Professor Brad Bushman presented a test case which found that playing violent video games has a casual relationship with aggression (Schreier, 2013, para. 4). To test his theory, Bushman had 70 students play a random violent or non-violent video game a day for three days. Following the game-playing, students were to write an ending to a short story that was presented to them. The endings of the stories were compared to the sorts of video games played that day. For instance, if a student had played a violent video game and wrote a violent ending to a story, then it was theorized that video games caused aggression.

In another study conducted by Chris Ferguson, one of the industry leaders who sat down with Biden at the White House in 2013, it was found that there was no link between violent video games and violent actions (Schreier, 2013, para. 6). Ferguson's study was conducted in largely the same way as Bushman's. Students were placed in a room and given a video game to play, and aggression was tested over time by periods of a month.

According to Ferguson, three flaws are presented in modern studies on video games. Firstly, they are conducted on college students and not children who have no bias

for or against the results (Schreier, 2013). Secondly, the current measures for testing aggression are not streamlined or acceptable (Schreier, 2013). This means that the testing measures could be conducted to evaluate any factor proving aggression, not just aggression associated with video games, and the same results could occur. For example, you could fill in the blank, “Explo_e” with a “d” rather than an “r” and automatically assumed to be aggressive (Schreier, 2013, para 42): This is not the proper way to conduct a study. The most important problem is that the testing methods are so flexible as to bias or predetermine outcomes (Schreier, 2013). Following from the previous example, it is quite difficult to determine aggression merely by word association. College students especially tend to pander to the hypothesized outcome of a study (Schreier, 2013).

Not all tests are conducted to determine levels of aggression among video game-playing children. A study conducted by the journal, *Social Cognitive and Affective Neuroscience*, placed 22 boys, aged 17-22, in groups and had them play video games to determine the games’ desensitizing effect. The results of the study showed that the boys exposed to the higher levels of violence were more desensitized compared to the boys exposed to lower levels of violence (Landau, 2010). Surprisingly, though the study could not ascertain whether the violent video games increased aggression, the results did show that the males who played first-person shooter video games such as *Call of Duty* or *Unreal Tournament* were able to make faster decisions than those who played normal video games (Landau, 2010, para. 12). According to Alexandre Pouget of the University of Rochester:

The lesson from that is not to carve out as much time for video games as you can, Rather, exploring how video games help with quick thinking can translate into

educational tools and games that more effectively teach useful skills. (Landau, 2010, para. 13)

Links between video games and video game addiction have not been proven. This thesis paper therefore recommends further study on the supposed addictive elements of playing video games. While video games, as in all things, should be played in moderation, not all studies have proven that video games are violence-inducing forms of entertainment. In fact, one study seemed to promote just the opposite.

One particular statistic of importance involving video games and violence is the crime rate from 1994-2000—when the video game industry began its boom. During this time, according to Adam Thierer of the Cato Institute, and cited by the Department of Justice, the juvenile (ages 15-17) violent crime rate dropped by 44%. The young adult (ages 18-24) violent crime rate dropped by 24% (Thierer, 2003). Though this is a telling statistic which does not directly relate to video games, it “certainly should make policymakers pause before rushing to legislate” (Thierer, 2003, para. 4).

Overall, the studies and statistics all speak to one particular dynamic. Violence as an influence upon behavior has not been properly tested. Aggression can certainly be tested, but as mentioned, the results pointing to “aggression” can be skewed to bring about a desired conclusion. Despite the uncertainty associated with current methods of testing, various attempts have been made to police the sale of violent video games.

According to the Entertainment Merchants Association, seven states have passed laws prohibiting the sale of violent video games to minors since 2007. Various cities have passed similar ordinances in the past fifteen years (EMA, 2013). Both St. Louis, Missouri and Indianapolis, Indiana passed ordinances to ban the sale of violent video games to

young children. Both of these ordinances were struck down due to First Amendment Free Speech protection (Thierer, 2003). One prominent example of state-attempted regulation would be the Supreme Court case, *Brown* (formerly *Schwarzenegger*) *v. Entertainment Merchants Association*. In 2005, the state of California enacted a law prohibiting the sale of “violent” video games to minors, and its constitutionality was questioned due to the vagueness of the term “violent.” *Brown v. Entertainment Merchants Association* later made its way to the Supreme Court of the United States where the California law was promptly struck down. In his opinion, Justice Scalia noted:

Video Games qualify for First Amendment protection... Because the Act imposes a restriction on the content of protected speech, it is invalid unless California can demonstrate that it passes strict scrutiny, i.e., it is justified by a compelling government interest and is narrowly drawn to serve that interest. California cannot meet that standard. (Brown, 2011, para. 2)

The Supreme Court upheld the constitutional protections affirmed to the video game industry through the First Amendment. Of equal importance however, is the fact that the self-regulation of the video game industry was also indirectly upheld. This regulatory agency known as the Entertainment Software Rating Board (ESRB), like the MPAA, is not extremely effective, but the governmental regulation could be far worse.

The entertainment software rating board. The ESRB, like the MPAA before it, was created as a means to avoid regulation by the United States government. Matthew McCurley, a journalist working for *Joystiq*, a video game-oriented news website, discussed the creation and necessity of the ESRB in a 2010 article, “Lawbringer: Self-regulation and the entertainment industry.” He explains that the ESRB works quite

similarly to the MPAA. Video game creators submit their video game for review to the ESRB and pay a fee. The ESRB then rates the game based on standards of extreme or objectionable content. The game is then sent back with a rating that must be printed on each game before being sold (McCurley, 2010).

As with the MPAA, enforcement takes place within the industry itself. For instance, various stores such as Wal-Mart or Best Buy will agree to sell the games only to those of the required age. Unfortunately, as there are no real consequences for violating this, retailers may potentially do as they wish. While this is improbable, it is not impossible, and there have been instances in the past of young children being able to purchase “Mature-rated” video games. According to the Entertainment Merchants Association (EMA), various Federal Trade Commission tests have shown that 20% of children are able to walk into a store and purchase a violent video game, despite regulation through the ESRB (EMA, 2013). This, however, is an acceptable error rate and reinforces the point that self-regulation of the industry is an effective way to protect children. As with regulation of the film industry, the decision to purchase video games must therefore be decided by the immediate family.

The family and video game self-regulation. While there are countless arguments favoring the regulation of video games given their possible violent effects on behavior and aggression, the most formidable argument against governmental intrusion contends that the video game industry is quite simply none of the government’s business: “Uncle Sam should not serve as a surrogate parent” (Thierer, 2003, para. 7). In a free society, parents should have the responsibility and obligation to choose what their children do and do not see. In America, it is vitally important that the most essential institution, the

family, be recognized as bearing this authority. The federal government must not only provide for this, but also be not a hindrance to it.

Christianity in Regard to Films and Video Games

While this paper focuses primarily upon the federal government's supposed role in regulating the entertainment industry, it is necessary to the course of this thesis to provide a Christian explanation for self-regulation, as well as a Christian solution to government intrusion. From a Christian perspective, violence in video games or movies may be classified as sinful content. However, as detailed by John Calvin, while all crime is sin, not all sin is a crime (Wedgeworth, 2014). From a biblical-historical perspective, "something being lawful is quite distinct from it being morally admirable" (Wedgeworth, 2014, para. 3). Therefore, it is not the duty of the federal government to regulate all sins, just those sins that constitute crimes. This is why there is no extensive civil legislation blocking the use of entertainment such as films, video games, and even pornography (Wedgeworth, 2014). The U.S. federal government is not constitutionally authorized to enter into the private sphere and regulate sin that is not a crime. If there is then a role for government intervention, what is it?

In Christian tradition one can find the Doctrine of Two Swords. Originally conceived by Pope St. Gelasius I (492-496), and later expounded by St. Augustine, the Doctrine of Two Swords states that God has granted "two swords:" The State bears the "sword of execution," that is, the ability to punish criminals to the point of capital punishment, while the Church bears the "sword of excommunication" (Hammond, 2009, para. 1). The Church bears the authority to lovingly reproach wrongdoers for acts committed against God (Fischer, 2003): "[This] doctrine thus secured a sphere of

autonomy for the church, while conceding the supremacy of secular law in the government of human communities” (MacMillan, 2007, para. 1). This Doctrine of Two Swords has been debated for centuries, with some, such as Gelasius believing that each sphere is equal in power. Others, such as Thomas Hobbes, held to the primacy of the state (Hammond, 2009). According to this doctrine, the Christian policymaker is not to directly influence law to regulate sin, which the Church has the authority to confront. However, as a representative of the Church, the Christian policymaker must act in accordance with his faith, though not through the State relative to entertainment. How can this apparent paradox be explained?

A separation of Church and State does not mean a separation of the State from biblical principles (Fischer, 2003). Principles of morality are found in many laws, from laws regulating abortion or marriage to even tax codes. The Christian policymaker understands that even if the results of studies regarding the correlation between violence and the film and video game industries are undetermined, violent media in and of itself should be limited to a certain extent in civilized society.

This thesis affirms that the best way for Christian policymakers to accomplish this limitation is through outside organizations. The position of a politician is unique in that he has the ability to not just write and execute laws, but meet with various interest groups and non-governmental organizations to accomplish these tasks. It is imperative that the Christian policymaker in America understands his role and actively promotes an effective means of self-regulation and self-knowledge for the family.

Not only is the Christian policymaker’s job paramount, but, as previously mentioned, Christian interest groups exist that deal specifically with the entertainment

industry. Focus on the Family's *PluggedIn Online* is an invaluable resource for families to determine which films to view and video games to play. Other groups, such as Act One, an organization whose purpose is to encourage and grow Christian screenwriters, seek to promote Christian values in Hollywood itself (Sarah, 2005). The problem in America today is that few families are aware of the resources available to them. Twitter presents a viable technology platform to communicate, as do Facebook, blog posts, or email blasts, which the Christian politician may employ to accomplish two things. First, he may uphold his biblical tenets to his constituency and promote a moral critique of the entertainment industry. Second, and most important, by communicating his beliefs about violence and the entertainment industry, he bypasses governmental intrusion and instead opts for a liberty-minded method of self-regulation.

Both the Christian policymaker and outside Christian organizations have the ability to make a difference on a scale unavailable to the average American citizen. Therefore, these entities must constantly encourage and promote biblical values regarding the film and video game industries through their unique positions of influence, which does not involve government intervention and a disregard for the Constitution.

The Pornography Industry

While it is easier to say that the policymaker can encourage the practice of self-regulation regarding the film and video game industries, the politician is usually somewhat hesitant regarding government intrusion in the pornography industry, and for good reason. Pornography is unique in that it garners a total annual income of \$97 billion, more than that of all leading technology companies combined (NPR, 2010, para. 1). Pornography, many contend, has a detrimental impact upon the American mind.

However, pornography is technically free speech, as proven by *Ginsberg v. New York* (1968) and *Miller v. California* (1973), among other Supreme Court Cases. Should the politician have a separate stance regarding pornography in contrast to his stance on movies and video games? How can he reconcile how he feels about this industry compared to the other subsets of the entertainment industry?

Pornography and Violence

Various studies have been conducted that hypothesize that pornography has a detrimental impact upon its viewership. Since 2007, there have been over 244 million websites featuring pornographic images (Chapman, 2007). An average of 40 million people use pornography on a daily basis in America (NPR, 2010). While some believe that Internet pornography has reduced rape in the world, such as Clemson University economist Todd Kendall, the statistics are still unsubstantiated (Chapman, 2007).

According to the American Psychological Association, gender inequality is strengthened when women are valued only for their supposed sex appeal, which is typically associated with pornography. Additionally, after being exposed to pornography, it is claimed that men become more accepting of rape and sexual violence or deviancy (Norris, 2011, paras. 8-9). In this same article by Sian Norris (2011), she quotes feminist Gail Dines:

We are now bringing up a generation of boys on cruel, violent porn, and given what we know about how images affect people, this is going to have a profound influence on their sexuality, behaviour and attitudes towards women. (para. 11)

While this does not specifically mean that pornography will lead to rape, it can certainly lead men to believe that women should be treated with the same sexual irreverence typically associated with pornography. Norris (2011) finishes her article by stating:

Pornography that more often than not portrays women as objects to be hurt and degraded; that portrays women as objects of violence; and that encourages men and boys to associate sexual pleasure with violence and degradation is not a solution to sexual violence. (para. 19)

It is not unreasonable to infer that the desensitizing effects of pornography can lead to sexual violence. However, as with video games and films, the reports have been inconclusive. What is true, however, is that pornography has been proven to have a vast negative impact on marriage throughout the world. This is something that is especially of concern for the Christian family.

Pornography and Divorce

There is no denying pornography's effect on marriage. In a study done by Patrick Fagan of the Center for Research on Marriage and Religion, obsession with porn is accounted for in 56% of all divorces (Larson, 2011). According to the 2003 conference of American Academy of Matrimonial Lawyers, out of the 350 divorce attorneys in attendance, over half said that a spouse's pornography addiction led to the filing of divorce papers (Larson, 2011). In another study, researchers compared the rate of *Playboy* magazines sold between the years 1962-1979 to divorces during the same time frame. The results showed a correlation between the sale of *Playboy* magazines and 10-25% of all divorces between 1962-1979 (Daines & Shumway, 2011, para. 1). One must keep in mind that this correlation came long before the advent of easily accessible

Internet pornography. The statistics since then are astonishing, and as shown, only increase with each year. The Family Research Council, one of the leading Christian lobbying groups in America, has found, through studies conducted by the Marriage and Religion Research Institute, that pornography is usually associated with infidelity by both spouses in marriage. Additionally, it leads to distance in the relationship and a loss of interest in sexual intercourse between spouses (Fagan, 2014, para. 2). A study in *Social Science Quarterly* reported, "Internet users involved in extramarital affairs were 3.18 times more likely to have used online porn than Internet users who had not had an affair" (NPR, 2010, para. 7). Even more damning is the Christian divorce rate, which is 32%, statistically identical to the national average (Barrick, 2008).

All of these studies seem to show that pornography and its damaging effects are primary contributors to divorce. Since the statistics have proven that pornography has a chilling effect on the institution of marriage, many argue that government should regulate pornography. Can this be successfully accomplished? Is this constitutional?

Pornography and regulation. Governmental regulation has not been successful in both the video game and film industries. Pornography has also been kept largely free from governmental intervention through its First Amendment protections. Various forms of pornography, such as child pornography, have been banned. Internet pornography exists in a largely gray legal area when it comes to regulation. Currently, the government requires that online pornography websites require notifying the viewer that the content is for "mature" audiences only, and if one is under the age of 18, one must exit immediately from the site. However, this form of self-regulation is not much of a protection at all. All that is needed is for a minor to click the "Yes, I am 18 years or older" button and view

the objectionable material without criminal liability. Kelly Hultgren of the University of Arizona believes that it is up to the government to crack down on pornography websites without filters and free pornography websites (Hultgren, 2012). But as previously mentioned, this is not within the government's constitutional powers of regulation. If a website is free, then one should have access to it without charge. If an of-age adult can visit a gambling website and choose not to gamble, or visit a liquor store and choose not to purchase liquor, then why cannot one visit an internet pornography website without indulging in its content? If the government is encouraged to begin regulating pornography, then it begins to directly intervene into definite moral gray areas, or as the Christian prefers, internal sin.

However, the question must still be raised regarding the government's role in regulating pornography. Is pornography as addictive as hard drugs, substances already regulated or banned by the United States?

According to Donald Hilton and Clark Watts (2011), both of the University of Texas's department of Neurosurgery, pornography is an addictive element because it creates, "in addition to chemical changes in the brain, anatomical and pathological changes which result in various manifestations of cerebral dysfunction collectively labeled hypofrontal syndromes" (para. 1). In their study, they found that, "the correlation (85%) between viewing child pornography and participating in actual sexual relations with children was demonstrated..." (Hilton and Watts, 2011, para. 15). Furthermore, their data strongly supported previous data "demonstrating correlation with regard to pornography-inducing violence attitudes against women" (Hilton & Watts, 2011, para. 15). In their conclusion, they stated that, "With such strong correlative data, it is

irresponsible not to address the likely possibility of causation in these regards” (Hilton & Watts, 2011, para. 15). Scientists have long thought pornography to be naturally addicting. If, like the previous study concludes, it is found to not only correlate, but also cause sexual violence and sexual deviancy, it is the government’s responsibility to provide laws regulating or banning pornography as if it were an addictive drug. Until the government determines concrete evidence detailing pornography as bearing the qualities of a drug, the government cannot effectively regulate it.

Assuming that the consumption of pornography does lead to sexually deviant and addictive behaviors, then policymakers will need to take action for further regulation. The policymaker has a vested interest in the protection of the American public from sexual violence and harmful addiction. This thesis therefore recommends that pornography as it relates to sexually deviant behavior be given further study for the possibility of governmental regulation.

Clyde Crews Jr. of the Cato Institute has an alternative opinion regarding the regulation of pornography— parental protection. As with video games and films, pornography is best suited to be regulated by the immediate family. According to Crews Jr.:

As always, as with any behavioral issue, the best — and “least restrictive” — defense is parental supervision. It cannot be overstated that parents have no choice but to supervise their kids on the Internet. Even if porn did not exist on the Net, parents have a duty to supervise what their children do online. (Crews Jr., 2002, para. 9)

Though Christian groups such as the aforementioned Family Research Council believe that the government should step in and regulate pornography, various free, effective, and easy-to-use filtering services are available for parents to prevent their children from viewing pornography online. Keywords, phrases, and types of Internet websites can be entered into blockers that prevent children from viewing objectionable content, and a parent's home computer can be largely protected from the sexually curious teenager or young adult through the use of such software. Parents should have the legal right to decide if their children can view objectionable material or not. This is why limiting the scope of Internet pornography is an imperative for the family alone.

The American family should understand that pornography is evil, and violates God's moral imperatives. 1 Corinthians 6:19-20 explicitly states:

Don't you know that your body is a sanctuary of the Holy Spirit who is in you, whom you have from God? You are not your own, for you were bought at a price.

Therefore, glorify God in your body. (Holman Christian Standard Bible)

The policymaker must respond to pornography in an acceptable manner that does not defy the U.S. Constitution, but how?

The Policymaker's Role Regarding Pornography and Regulation

According to the University of Missouri-Kansas City, "The government has a stronger interest in regulating sexual material involving minors than it does when the material depicts consenting adults" (UMKC, 2011, para. 1). Various Supreme Court cases, such as *Osborne v. Ohio* (1990), *New York v. Ferber* (1982), *Ashcroft v. Free Speech Coalition* (2002), and *United States v. Williams* (2008) ruled against the sale or possession of child pornography. However, little has been done against pornography that

involves adults due to its assumed constitutionality. This puts the politician in a tough position. As a moral human being, the policymaker believes that pornography is sinful or a discouraged activity to engage in. As a politician or lawmaker, he must make laws that are for the good of the nation in accordance with the United States Constitution. A Supreme Court justice, Potter Stewart, once said that he could not define pornography, but that he would assuredly know it when he sees it. One thing is for certain.

Pornography is “sexually explicit” (Stanford, 2012, para. 3). However, various required textbooks used in biology classes across America may be defined as “sexually explicit.” When is government justified in restricting the free speech associated with pornography?

As a representative of government, the policymaker must fight to restrict the availability of pornography in public venues. While it may be acceptable, but not preferred, to allow the dissemination of pornography for private consumption, this material has no place in the public sphere. The policymaker should insist that pornography presented in public does not always involve consenting adults (or children), and is an affront to civilized society. Therefore, this offensive imagery must not be allowed outside of the private sphere (Stanford, 2011, 37). As child pornography has been restricted due to its harm to children, so too must public depictions of pornographic images be restricted to private use.

How can censorship laws against public display and representations of pornography be enacted that are in accordance with the U.S. Constitution? According to the Supreme Court, obscenity is a type of speech not permitted by the First Amendment (Jacobellis, 1962). Public depictions of pornography may be categorized essentially as obscene imagery. The politician has the duty, both as a defender of the Constitution and

as a moral human being, to restrict its public display through the use of laws and ordinances.

The American politician must also declare that any form of pornography is a disgrace to society, whether it is publically displayed or privately used. While he cannot enact legislation to ban private forms of pornography, he may work with private companies and lobbying groups to limit its scope of sale. For example, in November of 2013, both Google and Microsoft, companies whose search engines comprise around 95% of Internet searches, announced plans to crack down on child pornography search parameters (Harrison, 2013). This is a step in the right direction. The politician must work with companies to systematically restrict Internet search capabilities involving various forms of pornography. As most pornography is found through websites such as Google, explicit content would be much harder to navigate to. If a company like Google or Microsoft chooses to limit or censor searches on pornography, it is within their rights and capabilities to do so.

Additionally, it is imperative that the policymaker works directly with the Church to organize filters and software programs for Christian families. Various filters such as Integrity Online (www.integrity.com) and SafePlace.Net (www.safeplace.net) are available for families to access to stop the spread of pornography, and Christians need to be made aware of these filtering programs.

Current regulation established to prevent pornographic images from seeping into the minds of Americans is not necessarily effective. Internet regulation of pornography will not stop sexual deviancy or sexual violence in America and throughout the world. Nevertheless, by highlighting Christian morals or values, the policymaker can impede the

spread of pornography. He can effectively and efficiently safeguard the freedoms of the American people through a liberty-minded approach to pornography that takes into account free will and the ability to make immoral choices.

Conclusion

Video games, movies, and pornography are three branches of the entertainment industry that have all been susceptible to critique and regulation by the federal government. Violent films have been said to cause violent tendencies, violent video games have long been the scapegoat of policymakers as the basis for school shootings, and pornography is commonly seen as one of the primary reasons rape is still commonplace. Evidence shows some truth associated with each of these accusations. However, the real problem today in America is sin.

Whether looking at these problems from a secular view or a spiritual view, evil in the form of immoral entertainment has made its way into the American culture. Violent films, while not necessarily causing aggression, do in fact promote violent action, violent video games, while most likely not a catalyst for violent behavior itself, do glorify violence, and the pornography industry does produce sexually explicit films, though mainstream pornography does not actively encourage divorce or rape. Violence, aggression, and immorality are all side effects of evil and immoral entertainment.

So what is the role of the federal government relative to the entertainment industry, the question asked by this thesis? Quite simply, the servant of America, its policymaker and its politician, must knowingly and faithfully uphold the Constitution of the United States and, if he be a Christian, God's ordinances in the Scriptures. The politician must fight against the evil that prevails in society through the appropriate use of

the American legal system and through the help of the Church, America's moral capstone. The policymaker must not breach the Constitution or circumvent it, but promote it and uphold it in accordance with the power invested in him. This comes with the understanding that all of society does not act upon or accept traditional Christian values.

The policymaker must fight to prevent government overreach into the entertainment industry, despite its sinful influence. Government intrusion can be prevented through the use of outside organizations, lobbying groups, think tanks, churches, and above all, by informing and equipping families with proper information.

The fundamental argument against governmental intrusion is the authority of the family. It has the right to allow or disallow violent films, violent video games, or sexually explicit materials into the home. The American politician must, therefore, fight for the authority of the family to regulate the use of entertainment, and in turn, contend governmental intrusion into the entertainment industry.

References

- Barrick, A. (2008, April 4). Study: Christian divorce rate identical to national average. *The Christian Post*. Retrieved January 20, 2014, from <http://www.christianpost.com/news/study-christian-divorce-rate-identical-to-national-average-31815/>
- Bond, P. (2013, December 8). Study: PG-13 films combine as much violence, sex and alcohol as R-rated titles. *The Hollywood Reporter*. Retrieved January 14, 2014, from <http://www.hollywoodreporter.com/news/study-pg-13-films-combine-663899>
- Brown v. Entertainment Merchants Association (2011). *The Oyez Project at IIT Chicago-Kent College of Law*. Retrieved March 27, 2014, from http://www.oyez.org/cases/2010-2019/2010/2010_08_1448.
- Bushman, B.J., Jamieson, P.E., Weitz, I, Romer, D. (2013). Gun violence trends in movies. *Pediatrics*, 132(6), 1014-1018. doi:10.1542/peds.2013-1600
- Chapman, R. (2010). Federal Communications Commission. *In culture wars: An encyclopedia of issues, viewpoints, and voices*. Retrieved February 10, 2014, from http://www.liberty.edu:2048/login?url=http://literati.credoreference.com/content/entry/sharpecw/federal_communications_commission/0
- Chapman, S. (2007, November 5). Is pornography a catalyst of sexual violence? *Reason.com*. Retrieved January 20, 2014, from <http://reason.com/archives/2007/11/05/is-pornography-a-catalyst-of-s>
- Cornell University School of Law. (2011). Brown v. entertainment merchants assn. *Legal Information Institute*. Retrieved January 19, 2014, from <http://www.law.cornell.edu/supct/html/08-1448.ZS.html>

- Crews Jr., C. (2002, May 17) Government can't protect kids from porn– But parents can. *The Cato Institute*. Retrieved January 20, 2014, from <http://www.cato.org/publications/commentary/government-cant-protect-kids-porn-parents-can>
- Daines, R. & Shumway, T. (2011, June 1). Pornography and divorce. *Marriott School at Brigham Young University*. Retrieved January 20, 2014, from http://marriottschool.net/emp/boyer/financeseminar/s11_12/Tyler%20Shumway%20F11.pdf
- DeLuca, D. (2004, June 6). Gore more acceptable than nudity to MPAA. *The Augusta Chronicle*. Retrieved February 10, 2014, from <http://www.lexisnexis.com.ezproxy.liberty.edu:2048/lncui2api/auth/checkbrowser.do?ipcounter=1&cookieState=0&rand=0.13739285883834207&bhjs=1&bhqs=1>
- DiLeo, A. (2013, November 11). Study finds gun violence in PG-13 movies has more than tripled since 1985. *IGN*. Retrieved January 15, 2014, from <http://www.ign.com/articles/2013/11/12/study-finds-gun-violence-in-pg-13-movies-has-more-than-tripled-since-1985>
- Entertainment Merchants Association. (2013). Regulation of violent videogames and dvds. *The EMA*. Retrieved January 19, 2014, from <http://www.entmerch.org/government-relations/ema-position-statements/regulation-of-violent-video.html#.Utw--Xn0Ay4>
- Fagan, P. (2014). The effects of pornography on individuals, marriage, family and community. *Family Research Council*. Retrieved January 20, 2014, from <http://www.frc.org/onepagers/the-effects-of-pornography-on-individuals-marriage-family-and-community>

Fischer, K. (2003). Separation of church and state. *Biblical Principles of History & Government*, 36-42.

Green, D. (2011). Regulation of violent video game sales to minors violates First Amendment. *The News Media & The Law*. Retrieved January 19, 2014, from <http://www.rcfp.org/browse-media-law-resources/news-media-law/news-media-and-law-summer-2011/regulation-violent-video-ga>

Harrison, T. (2013, November 19). Porn and perverts: The iniquitous spread of internet regulation. *The Free Society*. Retrieved January 20, 2014, from <http://www.thefreesociety.org/Articles/559/porn-and-perverts-the-iniquitous-spread-of-internet-regulation>

Hilton, D., & Watts, C. (2011). Pornography addiction: A neuroscience perspective. *Surgical Neurology International*, 2, 19. doi:<http://dx.doi.org/10.4103/2152-7806.76977>

Holman Christian Standard Bible (2012). *Holman Bible Publishers*.

Jacobellis v. Ohio (1962). *The Oyez Project at IIT Chicago-Kent College of Law*. Retrieved March 27, 2014 from http://www.oyez.org/cases/1960-1969/1962/1962_11_2

Knafo, S. (2013, January 17). Joe Biden talks violent video games with industry reps in wake of Newtown shooting. *The Huffington Post*. Retrieved January 15, 2014, from http://www.huffingtonpost.com/2013/01/11/joe-biden-violent-video-games_n_2458161.html

Landau, E. (2010, October 18). Do violent movies, games make teens aggressive? *CNN*.

Retrieved January 20, 2014, from <http://thechart.blogs.cnn.com/2010/10/18/do-violent-movies-games-make-teens-aggressive/>

Larson, V. (2011, May 29). Does porn watching lead to divorce? *The Huffington Post*.

Retrieved January 20, 2014, from http://www.huffingtonpost.com/vicki-larson/porn-and-divorce_b_861987.html

Madison, J. (1788, May 6). James Madison quotes. *Speech at the Virginia convention to ratify the federal constitution*. Retrieved February 11, 2014, from

<http://www.thefederalistpapers.org/founders/james-madison-quotes>

McCurley, M. (2010, November 19). The lawbringer: Self-regulation and the video game industry. *Joystiq*. Retrieved January 19, 2014, from <http://wow.joystiq.com/2010/11/19/the-lawbringer-self-regulation-and-the-video-game-industry>

Motion Picture Association of America. (2013). 2012 theatrical statistics summary. *The MPAA*. Retrieved January 15, 2014, from <http://www.mpa.org/resources/3037b7a4-58a2-4109-8012-58fca3abdf1b.pdf>

Motion Picture Association of America. (2013). Guide to ratings. *The MPAA*. Retrieved January 16, 2014, from <http://www.mpa.org/ratings>

National Public Radio (2010, March 31). National review: Getting serious on pornography. *National Public Radio*. Retrieved January 20, 2014, from <http://www.npr.org/templates/story/story.php?storyId=125382361>

Norris, S. (2011, August 7). Does porn reduce violence against women? Evidence says otherwise. *Liberal Conspiracy*. Retrieved January 20, 2014, from <http://>

liberalconspiracy.org/2011/08/07/does-porn-reduce-violence-against-women-evidence-says-otherwise/

Sarah, P. B. (2005, August 27). Trying to bring Christianity into the picture; Hollywood internships for believers develop talent and spread values. *The Washington Post*. Retrieved February 15, 2014, from <http://search.proquest.com/docview/409961313?accountid=12085>

Schreier, J. (2013, January 17). From Halo to hot sauce: What 25 years of violent video game research looks like. *Kotaku*. Retrieved January 19, 2014, from <http://kotaku.com/5976733/do-video-games-make-you-violent-an-in+depth-look-at-everything-we-know-today>

Stanford University (2004, May 5). Pornography and censorship. *Stanford University*. Retrieved January 20, 2014, from <http://plato.stanford.edu/entries/pornography-censorship/>

Thierer, A. (2003, June 24). Regulating video games: Must government mind our children? *Cato Institute*. Retrieved January 19, 2014, from <http://www.cato.org/publications/techknowledge/regulating-video-games-must-government-mind-our-children>

Troy, D. (1998, May 1). Taking commercial speech seriously. *Free Speech and Law Practice Group Newsletter*. Retrieved January 14, 2014, from <http://www.fed-soc.org/publications/detail/taking-commercial-speech-seriously>

Two Swords Doctrine. (2007). In Palgrave MacMillan dictionary of political thought. Retrieved February 16, 2014, from <http://www.liberty.edu:2048/login?url=http://>

literati.credoreference.com.ezproxy.liberty.edu:2048/content/entry/macpt/two_sw
ords_doctrine/0

Two-Swords Doctrine. (2009). In S. J. Hammond, *Political Theory* (pp. 323-324).

Westport, CT: Greenwood Press. Retrieved February 16, 2014, from

http://go.galegroup.com/ps/i.do?id=GALE%7CCX3252700226&v=2.1&u=vic_liberty&it=r&p=GURL&sw=w&asid=0f654d2589155e94b020bf99aa118b53

University of Missouri-Kansas City. (2011). Regulation of child pornography. *University of Missouri-Kansas City*. Retrieved January 20, 2014, from

<http://law2.umkc.edu/faculty/projects/ftrials/conlaw/minorsobscenity.html>

Wedgeworth, S. (2014, January 3). Calvin on the sin/crime distinction. *The Calvinist*

International. Retrieved February 16, 2014, from <http://calvinistinternational.com/2014/01/03/calvin-sin-crime-distinction/>