The Political Economy of Independent Films: A Case Study of Kevin Smith Films

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THE POLITICAL ECONOMY OF INDEPENDENT FILMS: A CASE STUDY OF
KEVIN SMITH FILMS

By

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For my parents, who have always seen me as their shining star
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ABSTRACT

This thesis examines the U.S. film industry from a political economic perspective to determine the state of independent film in relation to ownership, financing, and content. Since its conception, the film industry has been controlled by a small number of companies—that is, as an oligopoly. As such, films produced outside the sphere of the majority have been labeled ‘independent.’ However, these ‘independent’ film companies either have been co-opted into the conglomerate system or have adopted their business strategies to remain competitive in the industry. However, what classifies an independent film is subjective. Throughout literary research in this area, three characteristics were considered: financial sources, budget, and content. Therefore, to redefine ‘independent’ film, this thesis used a spectrum (Table 1.1) encompassing each of these elements to analyze and reclassify three Kevin Smith films, Clerks (1994), Dogma (1999), and Zack and Miri Make a Porno (2008) into one of five categories: independent, somewhat independent, dependent, minor studio, and major studio. These films were also analyzed in a political economic context examining barriers to entry and effects in content.
CHAPTER 1
INTRODUCTION

Kevin Smith films have graced both domestic and global screens since his debut black and white film *Clerks* in 1993. He has written and directed seven other feature films: *Mallrats* (1995), *Chasing Amy* (1997), *Dogma* (1999), *Jay and Silent Bob Strike Back* (2001), *Jersey Girl* (2004), *Clerks II* (2006), and *Zack and Miri Make a Porno* (2008). Although most of Smith’s films have been financed and distributed by Miramax, a subsidiary of The Walt Disney Company, he has been hailed as an “independent filmmaker” by many (Biskind, 2004; King, 2005; Merritt, 2000; Pierson, 1997; Tzioumakis, 2006). In a PBS “Frontline” interview with John Pierson (2001), Kevin Smith responded to his ‘independent’ label with: “For years, people have been asking, are you an independent filmmaker? Or labeling me an independent filmmaker. It depends what your interpretation of indie filmmaker is, or indie film is” (¶ 18). The definition of independent film has changed over the years and continues to become increasingly problematized with complications of ownership, financing, and content-based distinctions to consider.

Six major media conglomerates dominate the film industry, producing and distributing both Hollywood blockbusters and ‘indie’ films. Robert McChesney (1999a) emphasizes the overall effect of the structure of the film industry: “By any known standard of liberal democracy, such a concentration of media power in a few self-interested firms run by some of the wealthiest people in the world poses an immediate and growing threat to our republic” (¶ 4). The conglomerates that turn the majority of profits from media commodities—in this case, films—are generally referred to as the ‘majors.’ The ‘major’ parent conglomerates and distribution companies in the film industry are: Time Warner (Warner Brothers), News Corporation (Twentieth Century Fox), General Electric (Universal), Walt Disney (Buena Vista), Viacom (Paramount Pictures), and Sony (Columbia). According to Box Office Mojo, an online movie industry publication, in 2008, distributors’ domestic market share breakdown is as follows: Warner Bros. accounted for 18.4%, Paramount 16.4%, Sony/Columbia Pictures 13.2%, Universal 11%, Twentieth Century Fox 10.5%, and Buena Vista 10.5%, which equals a combined domestic market share of 80% (“2008 Studio Market Share Breakdown,” 2009). These major conglomerates are not just dominating with their existing big budget studios, but also
buying out and creating ‘independent’ companies that have stakes in the market, which benefit parent companies as well. For example in 2008, in addition to the market shares above, News Corporation’s Fox Searchlight accounted for 2.4% of the market, Sony’s MGM had 1.7%, and finally Universal’s Focus Features controlled 1.4% (“2008 Studio Market Share Breakdown,” 2009). In sum, these six media conglomerates’ major film studios and their ‘independent’ subsidiaries account for an overwhelming total of 85.5% of the domestic film market share.

Disney is the third largest media conglomerate with revenues for 2007 equaling $35.5 billion (S&P 500, 2008). In 1993, Disney entered the newly lucrative independent film industry after acquiring Miramax, a successful, independent film distribution company owned by Harvey and Bob Weinstein. “Disney, seeking entry into the world of independent cinema that Miramax was coming to dominate, bought out its partners for $60 million” (Mason, 2004, ¶ 6). Like The Walt Disney Company, other media conglomerates such as Sony, News Corporation, Viacom, and Time Warner have tapped into niche markets by owning ‘independent’ film companies. For example, as explicated on its main website, sonyclassics.com, Sony Pictures Entertainment founded Sony Pictures Classics in January 1992; its mission is to “distribute, produce, and acquire independent films from the United States and around the world” (“About Us,” n.d., ¶ 1). Rupert Murdoch’s News Corporation was not far behind, opening its mini studio dubbed Fox Searchlight Pictures in 1994. Viacom’s major film studio, Paramount Pictures, announced the opening of its independent subsidiary, Paramount Picture Classics, in 1998. With the birth of Paramount Vantage in 2006, Tourtellotte (2006) describes the new objective for Paramount Classics as focusing “on films with a more narrow appeal, such as foreign-language movies and documentaries” (¶ 7). Paramount Vantage will be “aimed at releasing low-budget films with broad appeal to capture audiences in the expanding independent film arena” (Tourtellotte, 2006, ¶ 1). Finally, Time Warner’s independent film division, Warner Independent Pictures, was established in August of 2003 with Gil Robinov as its president. As reported in the Daily Variety, Robinov declares, “Warner Independent will operate as a true independent film company” (Dunkley & Bing, 2003, ¶ 20). The films these companies produce and distribute have been considered independent ‘art house’ films (Dunkley & Bing, 2003; Tourtellotte, 2006; Zuckerman & Kim, 2003). The existence of such subsidiary companies allows their parent companies to have a large stake in the niche market of independent film, leaving less and less room for non-conglomerate related media.
Over the past 15 years ‘major’ media conglomerates have either bought out or created ‘independent’ subsidiary distribution companies to increase overall revenue. However, some communication scholars generally do not distinguish the conglomerate-owned ‘independent’ film distribution companies from the non-conglomerate film distribution companies. For example, Zuckerman and Kim (2003) code Fox Searchlight, Miramax, and Sony Classics as independents (p. 36). They also argue, “while there are those who would consider any distributor a major if it is owned by a major studio (e.g. Miramax is a division of Disney) we follow common practice in the study of cultural markets,” citing Lopes (1992) and Peterson and Berger (1996) to justify “regarding the label identity rather than the owner of the label as most salient” (Zuckerman & Kim, 2003, p. 36). The label identity for these conglomerate-owned distribution companies is indeed ‘independent,’ which is misleading.

Films produced and distributed through conglomerate-owned companies are corporately branded and categorized as ‘independent.’ This is problematic because scholars must recognize the context in which films are created, distributed, and categorized. Ignoring the corporate brand of ‘independent film’ significantly compromises the study of film analysis. Wasko (2004) argues,

The profit motive and the commodity nature of film have implications for the kind of films that are produced (and not produced), who makes them, how they are distributed, and where/when they are viewed. While it is common to call film an art form, Hollywood film, at least, cannot be understood without the context in which it is actually produced and distributed—an industrial, capitalist structure. (p. 147)

If film, particularly independent film, is seen as an art form, understanding the context of its production, distribution, and categorization is essential to analyzing its impact.

Wasko (2003) outlines the Hollywood system as a “three tiered society” (p. 60). Major studios, such as Disney, Universal, and Paramount, dominate the first tier. The second tier includes “minor majors” such as MGM/UA, Orion, Carolco, and New Line Cinema (Wasko, 2003, p. 60). Finally, the third tier includes, “the much smaller and often struggling ‘independent’ distributors and production companies” (Wasko, 2003, p. 60). Mosco (1996) further describes the third tier as being occupied by “the smallest firms, often referred to, with dubious accuracy, as independents” (p. 180). While these political economists recognize the inaccuracy of the ‘independent’ label given to conglomerate subsidiary companies, further
explanation is needed to understand the characteristics of independent film companies and the films they produce. Additionally, if the ‘independent’ label is inaccurate, the exploration of alternative definitions for independent film is necessary.

The focus of this thesis is to redefine the components of independent film using Kevin Smith films as a case study. Kevin Smith films were chosen for several reasons. First, all of Smith’s films are considered ‘independent,’ except Jersey Girl (2004) (“Genre/Plot Keywords,” 2008). Second, in relation to independent versus corporate ownership, Smith’s films were produced and distributed by many companies, ranging from Smith’s own company, View Askew Productions, to ‘major’ company Universal. Third, to address issues in financing, budgets for his films range from $27,000 to $35 million. Lastly, to consider content-based distinctions of independent film, the subject matter of his films varies from a controversial outlook on Catholicism to a somewhat traditional storyline about best friends figuring out they are in love.

Through the mapping of Kevin Smith films’ production and distribution affiliations, this thesis uses the political economic approach to analyze the range of the ‘independent’ label in relation to ownership, financing, and content-based distinctions. To understand ownership, it is essential to analyze the conditions that allow for transnational, transindustrial, and oligopolistic media companies to exist. Then, to understand financing, it is critical to analyze the corporate focus on the Hollywood blockbuster. Finally, to recognize content-based distinctions, it is essential to analyze current definitions of independent film.
CHAPTER 2
THE FREE MARKET FAILURE

In 1776, Adam Smith’s book, *The Wealth of Nations*, introduced his economic philosophy. Smith’s (1776/1931) notion of the competitive ‘free market’ intended to “employ an economic system for the general welfare of a democratic society rather than for the individual” (p. 196). This model consisted of freeing the market of monopolistic tendencies by introducing the importance of unregulated competition among buyers and sellers. Understanding Smith’s capitalist economic model and comparing its original assumptions to the current American economy is fundamental to analyzing the film industry.

A major component in a successful economy and democratic society according to Smith (1776/1931) is freedom from governmental regulation on the availability of goods. Therefore, he argued that the demand of goods from consumers should determine the supply, not the government. “We trust with perfect security that the freedom of trade, without any attention of government, will always supply us with the wine which we have occasion for; and we may trust with equal security that it will always supply us with all the gold and silver we can afford to purchase or employ, either in circulating our commodities, or in other uses” (Smith, 1776/1931, p. 203). Smith believed consumers should have the freedom to demand supply of diverse goods, without the involvement of governmental policies stifling their availability. Smith assumed the freedom to buy and sell goods would create more revenue for the economy as a whole due to his idea of ‘circulation.’ According to Smith’s theory, ‘circulation’ means the profits from newly available goods should be invested in improving quality and labor for future goods, which increases profits while maintaining low prices to keep the market competitive.

Smith (1776/1931) further explains that government regulation regarding trade is a detriment to the financial success of a capitalist system:

The industry of the society can augment only in proportion as its capital augments, and its capital can augment only in proportion to what can be gradually saved out if its revenue. But the immediate effect of every such regulation is to diminish its revenue, and what diminishes its revenue is certainly not very likely to augment its capital faster than it would have augmented of its own accord, had both their capital and their industry been left to find out their natural employments. (p. 224)
Therefore, the immediate loss of revenue resulting from the enforcement of government regulations decreases profit, which in turn creates debt. According to Smith’s economic model, the market works itself out naturally because the consumer has choices among numerous private—rather than state—owners.

Another assumption of Smith’s (1776/1931) model is the power of the “invisible hand” (p. 222) of the market. Smith’s notion of the “invisible hand” argues that the inevitable self-interest of an individual domestic business will benefit society, unbeknownst to the individual:

By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part….By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it. (pp. 221-222)

Returning to his idea of ‘circulation’—improving the quality of goods with previous profits and therefore making more profits to improve quality further—Smith believes the drive to increase profits from domestic individual owners benefits society more so than when an individual government intends to benefit society through foreign trade or regulation.

Smith also emphasized the importance of diversity and choice in the market. With consumers who have plentiful choices come sellers who are forced to compete with each other for quality and price. “The price of monopoly is, upon every occasion, the highest which can be got. The natural price, or the price of free competition, on the contrary, is the lowest” (Smith, 1776/1931, p. 62). In other words, if one company dominates the market, prices are inevitably higher due to lack of competitiveness from other companies versus when various local and private companies provide goods and services and the consumer controls price through demand. Smith (1776/1931) demonstrates his logic in an example of the potential capital from multiple grocers in a given market:

If this capital is divided between two different grocers, their competition will tend to make both of them sell cheaper, than if it were in the hands of one only; and if it were divided among twenty, their competition would be just so much the greater, and the chance of their combining together, in order to raise the price, just so much the less. (p. 182)
While realizing the potential for oligopolies to join forces and fix artificially high prices, Smith notes the chances of this scenario diminish when there are numerous competing owners to consider.

America’s economic system has presumably followed Adam Smith’s ‘free market’ model. As a capitalist society, private American business has prospered instead of state-owned business. Generally speaking, the government has also instituted free trade policies to allow private businesses to sell their products both domestically and on the transnational level with minimal regulation. Under Smith’s model, the market should be free of political influence and heavy regulation while encouraging diverse ownership, product choices, and high competition. However, for most of the 20th century, the United States media industry failed to meet these components of Adam Smith’s theory.

The first component of ‘free market’ ideology is to keep industry issues outside the political sphere; let the market take care of itself naturally through the power of the consumer. A common myth about the U.S. media industry is that it follows the rules, not letting politics or strict government regulations play a role in the business of business—that media firms ‘give people what they want’ with minimal political interference. Yet many scholars argue the opposite, exposing the media industry as highly politicized and in pursuit of regulations that serve the interest of conglomerate media corporations (Bettig, 1996; Bettig & Hall, 2003; McChesney, 1999b, 2004; Meehan, 2005; Wasko, 2004).

Following Smith’s (1776/1931) ‘free market’ model, the media industry should also have diverse ownership, which should then provide a variety of choice among media products. However, as demonstrated in the introduction, media ownership concentration is prevalent within the American capitalist economic system. How is this possible? A brief look at the historical stages of American capitalism provides much insight to how the media industry, and more specifically the film industry, became a highly politicized, regulated, oligopolistic transnational industry.

According to Bowles, Edwards, and Roosevelt (2005), there are four stages of American capitalism: competitive capitalism, corporate capitalism, regulated capitalism, and transnational capitalism. Each of these stages is classified by “distinct phases in the development of U.S. capitalism, with each being defined by a particular social structure of accumulation” (Bowles, Edwards, & Roosevelt, 2005, p. 160). The ‘social structure of accumulation’ refers to the
relationships among owners and goods, owners and their workers, among workers themselves, and between the economy and the government. In addition to these relationships, Wasko (1982) argues:

bankers and businessmen with financial backgrounds were involved with motion pictures from their very inception, urging inventors and photographers to develop the new technological innovations as a commercial venture, as well as playing key roles in the evolution of film as an industry in future years. (p. 1)

Therefore, film industry structural trends and relationships with banking institutions are helpful in explicating how the film industry has evolved in the U.S. capitalistic economy.

The competitive capitalism phase occurred in the United States from the 1860s to 1898. This phase of capitalism is characterized by “small businesses that employed fewer than 20 people and competed with one another in the widening markets mainly by price cutting” (Bowles, Edwards, & Roosevelt, 2005, p. 162). In most cases, workers maintained their labor union associations to keep wages and worker treatment fair. While the government’s role was minimal in competitive capitalism, the Sherman Antitrust Act of 1890 was implemented, “outlawing the monopoly practices and corporate trusts that often fixed prices to force competitors out of business” (Campbell, Martin, & Fabos, 2007, p. 461). Government interference also occurred in business to enforce contracts between labor unions and business owners. Otherwise, government responsibilities included maintaining things such as land policies and military/police functions (Bowles, Edwards, & Roosevelt, 2005).

With little technology to produce and distribute films, the history of film does not begin until nearly the end of the competitive capitalism phase. Strong relationships between filmmakers and banking institutions were rare. “While there were a few instances of bank loans, those responsible for building the movie business into an industry for the most part relied on their own funds, the savings of their families and friends, or the fortunes of loyal supporters” (Wasko, 1982, p. 2). Filmmakers either funded their work from their own sources or looked to wealthy businessmen to provide financial support for motion pictures.

The next era of American business, corporate capitalism, took place from 1898-1939. With the rise of national corporations during the turn of the 20th century, large firms competed against one another, but with increased domestic market power. Employers frowned upon labor unions; in general, unions were ineffective in maintaining workers’ rights such as unemployment
benefits (Bowles, Edwards, & Roosevelt, 2005). Government involvement in the economy remained minimal; however, the government did establish the “Federal Reserve System to regulate money supply and the banking system” (Bowles, Edwards, & Roosevelt, 2005, p. 161). Additionally, the government established another antimonopoly regulation. The Clayton Act of 1914, “prohibit[s] manufacturers from selling only to dealers and contractors who agreed to reject the products of business rivals” (Campbell, Martin, & Fabos, 2007, p. 461). Because of the Great Depression of the 1930s, the government had to reform America’s social structure of accumulation to get the economy back on its feet.

Within this era, the economics of the film industry was divided into three distinct sectors: production, distribution, and exhibition. Each of these sectors is involved in successful filmmaking and each has potential for profit. The production sector involves the financing of making a film—script development, camera operation, acquiring actors, and set building. The distribution sector includes the companies and individuals who reproduce and deliver films from production companies to various profitable markets. These markets include local, regional, national, and international theaters, which then exhibit films. Thus, the third sector includes exhibition owners—theater companies or individual owners—that bid on films to exhibit and then make profits from paying audiences.

To increase their potential for profit, production, distribution, and exhibition companies began practicing business tactics that increased ownership concentration within their respective sector, which also appeals to investors. “While these practices resulted in increased profits, they also gave the companies more power and control, and that, in turn, attracted investors, which led to the integration of the film industry into the American economic system” (Kunz, 2007, p. 25). The practices of production, distribution, and exhibition companies catapulted the film industry into the capitalist economy because individual wealthy businessmen no longer financed films; instead, investment banks and corporate loans financed them.

According to Campbell, Martin, and Fabos (2007), Thomas Edison’s approach to controlling production technologies was the first of many monopolistic business tactics prevalent in the film industry at this time:

In 1908, he formed the Motion Picture Patents Company, a cartel of major U.S. and French film producers. Known as the Trust, Edison’s company pooled patents in an effort to control film’s major technology and by default, the production of most movies. (p.
By controlling the patents of film technology, Thomas Edison’s company controlled which production companies acquired the technology needed to make a film, leaving independent producers with no access to equipment. Therefore, only a few production companies were legally allowed access to filmmaking technology.

Independent producers came up with different tactics to dominate the film industry, leading to the collapse of Edison’s company. For example, Adolph Zukor created the Famous Players Company (the future Paramount), which focused on star power: “Zukor’s idea was to exert control over movie production, not through patents but through contracts with the most popular actors of the day” (Campbell, Martin, & Fabos, 2007, p. 235). By contracting popular actors, Famous Players was able to meet theater-owners’ demands for films featuring actors their audiences favored. Again, this practice, and its variations, resulted in one or few production companies exerting more power and control of the film industry.

According to Kunz (2007), the distribution sector of film also experienced ownership concentration in this era through tactics such as block booking and runs and clearances. Made popular by Zukor’s Famous Players Company, block booking forced theaters to take new or marginal films in order to gain access to the few popular films they really wanted from major production companies (Campbell, Martin, & Fabos, 2007; Kunz, 2007). Often the ‘new or marginal films’ were sold to theaters before their production ended—a tactic called “blind bidding” (Kunz, 2007, p. 232)—allowing distribution companies to diminish financial risks for films that were not guaranteed successes while simultaneously creating barriers for independent production companies to distribute their films. Another method major distribution companies practiced were runs and clearances. Runs and clearances gave a “theater the exclusive first-run engagement of a particular motion picture in a particular area. Competing ‘runs’ of the same film were ‘cleared’ from the theater’s protected area” (Kunz, 2007, p. 243). Thus, distribution companies controlled which sole exhibitor obtained a film within a geographical region, diminishing potential competition from other major distribution companies within the same region. Through the practices of block booking and runs and clearances, distribution companies in this era were able to decrease financial risk and eliminate competition from either independent or other major film distributors, allowing for a select few distribution companies to control the film industry.
In 1919, the first example of ownership concentration within the exhibition sector of the film industry emerged with an arrangement between film company Famous Players and the prestigious banking firm, Kuhn, Loeb & Company. Under the banking firm’s advisement, Famous Players was the first company to vertically integrate between all three sectors—production, distribution, and exhibition—by purchasing theaters (Wasko, 1982). “By 1921, Zukor’s company owned three hundred theaters, solidifying its ability to show the movies it created” (Campbell, Martin, & Fabos, 2007, p. 236). With Major Players’ ability to exhibit its films, the company’s overall revenue increased substantially. As demonstrated by Wasko (1982), it did not take long for other major film companies to follow suit:

By 1925, more companies had followed Zukor’s example. Theater acquisition and construction resurged, culminating with the infamous ‘battle for theaters.’ The major theater circuits already had control over the majority of first-run theaters, and by 1931, the five theater-owning majors controlled a total of 2,371 theaters. (p. 21)

Therefore, during this era, the major film companies were vertically integrated and making profits from all three sectors of film economics. However, before the 1925 ‘battle for theaters,’ and before film companies were fully vertically integrated, film companies had to rely heavily on investment banks and corporate loans to receive the funds to buy out theaters and distribution companies.

During World War I, the European film industry slowed significantly, allowing American films to integrate within the European market. Therefore, American films began exporting internationally, resulting in a need for more financial support from well-established banking institutions. “More and more film companies turned to investment banks to publicly offer stocks and bonds for their companies, and to commercial banks to provide loans” (Wasko, 1982, p. 17). Innovations in better-equipped studios and the expansion from the domestic to the global market increased consolidation and created barriers to entry. Wasko (1982) explains:

These higher costs and expansion meant increased capital expenditure, and with increased capital expenditure came integration and consolidation. Larger companies were able to buy out smaller ones and expand into other branches of the industry. In addition, with increased initial capital requirements, few new companies or hopeful entrepreneurs were able to enter the business. (p. 21)
This integration and consolidation resulted in five film studios dominating the industry in the 1920s. According to Kunz (2007) those five corporations were: “Warner Brothers Pictures, Loew’s Incorporated, Paramount Pictures, Radio-Keith-Orpheum Corporation (RKO), and Fox Film Corporation” (p. 25). These companies relied heavily on banking institutions for financing; thus, the film industry became fully vertically integrated to increase stability and decrease competition.

In 1927, the introduction of sound in motion pictures further intensified relationships between banking institutions and film corporations in two important ways. As stated by Wasko (1982):

First, it attracted those important banks connected with the large electrical companies that would control much of the industry in the years to come. Second, it attracted more of the general financial community leading to additional investments, financial extension, and, eventually, to overextension in the industry in the early 1930s. (p. 47)

The introduction of sound led to what film history calls the “Golden Years” of Hollywood (Wasko, 1982). Revenues were higher than ever before and competition was at an all time low. However, these ‘Golden Years’ ended when government involvement increased through creating and enforcing policies to regulate the economy more efficiently.

Regulated capitalism (1939-1991) resulted from the government’s efforts to regain strength in America’s economic system. Following the ideas of economist John Maynard Keynes, the government took a larger role in regulating the economy with technological and policy innovations. For example, Franklin Roosevelt’s “New Deal” programs yielded results by instituting organizations like the Security Exchange Commission (SEC), which “regulated financial markets and the financial practices of corporations,” and the National Labor Relations Board (NLRB) was set up to “regulate the relationships between corporations and labor unions” (Bowles, Edwards, & Roosevelt, 2005, p. 162). These organizations’ new policies provided benefits to Americans with Social Security, unemployment benefits, and worker protection because of the overwhelming hit the American economy took with the Great Depression. Also, World War II, the Korean War, and the Vietnam War expanded the growth of the economy from a national level to a global level. Large corporations competed in the global market and quickly dominated it (Bowles, Edwards, & Roosevelt, 2005).

The government’s role within the film industry increased within the era of regulated
capitalism as well. One significant example of this increased government role is the Paramount Consent Decrees of 1948. According to Campbell, Martin, and Fabos (2007), “In 1948, after a series of court appeals, the Supreme Court ruled against the film industry in what is commonly known as the Paramount decision, forcing the studios to gradually divest themselves of their theaters” (p. 254). Referencing the Sherman Act of 1890, the Supreme Court found Paramount, Warner Brothers, Twentieth Century Fox, MGM, and RKO guilty of monopolistic practices. As a result, these majors had to liquidate their exhibition theaters and abandon the distribution practices of block booking, blind bidding, and runs and clearances to allow independent companies entry to the industry.

Although the Paramount Consent Decrees somewhat decreased the monopoly the major studios had over the film industry, mergers and acquisitions occurring between 1960-1984 increased domestic and international market power of major studios by conglomerating and diversifying production and distribution companies. “The period between 1960-1984 was one of considerable change for the major motion picture production and distribution companies, as each underwent conglomerate in which activities unrelated to motion pictures were drawn under the same corporate umbrella” (Kunz, 2007, p. 27). According to Wasko (1982), major production and distribution companies were either bought by existing conglomerates or merged with other production and distribution corporations to create stability within the industry:

This was accomplished either through the process of self-conglomeration (Columbia, Disney, and 20th Century Fox), from mergers with closely related companies (MCA/Universal and Warner Communications), or by the submersion of film companies into already existing conglomerates (Gulf & Western/Paramount and Transamerica/United Artists). (pp. 149-150)

Production and distribution companies conglomerated and diversified for two reasons: first, to account for financial losses from theater liquidation and new leisure activities available to the public—especially the rise of television—and second, to remain desirable corporate loan candidates. Fortunately for film corporations, it worked.

The rise of television in the 1950s presented a challenge to the film industry. Theater attendance significantly declined because viewers were getting entertainment from their living room television sets. However, television alone was not the sole cause of declining ticket sales. According to Campbell, Martin, and Fabos (2007), “the transformation of a wartime economy
and an unprecedented surge in consumer production had a significant impact on moviegoing” (p. 254). As WWII ended, the rise of suburbia negatively affected ticket sales because of geographic and economic needs. Most theaters were located in urban downtown areas; therefore, films were not as accessible because the American public was moving to the suburbs. Additionally, industrial companies traded producing war materials to producing household appliances to meet the demands of the suburban consumer.

According to Wasko (1982), major film corporations increased their revenue with network and syndicated television production and distribution, videocassette production and distribution, ownership of channels, publishing companies, amusement parks, ski resorts, sports teams, and international subsidiary companies. As a result of these new and diverse sources of revenue, the American film industry increased its domestic and international market power, thus decreasing competition and financial risk, which intensified relationships between financial institutions and the film industry during this era.

Nearing the end of the regulated capitalism phase (1985-1991), mergers and acquisitions signaled the beginning of the modern oligopolistic media conglomerate system. Wasko (2003) points to the transition from regulated to transnational capitalism as a backdrop for media corporation mergers:

Interest in Hollywood firms became especially intense at the end of the 1980s with a fury of mergers and consolidation. Deregulation, privatization, technological developments, and the opening of new international markets contributed to this concentrated growth. Interestingly, foreign interests were attracted to these conglomerates for many of the same reasons that Hollywood increasingly was looking to international markets. At the end of the twentieth century, several of the Hollywood majors were owned by foreign companies—Columbia/Tri-Star by Sony, Universal by Vivendi, and Fox by News Corp. (p. 59)

In the 1980s, industrial conglomerate corporations divested their media outlets, as in the cases of The Coca Cola Corporation and Gulf & Western, which divested all non-media related services and invested in more communication services. For example, industrial conglomerate, The Coca-Cola Corporation, bought Columbia Pictures in 1982 to “‘leverage’ the company's financial and marketing strengths by moving into new businesses” (Potts, 1989, ¶ 3). However, in 1989, Coca-Cola sold Columbia/Tristar Pictures to Sony because, “Columbia was unable to come up with
enough big movies to balance out its flops, and Coca-Cola found that even its efforts could not make Columbia's motion picture arm into a stable business” (Potts, 1989, ¶ 5). Sony, being a Japan-based communication software company, seized the opportunity to diversify within the media market by investing in Columbia/Tri-Star Pictures. Alternatively, Gulf & Western, a financial consulting firm, changed its business goal “to expand globally in entertainment and publishing, where it is already a major player” (Lenzner, 1989, ¶ 2). In 1989, Gulf & Western divested its non-entertainment and non-media related businesses and changed its name to Paramount Communications to reflect its new focus in the media industry.

Transnational capitalism (1991-present) is America’s current economic phase. Bowles, Edwards, and Roosevelt (2005) characterize this era as “the integration of the U.S. economy into a world system of trade in goods, migration of people, exchange of knowledge, and footloose investors seeking profit wherever conditions are most favorable” (p. 163). The focus on profit is this era’s driving force. According to Bowles, Edwards, and Roosevelt (2005), profit-driven policies have led to higher governmental involvement, less environment- and worker-friendly policies, and more corporate concentration. The World Trade Organization (WTO), the North American Free Trade Agreement (NAFTA), and the significant activity increase in the International Monetary Fund (IMF) exemplify steps towards global governance.

The policy trends in transnational capitalism are best summarized in explaining John Williamson’s (2007) idea of the “Washington Consensus” (¶ 2). As an economist for the Peterson Institute for International Economics, Williamson (2007) used the term “Washington Consensus” to summarize Congress’ economic strategies in ten international policy areas: fiscal discipline; redirection of public expenditure priorities; tax reform; interest rate liberalization; competitive exchange rate; trade liberalization; direct foreign investment; privatization; deregulation; and lastly, secure property rights.

Parallel to the ideas of the Smith (1776/1931), the logic behind these policies is that the focus on international markets and policy reforms will invite international trade which should make the international marketplace competitive. This logic “provides the intellectual alibi for a comparatively unimpeded flow of capital across national boundaries, and the rejection of labor, capital and the state managing the economy together” (Miller, Govil, McMurria, Maxwell, & Wang, 2005, pp. 57-58). However, these policies are extremely problematic: “through structural adjustment and liberalization, states adopt policies to manage global, rather than national,
economic relations. These policies facilitate global circuits of money and commodities at the expense of social stability and environmental security within the sovereign-state” (p. 57). Because of economic pressure, individual sovereign states must adjust their trade policies to stay afloat in the international market. In turn, the policies sovereign states adopt do not ensure a stable economic system meeting their individual needs. Rather, these policies are meeting the needs of the few transnational and transindustrial corporations that dominate the international marketplace.

For example, within the film industry, a private trade organization, the Motion Picture Association of America (MPAA) and its international sector, the Motion Picture Association (MPA), controls domestic and international film trade policies, not consumers. Although the MPAA was established in 1922, new technologies available in the transnational era serve as a backdrop for the MPAA and the MPA’s recent heavy political influence. As stated on the MPAA website (“About Us,” 2007):

Today, these associations represent not only the world of theatrical film, but serve as leader and advocate for major producers and distributors of entertainment programming for television, cable, home video and future delivery systems not yet imagined….Today the association continues to advocate for strong protection of the creative works produced and distributed by the industry, fights copyright theft around the world, and provides leadership in meeting new and emerging industry challenges….Since its early days, the MPA, often referred to now as ‘a little State Department,’ has expanded to cover a wide range of foreign activities falling in the diplomatic, economic, and political arenas. (¶ 1, 2, 6)

These powerful trade associations represent interests of the Hollywood’s majors, covering many areas of domestic and international media policy, such as copyright and anti-piracy policies.

One major area of governmental policy beneficial to major media conglomerate corporations in the transnational era is that of copyright. As McChesney (2004) argues, the original incentive of copyright was to protect the intellectual property of writers and artists, providing these professions enough lucrative monetary motivation to produce more works:

In theory, copyright protection was written into the Constitution to provide authors with limited monopoly control over their work; such protection would allow them to earn enough income to have incentive to produce new works. Once that income threshold is
reached however, the author’s work should pass into the public domain, where anyone can publish or use it for free. (p. 232)

The key phrase here is limited monopoly control. After a reasonable amount of time, governmental protection is to be lifted, allowing intellectual property to be used, broadcasted, and published without license fees or legal threats. However, the monopolistic control of copyrighted material is anything but limited. Conglomerate media corporations have relied heavily on lobbying power to extend and enforce policies under copyright law.

Copyright law provides governmental protection of the intellectual property any media corporation produces. Therefore, to maintain monopolistic control over films, television shows, books, magazines, and any other iconic product media conglomerates produce, conglomerates place heavy pressure on Congress to extend the life of copyrights and to enforce harsher punishments for copyright infringement. For example, Bagdikian (2004) points to the latest Act passed through Congress:

The most publicized (and lobbied) reopening and extending of copyright law was the terrifying prospect for the Disney Company that the copyright on Mickey Mouse would expire in 2003. This expiration endangered not only the fortunes of the movie rodent but profits from sales of millions of T-shirts, toys, and other emblems of the mouse. This, with the help of other media corporate lobbying, led to the Sonny Bono Copyright Extension Act (the full and legal name of the law, named for the late singer and member of Congress). It extended copyright by twenty years to the life of the author or creator plus seventy years. (p. 71)

Also, to respond to the rise of digital piracy, “The MPAA again relies on the government to police and prosecute Internet copyright violations through amended federal copyright statutes such as the No Electronic Theft Act (NET Act) and the Digital Millennium Copyright Act (DMCA)” (Wasko, 2003, p. 217). Clearly, Disney and other media conglomerates depend on governmental regulation to protect their highly profitable music, films, and icons and have the political power to change governmental policies in their favor. Thus, against Adam Smith’s (1776/1931) model, the media industry promotes governmental policy and regulation, but only when it benefits corporate revenues.

The political ties within the media industry prove to surpass the power of the consumer, undermining democracy and any notion of a natural balance through private trade organizations
and powerful lobbying. “The system...does not exist as a result of popular will, nor is it by any means a ‘natural’ occurrence. The media system exists as it does because powerful interests have constructed it so that citizens will not be involved in the key policy decisions that have shaped it” (McChesney, 1999b, p. 15). McChesney argues that rather than allowing consumers to determine kinds and sources of media, private trade organizations and policy-makers with vested corporate-interest are key to the current structure of the media industry.

Within the film industry, six film corporations, which are subsidiaries of larger media conglomerate corporations, are top leaders in the marketplace: Paramount Pictures (Viacom), Warner Brothers (Time Warner), Walt Disney Studio Entertainment (Walt Disney), Sony Pictures (Sony), Universal (General Electric), and Twentieth Century Fox (News Corporation). Each of these media conglomerates also either owns or has investments in other media and film related companies. These investments allow for an oligopolistic control of the entertainment industry in which only six corporations control the marketplace with heavy political influence, vertical and horizontal integration, and synergistic business practices.


Adolph Zukor’s Famous Players Company has come a long way since its inception in 1920. However, the basis of the company’s vertical integration business strategy has not been lost. In its filmed entertainment sector, Viacom controls the production, distribution, and
exhibition of its films. Other corporate strategies include horizontal integration and synergy by owning various television networks, websites, and digital services in which it pumps and promotes its own media products.


Time Warner practices horizontal and vertical integration within the media industry as it controls film production, distribution, and exhibition with its production studios, home entertainment companies, digital video and cable networks, and its cable system. Also, the company utilizes its synergy potential by advertising its products through publishing, cable, and Internet services. To synergize further, Time Warner has recently announced the consolidation of its two film production studios, Warner Brothers and New Line Entertainment. As quoted in Time Warner’s press release (Adler & Cocozza, 2008), President and Chief Executive Officer Jeff Bewkes outlines the business logic of Time Warner’s filmed entertainment segment:

‘We are moving quickly to improve our business performance and financial returns. New Line has built a strong franchise of cutting-edge entertainment. We can enhance its value by combining it with Warner Bros. Given the trend toward fewer movie releases, New Line and Warner Bros. will now have more complementary release slates, with New Line focusing on genres that have been its strength. With the growing importance of international revenues, it makes sense for New Line to retain its international film rights and to exploit them through Warner Bros.’ global distribution infrastructure. We can also take better advantage of digital distribution platforms by combining our studios. These changes will enhance our revenue opportunities and drive dramatic cost efficiencies and higher margins at New Line.’ (¶ 3)

The consolidation of Warner Brothers and New Line Entertainment studios is intended to
‘exploit’ synergistic power between each studio to further increase revenues and international market share.

Third on Variety’s list with 2007 box office earnings totaling $1.36 billion is Walt Disney Studio Entertainment (McClintock, 2008). The Walt Disney Corporation is a major conglomerate in the media industry and has diverse ownership in theme parks, filmed entertainment, television, and merchandise licensing. According to Standard & Poor’s (2008) company overview, theme parks and resorts include the well-known Disney World and Disneyland, Hong Kong Disneyland, and Euro Disney in Paris (“Business Summary,”). Media networks include The Disney Channel, ABC Family, ESPN, and Lifetime. Filmed and television entertainment operates under the Walt Disney, Touchstone, and Miramax brands (“Business Summary,” 2008). Additionally, Disney produces and distributes many consumer products associated with its brand, including children’s books, video games, and worldwide retail stores (“Business Summary,” 2008).

Disney is arguably the most synergistic of the six media conglomerates (Wasko, 2003). Largely focused in family entertainment, Disney uses its animated characters to create revenue in every operation of its company: theme parks, films, television, and merchandise. Also, to integrate horizontally within the market, Disney has announced investments in digital media:

As a content-oriented company, Disney’s top strategic priorities include creativity and innovation, international expansion, and leveraging new technology applications. Under CEO Robert Iger, we see senior management aggressively exploring new avenues to offer its branded content, characters and entertainment franchises across emerging digital platforms such as broadband and wireless, while making further investments in other areas such as video games. Recent initiatives include: a deal to provide content from its ABC networks and the film studios on Apple’s video iPod, the launch of Disney Mobile cellular phone service, and an ad-supported streaming of ABC’s shows. (Standard & Poor’s, 2008, ¶ 3)

Disney is a leading conglomerate in the media industry and its expansion to digital media is merely one example of its vertical and horizontal integrations and synergistic business strategies.

Fourth on Variety’s 2007 top box office revenues is Sony Pictures raking in $1.34 billion (McClintock, 2008). Although Sony Pictures is a leader in market share and box office revenues, The Sony Corporation’s core segment is its electronics businesses. According to Standard &
Poor’s (2008) company profile, Sony develops, produces, and distributes video game consoles and related software for Playstation, Playstation 2, and Playstation 3, as well as Playstation Portable. The Sony Corporation also owns Columbia Records Group, Columbia House Records Group, Epic Records Group, PressPlay, Sony/ATV Music Publishing, Columbia TriStar Films, Sony Pictures Classics, Movielink, LLC, Sony Pictures Television, and Columbia TriStar Home Video (Wasko, 2003). Mainly, the Sony Corporation maintains control over the media industry by monopolizing media technologies and again, uses synergy. Synergy exists between its film releases, soundtrack releases, and movie-themed video games, which can only be played on Sony video game consoles.

Universal Pictures is fourth on Variety’s 2007 box office list with $1.08 billion in box office revenues (McClintock, 2008). General Electric (GE) owns Universal Pictures. According to Standard & Poor’s (2008) company profile, “GE is a multi-industry, media and financing giant that conducts business within six segments: Infrastructure, Industrial, Healthcare, NBC Universal, Commercial Finance, and GE Money” (¶ 1). GE is the most diversified of all the media conglomerates in that it operates production for a wide range of products including health care supplies, air transportation, and household appliances, as well as its television networks and filmed entertainment from subsidiary company, NBC Universal. According to Standard & Poor’s (2008) company profile:

NBC Universal (10%, 11%) is principally engaged in: the broadcast of network television services to affiliated television stations within the U.S.; the production of live and recorded TV programs; the production and distribution of motion pictures; the operation of TV broadcasting stations; the ownership of several cable/satellite networks around the world; the operation of theme parks; and investment and programming activities in multimedia and the Internet. (¶ 5)

Some examples of the film production companies and television networks NBC Universal owns are: Focus Features, Rogue Pictures, United International Pictures (co-owned with Viacom), Universal Animation Studios, Bravo, CNBC, MSNBC, Oxygen, Sci Fi Channel, Sundance Channel (co-owned with Robert Redford and CBS Corporation), Telemundo Internacional, and the USA Network (Standard & Poor’s, 2008). Again, GE uses synergy to pump and promote its own film products using other outlets it owns. For example, Universal Pictures produced The Bourne Identity in 2002 and aired the film on its USA network as a ‘Big Sunday Movie.’ Also,
with such horizontally integrated diversification of industrial and media products, the conglomerates’ stability is strengthened.

Last, but not least, on Variety’s (2007) list is Twentieth Century Fox with $1.01 billion in box office revenues (McClintock, 2008). Rupert Murdoch’s News Corporation owns Twentieth Century Fox Studio. News Corp. is a top media conglomerate with stakes in film, television, publishing, and interactive media. According to Standard & Poor’s (2008) company profile, Fox Film Studio, 20th Century Fox, and Fox Searchlight produces its filmed entertainment (“Business Summary,” 2008). Television stations include the Fox Broadcast Network, Fox News, FX, and regional sports networks. Publishing assets are produced and distributed under the HarperCollins, New York Post, News of the World, and The Australian publishing businesses. Perhaps the most notable interactive media owned by News Corp. is the popular social networking site, MySpace (Standard & Poor’s, 2008).

While 20th Century Fox has been a major studio in Hollywood since the 1920s, News Corp. also owns major newspapers, book publishers, and some of the Internet’s leading websites as well. As a vertically and horizontally integrated conglomerate, News Corp controls the production, distribution, and exhibition of its films with its movie studios, distribution companies, and television and satellite networks to exhibit Fox films. Additionally, owning the newspapers in which movie critics publish their reviews is an example of a synergistic strategy News Corp has the potential to practice.

Each of these major media conglomerates is a dominant force in the media industry. Viacom, Time Warner, Walt Disney, Sony, General Electric, and News Corporation are synergistic, vertically and horizontally integrated conglomerate corporations. These supposed competitors often work together via joint ventures as well, as articulated by Meehan (2005). The structure of the U.S. film industry has failed to be competitive and does not have diverse ownership.

Viewing Smith’s (1776/1939) notion of ‘the invisible hand’ from a different angle, Bowles, Edwards, and Roosevelt (2005) refer to the free market failure as “the invisible foot” (p. 221). Bowles, Edwards, and Roosevelt (2005) propose that ‘market failures’ result when “markets are controlled by a small number of buyers or sellers; environmental degradation or other negative externalities resulting from production occur; externalities in consumption are present; and when people’s needs are not reflected in market demands” (p. 221). Each of these
components is satisfied within the film industry. As demonstrated above, six media conglomerate corporations control the majority of the film market; thus, the market is controlled by a small number of sellers. Negative externalities within the film industry can include run away productions and less diversity within the market, which fulfill the second component of ‘market failure.’ The blockbuster trend within the Hollywood studio system demonstrates the third and fourth components of a ‘market failure.’

**Focus on the Blockbuster**

Media conglomerates have been maximizing their profits via the power of the film commodity. A trend within the Hollywood system is a focus on films that can increase revenues, minimize risk, and attract huge audiences domestically and globally—a blockbuster film (Wasko, 2003). Campbell, Martin, and Fabos (2007) identify typical blockbuster characteristics as “a summer or winter holiday release date, massive promotion, lucrative merchandising tie-ins, and a targeted youth audience” (p. 228). Hollywood producers consider potential profits in all aspects of a film’s creative property—its synergistic power. “This is the logic of transindustrialism—each element of the product line feeds internal markets and contributes to the overall efficiency and profitability of the conglomerate as a whole” (Meehan, 2005, p. 111).

Some examples of a film’s blockbuster potential are its possibilities for sequels, spin-offs, and merchandise. For example, Walt Disney Pictures’ *Pirates of the Caribbean: The Curse of the Black Pearl* (2003) was inspired by a ride in Walt Disney World. The film has a worldwide gross of $654,264,015 (“Total Lifetime Grosses,” 2008). Followed by two globally released sequels, *Pirates of the Caribbean: Dead Man’s Chest* (2006) and *At World’s End* (2007), the total revenues from these films is over $2.6 billion (“Total Lifetime Grosses,” 2008). The success of these films leads to profits from theme park admissions and merchandise sold in Disney stores and theme parks around the world.

The focus on the blockbuster has resulted in less production of films and fulfillment of the final component of a ‘market failure.’ Bowles, Edwards, and Roosevelt (2005) identify that externalities in consumption occur when “the benefit or cost to the individual consumer will not accurately measure the benefit or cost to society as a whole” (p. 221). That is, the cost of a product or service should be an accurate measure of the benefit the consumer receives from the product or service. In the film industry, fewer films are produced and the cost of production, marketing, and admissions continues to rise.
According to the MPAA (2006), production of films has decreased in the past decade. The U.S. Industry Market Statistics Report charts the number of films produced, rated, and released in the past ten years. In 1996, 735 films were produced; until 2002, production rates fluctuated within a 20% margin with no less than 600 films produced per year (MPAA, 2006). In 2005, production rates peaked at 699, and then dramatically dropped in 2006 to 480 films produced (MPAA, 2006). Overall, between 1996 and 2006, film production rates decreased by 34.7%.

Although fewer films are produced, the cost of producing and marketing films has increased. In the U.S. Industry Market Statistics Report, the MPAA differentiates the average negative studio costs per year by major corporations and subsidiary or affiliate companies. Major corporations include major film studios such as Walt Disney Pictures and 20th Century Fox, while subsidiary and affiliate companies include “specialty divisions” like Miramax and Fox Searchlight (MPAA, 2006). In 2002, the average negative major studio and marketing cost per film was $78.2 million. In 2006, the average cost increased by about 22% to $100.3 million per film produced by a major studio (MPAA, 2006). The cost in 2002 for subsidiary film production and marketing was $45.4 million. In 2003, costs peaked at $62 million. Since, average subsidiary films’ production and marketing costs dropped to $38.7 million in 2005 and increased to $48.5 million in 2006 (MPAA, 2006). Therefore, fewer films are being produced and marketed at higher costs, which suggests the presence of barriers to entry in the film industry.

The financial cost to the individual consumer reveals itself through average admissions prices. The MPAA reports that since 1996, movie theater admissions prices continue to rise. In 1996, the average admissions price was $4.42 (MPAA, 2006). Although in some major U.S. cities the cost of a movie ticket currently reaches over $12, with an average 6% increase each year, the 2007 average admissions price comes to $6.88 (MPAA, 2007). Thus, fewer films are produced at higher costs to studios and the American public.

The logic of the blockbuster trend in the transnational era is to capitalize on the synergistic possibilities of a film project. As such, the film should appeal to the widest possible audience. Meehan (2005) states:

Instead of trying to create a hit television program or film that will break box office records, the creative challenge becomes how to design a title that can readily feed operations in all forms of media, in site-specific activities like games or rides at theme
parks, and in merchandising and licensing of objects targeted for children, teens, and adults. (pp. 89-90)

Appealing to the widest possible audience has its price. As demonstrated through figures of production and marketing costs, more money is being put towards fewer films. The financial cost to the individual consumer is demonstrated through rising admissions prices and the societal cost includes the recurring themes of sex and violence in films. McChesney (1999b) points to the “tremendous pressure to attract audiences but to keep costs down and not take chances, the standard route of the media giants is to turn to the tried and true formulas of sex and violence, always attention getters” (p. 34). The recurring themes of sex and violence in blockbuster films are a societal cost and result in a lack of audience-centered films.

The final component of a ‘market failure’ is when the demands of the market do not reflect people’s needs (Bowles, Edwards, & Roosevelt, 2005). The focus on the blockbuster has left a void in niche film markets. Niche film markets include documentaries, foreign films, or gay and lesbian themed films among others. Because the focus of the Hollywood studio system is to produce blockbuster films that will appeal to massive audiences, niche market audiences are at a loss when they go to theaters. Meehan (2005) states, “when creators are focused on the full exploitation of a symbolic universe across a transindustrial structure through generations, any particular audience becomes only minimally relevant” (p. 113). Hollywood producers look to the universal franchise potential of a film rather than storylines or characters that fulfill a particular audience’s needs. All for the sake of profits.

Hollywood’s blockbuster mentality provides evidence to the claim that the film industry is an example of “the invisible foot” (Bowles, Edwards, & Roosevelt, 2005 p. 221). The continual rise of admission prices and production costs illustrates the inaccurate measure of the societal cost of over accessibility to sex and violence-themed films. Also, the lack of access to niche market, audience-centered films is an example of the film market not meeting people’s needs. Though independent film companies do not have the budgets for expensive stars and winter or summer release dates or the advertising budgets to promote their films in the same synergistic manner as the major Hollywood studios, independent films attempt to fill the needs of niche markets.

The Definitions of Independent Film

The concept of the independent film varies. Each academic author, film critic, or
cinematic organization has its methods to categorize motion pictures. Historical shifts in media ownership, the economy, and technological advances affect how films are classified. For example, categories for films have expanded to include ‘truly independent,’ ‘semi-independent,’ ‘cheap mainstream,’ and full on ‘studio films’ (Levy, 1999; Merritt, 2000; Tzioumakis, 2006). The definition of ‘independent’ film is complicated. According to King (2005), ‘The ‘independence’ of American independent cinema, or exactly what kind of production qualifies for the term, is constantly under question, on a variety of grounds” (p. 1). Similarly, Levy (1999) summarizes, “Historical, technological, and market conditions have always dictated the agenda of independent film” (p. 6). Approaches to answering the question, what is an independent film, vary with the financial sources for each stage of its release, the economic and environment in which a film is made, as well as its aesthetic and narrative content.

Film academics, film critics, and major independent film organizations point to financing as one aspect at which we can begin to realize the scope of the independent film genre. An important distinction many authors note is that an independent film is financed largely, if not entirely, outside the major conglomerate Hollywood studio system (King, 2005; Merritt, 2000; Polish, Polish, & Sheldon, 2005). As such, a film’s production is not the only stage of its release upon which its ‘independence’ can be based. Distribution and, in some cases, exhibition stages are in question as well. However, as Tzioumakis (2006) argues, defining an independent film as one that is financed, produced, and/or distributed by any company apart from the majors is problematic because of rapid increase in conglomerate-owned subsidiary production and distribution companies during the 1990s. “This means that their parent companies have the power to close these units, sell them, reorganize their management structures, decrease their production/distribution/acquisition budgets, interfere in their decision-making policies and so on” (Tzioumakis, 2006, p. 3). Although a film may be produced outside the studio system, a ‘major’ subsidiary company’s film allows for minimal financial risk and possible high involvement of major studios. Thus, consequent to the success of companies like Miramax, New Line Cinema, and ‘Classic’ divisions of conglomerate corporations, there is debate about the degrees of financial support an ‘independent’ film receives.

Formerly known as the American Film Marketing Association (AFMA), The Independent Film and Television Alliance (IFTA) is the trade association for independent film and television distributors and producers. The organization operates globally to “represent non-
studio films and claims that its members generate more than $4 billion annually in worldwide
distribution revenues” (Wasko, 2003, p. 207). The IFTA defines an independent film or
television program as “financed primarily from sources outside the seven major U.S. studios.
[An] Independent product is made at every budget range, may be mainstream commercial or art-
house, and is seen by the public side by side with major studio releases” (“What is an
Independent?” 2006, ¶ 1). Thus, for IFTA, independent films must have financial backing from
sources other than Universal, 20th Century Fox, Walt Disney Pictures, Columbia Pictures,
Paramount, or Sony Pictures. The seventh studio is unidentified, but could arguably be
DreamWorks. DreamWorks, however, was bought by Paramount in 2005, leaving the remaining
six major studios. For the IFTA, the actual production cost is not a factor in a film’s distinction
as independent, and in saying it ‘may be mainstream commercial or art-house,’ the organization
does not distinguish independent film via subject matter.

Merritt (2000) allows for two definitions for independent film while simultaneously
recognizing the importance of the production and distribution. Merritt (2000) defines an
independent film as:

any motion picture financed and produced completely autonomous of all studios,
regardless of size. (A studio is a company that both produces and distributes movies.)
Such films do not have a prior distribution arrangement (other than from a company
owned by the filmmakers). (p. xii)

However, citing Reservoir Dogs as an example, according to Merritt (2000), a film that is
produced outside the studio system but is later picked up and distributed by a conglomerate-
affiliated company is still considered independent.

Providing a second definition, Merritt (2000) coins the term ‘semi-independent’ and
defines a semi-independent film as one that is:

not produced directly by a major studio (such as Paramount or Fox), but it does have a
guarantee of distribution before it’s produced, and it may be made by a smaller studio
(such as Miramax or Gramercy). (p. xii)

Neither of these definitions acknowledges content or aesthetic characteristics as a factor in the
distinction of an independent film.

Merritt (2000) understands there are other characteristics of independent film for which
these definitions do not provide. “There’s still a blurry line where independence ends and
Hollywood begins” (Merritt, 2000, p. xiii). It is difficult to categorize films larger companies produce and/or distribute during transitional periods. In addition, Merritt (2000) refers to geographic borders as another contingency on a film’s independence: “films that were financed primarily by foreign sources but shot on US soil or vice versa may be included…Movies that were shot with foreign financing in a foreign country are not” (p. xiii). While Merritt (2000) sets up some pliable definitions of what is considered independent film, other scholarly and industry authors provide even more characteristics of the independent film.

In addition to the debate concerning the degree of financial support a film receives, another point of interest in defining independent film is that of budget. It is not just a matter of where the money comes from; it is also about how much money comes in. Most authors agree an independent film is one with a considerably low budget compared to typical Hollywood budgets (Biskind, 2004; King, 2005; Levy, 1999; Tzioumakis, 2006). Although these authors apply this characteristic to the independent film genre, no dollar amounts are specified as a cut-off point for budget. Rather, the budgets of independent films past are referenced. For example, El Mariachi’s $7,000 production cost is one of the most noted ultra-low budgets in film history (Biskind, 2004; King, 2005, Merritt, 2000; Pierson, 1997).

However, as Pierson (1997) notes, these numbers are discounting a significant dollar amount of costs after production. “Throughout the years, I’ve concluded that you simply cannot blow up a feature from 16mm to 35mm, remix sound, and secure insurance without it costing at least $60,000” (Pierson, 1997, p. 235). Additionally, other costs may include music rights, deferments, or special sound mixing for foreign distribution, totaling up to $150,000 of unaccounted for post-production costs (Pierson, 1997). As Pierson (1997) suggests, when one sees an ultra-low budget, he/she needs to do a little mental addition.

While no academic author specifies a cut off point for budget, one trade industry author does. In 2003, Variety published an article summarizing the quantitative and qualitative definitions of independent film. First, similar to the IFTA point of view, the “financial pedigree” of non-studio production funding is a must. Second, the budget size must be under $20 million. This number, $20 million, is somewhat arbitrary; no evidence or reasoning is mentioned. Third, the nature of the film’s content must be non-mainstream. Finally, according to Variety the all-encompassing definition of independence is “if you believe you work as an independent, you are” (Swart, 2003, p. 1). While Variety is a well-established news source for the film industry,
the implications of the ‘independent state of mind’ are somewhat questionable. According to Kunz (2007),

*Daily Variety* embraced the notion that independence was a state of mind, which ignores the power and influence six corporations hold over the distribution of motion pictures in the United States and the degree to which once independent distributors have come to function in a fashion quite similar to the major studios. (p. 115)

Some examples of formerly independent distribution companies that function like major studios are Paramount-owned DreamWorks and Disney-owned Miramax. In fact, Polish, Polish, and Sheldon (2005) label films that are distributed, exhibited, and marketed by such subsidiary companies “cheap mainstream,”

The success of cheap mainstream created a lottery-ticket market for independents where suddenly the little independent film festivals became a marketplace for selling indies to Hollywood. Independent film was no longer a small niche movement; it had become a brand. (p. 9)

Thus, the effects of co-opting the ‘independent’ film into the media conglomerate system.

Financial sources, budgets, and environment are noteworthy factors in solidifying a definition for independent film. Content is another factor that has been discussed. Content includes a film’s aesthetics, narrative, and extent to which the film is atypical. For example, King (2005) agrees with some points of Merritt’s (2000) definition, but disagrees with some points as well. Rather than focusing his definition on industrial terms, King (2005) states, “Independent cinema is not best defined in such narrow and literal terms. Industrial factors are important, but do not provide the only grounds for definition” (p. 9). According to King (2005), the defining factor of independent film is unquantifiable:

‘Independence’ is a relative rather than an absolute quality and can be defined as such at the industrial and other levels. It is this dynamic quality, drawing on a range of traditions, that makes it such a rich, variable and fascinating part of the cinematic landscape. (p. 9)

While some authors (Merritt, 2000; Tzioumakis, 2006) maintain such loose language and aesthetic-oriented characterizations of independent film add to the complications of its definition, other industry and academic authors (Gilmore, 1997; Levy, 1999) agree content is a valid measure of independence.

The Sundance Film Festival, financed by Robert Redford, started in 1978. Recently, the
festival has brought independent film to the attention of famous actors, directors, distributors, and to the attention of the general public as well. While the festival itself has exploded and become what some might say is Hollywood oriented, its definition of independent film brings with it “the original values of independence, creative risk-taking, and discovery [that] continue to define and guide the work of Sundance, both with US artists and, increasingly, with artists from other regions of the world” (“About the Institute,” 2006, ¶ 1). Rather than define a film through the means by which it was made, Sundance’s definition is based on the film’s content. Although this definition is vague, in a CNN interview (Clinton, 2004), Robert Redford’s comments regarding Hollywood’s attempt to tap into the niche market of independent film explain his view in more concrete terms:

> These films started outside the studio system; now they're inside the studio system because the studio system is just a business. ... So if independent films start to make money, they're gonna focus on them, maybe sometimes try to co-op them. But that's sort of normally what you'd expect. ... I think that the blockbuster [mentality of the studios] will probably come and go, and a new thing will replace it. All it's gonna take is a few failures, and Hollywood will quickly get off that horse. (¶ 26-28)

Independent films, then, once started outside the studio system, but with cooptation it now allows for independent production and distribution companies owned by a major studio to be considered independent as long as the content takes creative risks.

Gilmore (1997) understands the complexity of defining independence in an age of media conglomeration: “Definitions of independent cinema can vary from those based on origin: films produced outside the studio system; or economics: films made with funds derived from non-major sources; to those centered on distribution: films distributed by companies… labeled ‘independent’; or individual artists: films made by directors viewed as independent” (p. 2). However, Gilmore (1997) outlines his views regarding the defining factors of independent film in a more qualitative manner:

> But the essence of independent film cannot be reduced to its origins or its distribution. A critical understanding of the identity of independent cinema must flow from an awareness of its aesthetic, its vision, and its scope. To talk about independent filmmaking, or the oft-described archetypal ‘Sundance Film,’ is to invoke imagery and ideas that are usually, though certainly not always, counter to a purely commercial cinema, that are frequently
personal, perhaps even idiosyncratic or marginal, and that represent a universe of storytelling generally not possible in a mainstream with a vision limited by the bottom line. (p. 4)

While maintaining that independent film is not mainstream, which implies it is not a part of the major studio system, the focus of Gilmore’s assessment is the storyline, that is, its ‘aesthetic, its vision, its scope.’ In other words, the independent film is counter to the blockbuster; it is not full of special effects, the viewpoint from which the story is told is one of individuality, and the audience it reaches may not be the widest possible.

Moreover, Levy (1999) studies films as cultural products, but understands the context in which films are made is important as well: “Over the years, the definition has blurred as a result of the increasing consolidation of power among Hollywood’s majors and mini-majors” (p. 2). Levy (1999) recognizes a shift independent film to produce what Hollywood will not:

Indies now form an industry that runs not so much against Hollywood as parallel to Hollywood. American culture has two legitimate film industries, mainstream and independent, each grounded in its own organizational structure. While audiences overlap for some Hollywood and indie fare, the core audience for each type of film is different too. (p. 501)

There appears to be a contradiction in that Levy (1999) defines film as two separate and structurally grounded industries, and admits there is an overlap between the two.

Authors agree, the state of independent film depends upon three characteristics: financing, physical and economic environment, and content. Again, each industry author, film critic and academic has a nebulous point of view about how to categorize and define the independent film genre. Although it is somewhat vague, Tzioumakis (2006) provides a thought-provoking definition of independent film:

To account for all these different forms and expressions of independent filmmaking during the last one hundred years…American independent cinema is [as] a discourse that expands and contracts when socially authorized institutions (filmmakers, industry practitioners, trade publications, academics, film critics, and so on) contribute towards its definition at different periods in the history of American cinema. (p. 10-11)

In other words, the definition of independent film depends on the people that keep the subject thriving.
The Literature Review discusses three important aspects regarding the role of independent film in the past and present: the history of the market in which the film industry operates, the Hollywood blockbuster mentality, and the evolving characteristics of independent film. A framework of how the film industry functions is explained with knowledge of economic history, patterns in ownership and production, and genre distinctions. In light of each of these authors’ and film organizations’ opinions regarding how to define independent film, for the purposes of this thesis, a solid definition must be outlined to analyze Kevin Smith films. This definition will distinguish independent film in three aspects: a film’s economic environment, including financial sources and budget, as well as content. Each of these categories provides a definitive context in which Kevin Smith films can be analyzed and discussed in the realm of political economy.

**Points of Analysis**

In sum, The Free Market Failure section of the Literature Review reviews two key tenants of Adam Smith’s (1776/1939) free market model: freedom from governmental regulation and the importance of numerous goods and sellers within a market. Then, assessments of the four stages of capitalism in the American economy as they relate to the film industry were discussed. Throughout this historical perspective, the film industry progressively integrated into the policy-oriented, transnational, transindustrial oligopolistic media conglomerate system it is today, with six media corporations dominating the television, radio, publishing and film markets.

Specific to film, the independent film market has been co-opted within and by the media conglomerate system, resulting in profit-driving tendencies in production, distribution, and exhibition sectors of the Hollywood film industry. Major film companies tend to produce films that will attract massive domestic and international audiences, have financially lucrative advertising and merchandising power, and provide minimal risk. A blockbuster film is associated with immense marketing tactics, sequel potential, and possibilities for synergistic practices. Major film companies are a dominant force in the industry and focus on these profit-driving kinds of films, thus creating barriers to entry for any film ‘outside the norm’ in the Hollywood industry.

However, the final section of the Literature Review entails differing views regarding definitions of independent film. Some authors argue there is a market within Hollywood for offbeat, low-budget films—the independent film industry (Levy, 1999). Kevin Smith, for
example, has been labeled an independent filmmaker since his debut in 1994. Although independent film lies within a spectrum of definitions, it is essential to identify and analyze where Kevin Smith’s films lie in the spectrum outlined in this thesis.

With the success of ‘independent’ companies such as Miramax and Sony Pictures Classics, maintaining the previously explained “outside the conglomerate Hollywood system” characteristic of independent film is problematic. The interrelationships of the ‘independent’ companies to their parent companies threaten what so many film writers have considered the most important aspect of independent filmmaking: its content. Whether or not content may or may not be affected by the financing and economic environment has yet to be determined, but is a point of interest in this thesis.
CHAPTER 3
THE POLITICAL ECONOMIC APPROACH

This thesis utilizes the political economic approach to analyze and assess the state of independent film using Kevin Smith films as a case study. The political economic approach is suitable for analyzing Kevin Smith films because the film industry operates within the U.S. economic system in which many products, including films, are produced and sold by oligopolistic, transnational, transindustrial corporations. Furthermore, rather than consumer power governing the U.S. industrial capitalist economic system, corporate power controls the system within which the film industry exists. As Wasko (2003) explains:

Understanding interrelationships between media and communication industries and sites of power in society is necessary for the complete analysis of communications…Through study of ownership and control, political economists analyze relations of power and confirms a class system and structural inequalities. In that the position includes economic and political analysis, it is therefore necessary grounding for ideological readings and cultural analysis. (p. 9)

In other words, the political economic context is a vital foundation upon which further analysis, such as cultural studies, can be built.

To understand how political economy as a theory and an approach is appropriate for this thesis, it is necessary to outline the current definitions of political economy. Then, understanding how the political economic approach applies to communication provides a framework to explain how political economy can be related to the film industry. Finally, the use of a spectrum to categorize films is explained and justified as a methodology using concepts of industry and academic authors as they relate to independent film.

Current Definitions

To understand political economy in its current state, Mosco (1996) provides a modern definition of the study: “One can think about political economy as the study of the social relations, particularly the power relations, that mutually constitute the production, distribution, and consumption of resources” (p. 25). Therefore, any industry that produces resources, or commodities, whose consumption ultimately feeds back into its production, falls under the realm of political economy. “Moreover, political economy tends to concentrate on a specific set of
social relations organized around power or the ability to control other people, processes, and things, even in the face of resistance” (Mosco, 1996, p. 25). This definition presents an element of institutional societal control that is central to the study of political economy, along with other central characteristics.

Four fundamental characteristics of the political economic approach are social change and history, social totality, moral philosophy, and praxis (Mosco, 1996). Wasko (2003) summarizes these concepts with the following:

1. *Social change and history.* Political economy continues the tradition of classic economic theorists, uncovering the dynamics of capitalism – its cyclical nature, the growth of monopoly capital, the state apparatus, etc.

2. *Social totality.* Political economy is a holistic approach, or, in concrete terms, explores the relationship among commodities, institutions, social relations, and hegemony, exploring the determination among these elements, although some elements are stressed more than others.

3. *Moral philosophy.* Critical political economy also follows the classical theorists’ emphasis on moral philosophy, including not only analysis of the economic system, but discussion of the policy problems and moral issues which arise from it. For some contemporary scholars, this is the distinguishing characteristic of political economy.

4. *Praxis.* Finally, political economists attempt to transcend the distinction between research and policy, orienting their work towards actual social change and practice. (pp. 7-8)

As such, political economy is an interdisciplinary approach that borrows from and integrates aspects of history, sociology, philosophy, economics, political theory, geography, and communication with a focus on social change.

**Political Economy of Communication**

Mosco (1996) classifies three ‘entry points’ in which the political economy of communication can be analyzed: commodification, spatialization, and structuration. Each of these concepts are critical to the political economic study of communication artifacts—the Internet, books, newspapers, magazines, television, radio, and film. Therefore, the characteristics of these ‘entry’ processes should be outlined to explain how and why these concepts are applicable to the analysis of independent film.
Mosco (1996) defines commodification as: “the process of transforming use values into exchange values” (p. 141). Kunz (2007) explains the commodification process in simpler terms: Commodification refers to the transformation of a product whose value is determined by its ability to meet individual and societal needs, its use value, into a product whose value is determined by what it can command in the marketplace, its exchange value. (p. 233) Therefore, commodification takes place when the intangible societal or individual value of a product becomes tangible through the dollar.

The second process Mosco (1996) identifies in the political economic study of communication is spatialization: “Spatialization is the process of overcoming the constraints of space and time in social life” (p. 173). In the political economy of communication, spatialization refers to “the institutional extension of corporate power in the communication industry” (p. 175). Revenues, market power, assets, profit, and employees are measures of the growth of corporate power. To examine the growth of corporate power, political economy specifically looks to the forms of corporate concentration that enable corporate power to exist. These forms of corporate concentration, among others, include: horizontal and vertical integration, globalization, regulation, synergy, and barriers to entry (Mosco, 1996).

Mosco (1996) identifies the third ‘entry point’ as structuration. Mosco (1996) defines structuration as:

a process by which structures are constituted out of human agency, even as they provide the very ‘medium’ of that constitution…Specifically, structuration balances the tendency in political economic analysis to feature structures, typically business and governmental institutions, by addressing and incorporating the ideas of agency, social relations, social process and social practice. (pp. 212-213)

Political economy of communication integrates the initiatives of agency, social relations, social processes and social practice through examination of social class, gender, race, social movements, and hegemony as they relate to institutions of communication (Mosco, 1996).

**Independent Film as a Spectrum**

Because there is a wide variety of definitions of independent film, it is necessary to present a definition for independent film that is informed by theories of the political economy of communication. As such, a spectrum outlining the variations of the film industry, as it exists in a capitalist, oligopolistic, conglomerate media system, has been created.
Table 1.1 A Spectrum of Definitions for Categorizing Films

<table>
<thead>
<tr>
<th>Economic Environment</th>
<th>Major Studio Funded</th>
<th>→</th>
<th>Independently Funded</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mainstream</strong></td>
<td><strong>Major Studio</strong></td>
<td>→</td>
<td><strong>Nonexistent</strong></td>
</tr>
<tr>
<td>Production, distribution, exhibition, and/or marketing financed by a major studio, highest overall budgets, content tailored to ensure widest audience possible</td>
<td>Multi-million dollar, independently funded, mainstream, blockbuster films do not exist</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Minor Studio</strong></td>
<td>Production, distribution, and/or marketing financed by a minor studio, lower to high budgets, includes countercultural and mainstream content</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Dependent</strong></td>
<td>Production, distribution, exhibition, and/or marketing financed through a major studio subsidiary company, intermediate to high budgets, content has mainstream tendencies</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Somewhat Independent</strong></td>
<td>Distribution, exhibition, and/or marketing financed through a major studio subsidiary company, low production budgets, content has countercultural tendencies</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Independent</strong></td>
<td>Low budget, countercultural films are not produced by major studios</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Nonexistent</strong></td>
<td>Production, distribution, exhibition, and marketing entirely financed outside major studio system (including subsidiary companies), overall lowest budgets, countercultural content serves niche audiences</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Budget: Higher ↓ Lower
Content: ↑
As demonstrated in Table 1.1, three categories define a film: financial sources, budget, and content. Financial sources and budget seem to go hand-in-hand; the more reliable the financial source, the bigger the budget. Numbers and dollar amounts are concrete figures and therefore a quantitative form of measurement. Content, however, is more fluid. At the two extremes of the spectrum (Table 1.1) in regard to content lie two categories: mainstream and countercultural.

As discussed in “The Focus on the Blockbuster” section, mainstream films’ content is largely based on maximizing profits. Mainstream content tends to ensure financial success with formulaic plotlines, sequels, remakes, and special effects. Additionally, as Wasko (2004) points out, “Perhaps not surprisingly, the involvement of producers, investors or studio representatives (collectively called The Suits) is often claimed to have a chilling effects on the creative process” (p. 50). That is, profit often stifles ingenuity in a mainstream film. Films with countercultural content, however, are just the opposite. The need to express unique viewpoints often overpowers the need for profits in a countercultural film. According to Levy (1999), content in these films reflect their “commitment to alternative points of view, democratic representation, and countercultural transformation” (p. 5). Thus, countercultural films’ driving force is to question the status quo and express individuality. In between the two extremes is a large gap in which many films’ content exists. The storyline is neither extremely mainstream nor extremely countercultural. Therefore, budget and financial sources are a grounding point in which this thesis can attempt to categorize films. Based upon all three characteristics, budget, financial source, and content, Table 1.1 describes five types of films identified in this thesis as: independent, somewhat independent, dependent, minor studio, and major studio.

An independent film is funded, in its entirety, outside the conglomerate studio system, including subsidiary companies, has a relatively low budget in comparison to mainstream films, and its content defies typical expectations (Table 1.1). Just as Merritt (2000) contends in his definition of independent film, the distinction between major subsidiary companies and those outside of the conglomerate system is important because the film market is not diverse. As noted in the Introduction, six media corporations dominate the film industry by controlling 86.7% of the market. For Adam Smith’s (1776/1939) ideal free market model to succeed within the film industry, consumers must have choice among numerous film corporations, rather than six that produce homogenous cultural products. Without the distinction between conglomerate-produced
brand of ‘independent’ film and actual *independent* film, conglomerates will continue to dominate the market.

An example of an *independent* film is the documentary, *Zeitgeist the Movie* (2007). Directed, produced, distributed, and marketed by Peter Joseph, according to the documentary’s main website, zeitgeistmovie.com, *Zeitgeist the Movie* (2007) was privately financed with a budget of an estimated $7,000 (“Q & A,” 2007). Additionally, the focus of the film contradicts common religious beliefs, questions economics, and critically analyzes war as well as the World Trade Center attacks on September 11th, 2001. The distribution, exhibition, and marketing business tactics associated with *Zeitgeist the Movie* (2007) subvert traditional film industry norms. Joseph mainly utilized the Internet to distribute, exhibit, and market his documentary. The film is available to watch for free and can be ordered in DVD format for $5 on its official website (“DVD & Downloads,” 2007). Its marketing has also been largely fueled through word of mouth over the Internet. Having fulfilled every requirement outlined in this thesis, *Zeitgeist the Movie* (2007) is a prime example of an *independent* film.

The *somewhat independent* film category allows for features that are produced outside the conglomerate system but are later picked up for distribution and/or exhibition by a subsidiary company. This is a common economic environment for films that are screened at film festivals, such as Sundance. Representatives of studio-affiliated companies attend Sundance with the intention to distribute, exhibit, and market potentially profitable films. To account for Pierson’s (1997) notion that post-production costs can reach an upwards of $150,000, plus marketing costs, the *somewhat independent* film is higher on the budget spectrum (Table 1.1). In reference to content, Polish, Polish, and Sheldon (2005) refer to films released with this type of financing as “cheap mainstream” (p. 9). Although the *somewhat independent* category is higher on the content spectrum, it does not reach the extreme end of mainstream (Table 1.1). According to Tzioumakis (2006), “…in terms of aesthetics, independent films retain a certain grounding on mainstream traditions, the extent of which varies from film to film” (p. 9). *Somewhat independent* films have the potential to adhere to tradition; however, a range exists and must be accounted for in its definition.

*Reservior Dogs* (1992) serves as an ideal example of the *somewhat independent* film. Quentin Tarantino wrote and directed the film, independent company, Dog Eat Dog Productions, produced it, and Miramax distributed, exhibited, and marketed the film. The film was screened at
According to Box Office Mojo, production costs alone were a reported $1.2 million (“Movie Index,” 2008). Marketing costs are unavailable, but the film grossed about $2.5 million in the box office, and after *Pulp Fiction’s* (1994) commercial success, the video sales of *Reservoir Dogs* (1992) significantly grew in popularity (Biskind, 2004). The film’s content was an area of debate in Miramax’s decision to finance the post-production costs of the film. According to industry writer, Biskind (2004),

The Miramax co-chairman [Harvey Weinstein] had a way of getting behind a filmmaker, and then zeroing in on a signature scene, the one that best expressed the filmmaker’s particular voice, that made the film, in this case, “a Tarantino film,” and trying to get rid of it. “Without this scene, you have a mainstream movie,” he told the director. “With this scene, you put it in a box. Without that scene, I could open this movie in three hundred theaters. As opposed to one! Thirty seconds would change the movie in the American marketplace.” (p. 135)

The thirty seconds in question is the ear-cutting torture scene of the film. As the scene stayed in the film, Tarantino fought and won the content battle with Miramax executives. Thus, the film has some mainstream qualities, but still serves a niche audience as Tarantino intended.

The third type of film identified in this thesis is labeled as *dependent*. The *dependent* film’s defining characteristic is that its production is financed by a mega-studio subsidiary company (Table 1.1). Related closest to Merritt’s (2000) definition of a “semi-indie” film, a *dependent* film is “not produced directly by a major studio (such as Paramount or Fox), but it does have a guarantee of distribution before it’s produced, and it may be made by a smaller studio” (p. xii). However, Merritt (2000) is unclear as to what kind of smaller studios are producing *dependent* films—subsidiary companies of major studios. In addition, Merritt (2000) fails to consider budget or content in his definition. To account for these aspects, this thesis argues films with this type of corporate financing generally tend to have increased budgets and mainstream tendencies in content.

Produced, distributed, exhibited and marketed through Fox Searchlight Pictures, a subsidiary of News Corp, *Juno* (2007) is a prototype of a *dependent* film. According to Box Office Mojo, the production budget for *Juno* (2007) was $7.5 million (“Movie Index,” 2009). Although *Juno*’s (2007) marketing budget is not published, Fox Searchlight’s marketing team went through great effort to ensure its success in the box office. According to industry author
Andrew Hampp (2008), the studio “commissioned a three-tiered marketing strategy comprising media buys, creative planning, and publicity blitzes to coincide with different stages of the film’s release and audience targets” (p. 4). Fox Searchlight Productions saturated Internet and television media outlets such as online social networking websites, Facebook, YouTube, and Comedy Central with television spots, trailers, and merchandise from the film (Hampp, 2008). As a result of these marketing efforts, according to Box Office Mojo, Juno (2007) grossed worldwide box office earnings of $231,399,720, despite its morally debatable teen-pregnancy theme (“Movie Index,” 2009). The film’s plot revolves entirely around 16-year-old title character Juno’s unexpected pregnancy—a seemingly controversial storyline. However, the hastiness in which the main character eliminates the choice of abortion early in the story is eerily similar to two other successful movies released the same year, Knocked Up (2007) and Waitress (2007). The similarity regarding how each of these successful films deals with abortion is a classic case of Hollywood playing it safe with audiences. Rather than take a side and potentially lose large portions of profits, Juno (2007) is pro-choice and pro-life; thus, the film is tailored for mainstream audiences.

The minor studio category within the film definition spectrum accounts for film companies that are not associated with the ‘major’ media conglomerates, but are still competitive in the market. Wasko (2004) refers to these companies as “minor majors” (p. 144). For example, LionsGate, IFC Films, or Metro-Goldwyn-Mayer, before Sony bought it in 2005, are all companies with high revenues and have similar profit-seeking tendencies as media conglomerates. In short, these smaller film companies still call themselves ‘independent’ because they are not integrated with conglomerates. However, this thesis argues these companies are not producing, distributing, or marketing independent films because they have access to substantial finances and imitate the business practices of media conglomerates, just on a smaller scale. Minor studios perpetuate the ‘independent’ brand by continuing to produce, distribute, or market films as products rather than as cultural art. Minor studio companies have found a middle ground between independent and major studio corporations because minor studios buy and produce films media conglomerate companies will not support, yet continue to operate in conjunction with them. Minor studios tend to produce riskier films because they do not risk losing revenue in other unrelated sectors of their corporation, as the case may be with Disney. Additionally, there is a wider budget and content range for minor studio films.

According to King (2005), the film is “an examination of post-September 11th foreign policy and links between the family of president George W. Bush and prominent figures in Saudi Arabia” (p. 43). Fearing the worst, Disney executives halted the distribution process and the film was sold. King (2005) elaborates:

…the film was bought back by the Weinsteins (for an estimated $6 million, the sum invested in the picture by Miramax), who formed a new company, Fellowship Adventure Group, to distribute the film jointly with Lions Gate and IFC Films. *Fahrenheit 9/11* was opened just three weeks after the deal was signed, to take advantage of the publicity created by the row, in which Disney was accused of fearing that handling the film through Miramax would threaten tax breaks it received in Florida, and the film’s success at Cannes. (p. 43)

Therefore, Disney’s fear of losing state tax breaks in Florida led to the film’s distribution deal becoming a joint venture between Lions Gate, IFC Films, and the company the Weinstein brothers created for the sole purpose of purchasing the film and therefore reaping a portion of its profits. Knowing Michael Moore’s success with past films and the already publicized riff about Disney not distributing it, of course Lions Gate and IFC Films jumped on board. The film was already winning awards and creating a buzz in the press; profits were inevitable. Joint ventures and guaranteed profits are the bread and butter of the media conglomerate system, yet these ‘independent’ film companies are conducting business in the same manner. This example and countless others like it substantiates the differentiation between *independent* films and *minor studio* films.

The fifth and final type of film outlined in this thesis is the *major studio* film. As outlined in the Introduction, these are the blockbuster films that dominate the market and are produced by one of six ‘major’ film companies: Viacom’s Paramount, Time Warner’s Warner Brothers, News Corporation’s Twentieth Century Fox, General Electric’s Universal, Disney’s Buena Vista, or Sony/Columbia Pictures. Also, as discussed in “The Focus on the Blockbuster” section, major
studios equal major budgets for all stages of production; accordingly, the major studio film is highest on the spectrum for costs (Table 1.1). The content of major studio films is meant to attract massive audiences to theaters. Furthermore, ‘major’ studios also use characters and storylines from their films as a means to attract massive audiences to stores and theme parks for merchandise and rides relating to the blockbuster film. Consequently, these characters and storylines have universal appeal so as to reach the widest audience possible.

Every film has its own set of characteristics that are unique to that film as a whole. Whether it is unique in its cost for production, means for exhibition, or strategies in marketing, each process is different. Therefore, the following chapter will evaluate specific Kevin Smith films: Clerks (1994), Dogma (1999), and Zack and Miri Make a Porno (2008). These three films were chosen because each represents a significant turning point in Smith’s filmmaking career as well as turning points in the U.S. film industry. Each film will be analyzed using director/producer commentary tracks, interviews, documentaries, blogs and personal writings of Kevin Smith. In these artifacts, Smith reveals the filmmaking process through his own experiences in writing, directing, and producing each of these films. The remainder of this thesis takes advantage of the availability of Smith’s vast supplemental material for three main points of analysis: barriers to entry for non-mainstream filmmakers, identify and analyze where Kevin Smith films lie in the spectrum of independent film (Table 1.1), and how content is affected by the economic environment.
CHAPTER 4
THREE KEVIN SMITH FILMS

Clerks

According to Box Office Mojo, on October 19, 1994, writer and director, Kevin Smith debuted *Clerks* (1994) in movie theaters and it grossed $3.1 million (“Movie Index,” 2009). The grainy, black-and-white, dialogue-heavy film became available to audiences worldwide. However, before *Clerks* (1994) screened in theaters, it was unclear whether the film would get any further than a small festival in New York. Hollywood success was unlikely due to the film’s uneventful storyline, cast and crew of amateur no-names, and overall low-budget aesthetic.

The *Clerks X: The Tenth Anniversary Edition* (2004) DVD set contains a 95 minute documentary entitled, *The Snowball Effect* (2004), directed by Phil Benson. The documentary explains how then 21-year-old Kevin Smith set out to make a film that was personal to him. Inspired by Rick Linklater’s film, *Slacker* (1991), Smith said he had never realized he could make a film where characters just sit around and talk. After one semester at Vancouver Film School, he dropped out and moved back to New Jersey to make the film that would become *Clerks* (1994). Taking advantage of the Quick Stop convenience store clerk job he returned to, Smith managed to convince the owner to let him shoot a film in the store during closing hours. Smith started writing the script immediately.

The story follows a day in the lives of two New Jersey native convenience store clerks with nothing better to do than make fun of customers and try to not work as best they can. The main character, Dante, works at a Quick Stop Convenience Store and is a do-gooder, ‘Charlie Brown’ type in the midst of a quarter-life crisis. His best friend by default, Randal, works in the neighboring RST Video Store, has a disdain for authority and is the ultimate slacker. As Biskind (2004) explains, the script “exploded with testosterone-drenched trash-talk bent raunchily askew by Smith’s twisted, adolescent sense of humor” (p. 161). In *Clerks* (1994), no topic is off limits. Cursing is the norm. It is an offbeat and at times random movie. As Dante proclaims, “I’m not even supposed to be here today!” and debates between two girlfriends, an old man dies in the bathroom, a hockey game occurs on the rooftop, and in the end, Dante is murdered—all in the same movie.
Perhaps the only not so outlandish aspect of the film is its production value. The film is grainy, shot with 16mm black-and-white film, and the camera work is stagnant. 35mm color film is currently the standard. However, with a production budget of only $27,575 along with an amateur cast and crew, the lack of fancy camera movements and film quality is to be expected. Smith paid for production costs with money he would have spent on his next semester at film school, cashed in a FEMA check from a local flood, and maxed out about seven credit cards (Pierson, 1997). Smith tapped into all his financial resources to get the film made under the self-started production company deemed, View Askew Productions. Clerks (1994) producer, and now life long friend from film school, Scott Mosier, rented all the lighting, sound, editing, and camera equipment from New York. David Klein, a friend of Scott Mosier also from film school, did cinematography for the film. Mosier also was in charge of sound while Smith directed.

Auditions for casting were held locally. The three parts not cast by community theatre actors were filled with either friends or family of Smith’s. Smith cast himself as Silent Bob, the mute counterpart to the obnoxious adolescent drug dealer, Jay. Walt Flannigan, a co-worker at Quick Stop, played four different customers throughout the film out of necessity because of no-shows. Mosier also played two parts, the customer that interrupts the hockey game and Willam Black.

Filming took place for 21 straight days between the hours of midnight to 6AM at the convenience store in Red Bank, New Jersey. In interviews with the cast and crew in The Snowball Effect (Benson, 2004), they tell the story of how in those 21 days the production of Clerks (1994) became a collaborative effort and eventually became a break-through film. After the film wrapped, Smith and Mosier camped out in RST Video with a Steenbeck editing machine they had rented as well. They lined the walls and shelves with reels of film, putting them in sequential order scene by scene while also adjusting sound.

After Bob Hawk viewed Clerks in 1993 at the Independent Feature Film Market festival in New York, he was the start to a rippling effect in the film’s success. He loved the film and dubbed it in his notes as “a tail of ennui” (Benson, 2004). His relentlessness in pitching the film to independent film representatives such as John Pierson and industry writer, Amy Taubin, was the start of Clerks’ (1994) bumpy journey to Miramax.

Before the film screened at Sundance, a representative from Miramax had obtained a copy and tried to show it to Harvey Weinstein. According to Weinstein’s interview in The
Snowball Effect (Benson, 2004), within the first ten minutes of the screening, he walked out because of the early anti-smoking scene of the film in which a chewing gum company representative goes on a rant about how horrible smoking is. Other people in the department at Miramax thought the movie had potential to hit it big, but Weinstein did not. However, after its success at Sundance, Weinstein took a seat in the last screening of the festival and immediately made a deal to buy the film. Biskind (2004) offers an explanation as to why:

…Clerks was the very definition of an indie film, the kind of shoestring production that comes out of nowhere with no significant money behind it, lacks stars, production value, finesse, and a video deal. It was the kind of film that was easy to overlook in the cascade of increasingly glossy indie product. But Clerks had what Sundance’s programmatically regional films often lacked—a real, felt sense of place. It was clear these guys had never been out of Red Bank. And it was instantly evident that the film was the product of a wickedly inventive talent with a fresh and original perspective that had been successfully—and a bit miraculously—translated into celluloid. (p. 161)

To summarize, Weinstein saw the appeal of the film and could no longer deny Smith a deal. Therefore, John Pierson and Harvey Weinstein came up with an offer on the last day of Sundance. Miramax paid $227,000 for the rights to Clerks (1994). Of course, Miramax paid for advertising, marketing, and exhibition costs, ensuring the audience the film was meant for knew where they could buy tickets.

The general understanding of how Clerks (1994) was made and became successful allows a closer political economic analysis of these filmmaking industry processes. Particularly, trends in the U.S. film industry reveal, in further detail, the business motives of Harvey Weinstein’s decision to buy the film. Also, the differences between theatrical release of the film and the original cut need to discussed as well as how the film was marketed to become financially successful. Each of these subjects, along with the synopsis of the film, explains the barriers to entry, spectrum categorization, and economic influences on content of this particular film.

**Barriers to entry.** As explained in the “Introduction,” Disney bought out Miramax in 1993. Disney was following an ongoing trend in the early 1990s; conglomerate media corporations invested heavily in the independent film industry because it was proving to be a financially lucrative sector of the film business. Specific to Disney, the act of buying Miramax “extended the Disney film empire even further into markets for adult and foreign films, again
providing diversification beyond the family-oriented market” (Wasko, 2001, p. 43). However, doing this created an opportunity, albeit short-lived, for niche films to enter the film industry. The business trend of media conglomerates acquiring independent companies in the early 1990s was the beginning of the ‘independent’ brand. Unsurprisingly, the ‘majors’ saw a chance to make more money and seized it with a vengeance. Conglomerates infiltrated the market, kept the label of ‘independent,’ and continued to make profits.

Prior to Disney buying Miramax, “their business model was based on the law of large numbers: purchase, and release enough films, and the large profits from the few hits would, with any luck, compensate for the small losses on many flops” (Mason, 2004, ¶ 3). As long as this model created revenue, Disney saw no need to change it. Therefore, in the beginnings of Disney owning Miramax, Harvey Weinstein continued conducting business as normal. Thus, Miramax bought the film Clerks (1994) in this phase of the company’s history to make a point—this model works.

According to an interview with Smith in The Snowball Effect (Benson, 2004), “Buying Clerks sent a real message. It said, ‘We’re still Miramax, ‘cause we picked up a grubby-looking black-and-white indie with a foul fuckin’ mouth.’” Therefore, there was an opening in the market for independent movies to prove that Miramax was still dominant in the indie market even though it had just been co-opted by a mega media conglomerate. According to Biskind (2004), Smith contends:

Clerks never could have been made through a studio system. What they like is simple stories about overcoming adversity. But in Clerks it’s a couple guys at work in a convenience store, hate their jobs, and by the end of the movie, they’re still working there, and they still hate their jobs. Like, nobody overcomes anything, really. I wanted to be an independent filmmaker. I wanted to work at Miramax. In those days it was still, ‘We are independent film.’ (p. 164)

The sentiment Smith conveys is how Miramax’s reputation for distributing risky, low budget, no name films remained strong at this point in time, despite its new ownership. Biskind (2004) explains further:

After the sale, when it became evident that Miramax was no longer really independent and could afford A-list prices, the fiction that it was independent became all the more
important, a necessary shield to deflect the scrutiny of agents and unions. Hence, as Smith suspected, the acquisition of a film like Clerks. (p. 169).

This being the case, Smith contends his timing was the driving force that got his film career started.

Despite Weinstein’s motives for purchasing the film, the bottom line is Kevin Smith’s film beat the odds and made it through a barrier many filmmakers never do. His off-center, atypical film entered the film market and would have the distribution, exhibition, and marketing power to mobilize and get the film to audiences. However, when Harvey Weinstein struck the deal with John Pierson to buy Clerks (1994) for $227,000, there was a catch. According to Biskind (2004), “Weinstein said, ‘A hundred thousand dollars of that money goes to trimming the film, remixing, kicking it up to 35mm, whatever. The rest is yours” (p. 164). Therefore, Kevin Smith received the financial leftovers of the costs to enhance the technological quality of the film. Smith was so excited to be getting a deal; he did not consider that he might be getting the raw end of it.

According to Biskind (2004), Smith did not receive any funds from Clerks (1994) until 2001. Overall, the film went on to gross “$3.1 million domestic release, another $1 million overseas and sold 60,000 videocassettes” (Goodell, 1998, p. xxi). Clerks (1994) was more financially successful than Slacker (1991) and Reservior Dogs (1992), yet Smith claims he and Mosier “may have shouldered costs that we had nothing to do with” (Biskind, 2004, p. 176). The math speaks for itself.

Clerks (1994) never screened in more than 50 theaters nationwide, yet Miramax claimed the print and advertising budget was around $1.7 million (Biskind, 2004; Goodell, 1998). Printing budgets are for transferring and copying the actual film reels that are distributed to theaters. According to The Numbers, an online box office database, the average print cost per print is $2000 (“Glossary,” 2009). If the film did not screen in more than 50 theaters at one time, printing costs should have been around $100,000.

The strategy to market and advertise the film was largely based around word of mouth at festivals and attaching trailers of Clerks (1994) to the upcoming theatrical feature Pulp Fiction (1994). The flights and entry fees for festivals Smith and Mosier attended were paid for in full by each festival organization, which kept costs to a minimum. Additionally, Pulp Fiction (1994) was also owned and distributed by Miramax; therefore, the only plausible cost to Miramax was
the labor to physically attach the reels together since copyright and/or striking a deal with another distribution company was not an issue.

How exactly printing and advertising costs reached the upwards of $2 million remains a mystery. The math does not add up. Miramax made an estimated $7 million from Clerks (1994), and most of that money is unaccounted for. According to Wasko (2004), “Determining how distribution expenses should be covered and whether they are appropriate remains one of the most controversial issues in motion picture accounting” (p. 137). In addition to printing and advertising costs, most distribution deals have a predetermined distribution fee to cover costs such as booking screenings and negotiating syndication deals with television networks. However, as in the case with Clerks (1994), a distribution fee of over $1 million dollars is unjustified and likely inflated. Chances are that money was pumped back into the media conglomerate to ensure less risk and higher profits within a sector of the corporation. Besides what appears to be shady accounting, Hollywood protects itself through another dominating force, the aforementioned Motion Picture Association of America.

As discussed in the “Free Market Failure” section, the MPAA is a private trade organization with heavy political influence. The MPAA also influences industry trends with ratings. Thus, the MPAA establishes a barrier to entry within the U.S. film industry by imposing a troublesome rating policy of films based on content. Smith could not have overcome this barrier had it not been for the financial backing and resources of a mega media conglomerate.

Upon initial review of the film, the MPAA assigned Clerks (1994) an NC-17 rating for graphic sexual language. A rating of NC-17 severely limits the lucrative potential of a film due to most theaters’ refusal to screen such films. Also, the audience age restriction automatically cuts revenues dramatically. The severe restraint of an NC-17 rating is the equivalent of a death sentence for profits. Luckily, Smith had Miramax on his side. According to Levy (1999):

Although Clerks depicts no graphic sex or violence, the MPAA initially gave it an NC-17 rating, making it the first film to get the restrictive rating solely on the basis of its profane dialogue. But later, when the high-profile attorney Alan Dershowitz and some influential filmmakers (Danny DeVito, Callie Khouri, Cameron Crow) petitioned for reconsideration, the MPAA appeals board granted a softer R rating. (p. 210) The MPAA changed its rating without editing a single frame out of the final cut of Clerks (1994). If Kevin Smith did not have Miramax’s corporate financial sources for an entertainment
lawyer and the network of big Hollywood names, the likelihood of Clerks (1994) receiving a lower rating is slim to none at best.

**Spectrum.** So, is Clerks (1994) an independent film and consequently, is Kevin Smith an independent filmmaker? A major aspect to answering this question is financial sources. According to Table 1.1, an independent film is financed entirely outside the conglomerate system. When Miramax bought Clerks (1994) and therefore owned its rights and financed its distribution, marketing, and exhibition, Clerks (1994) lost its ‘independent’ label. Smith (2005) recognizes the shift:

Let’s not pull punches here: I sold out a long time ago… For years now, the shorthand used to describe me by a press corp that couldn’t be bothered to figure out another label to slug before my name has been ‘indie filmmaker Kevin Smith.’ But, in truth, I haven’t been an indie since the first two weeks of ’94. The moment Miramax bought Clerks at the Sundance Film Festival, the ‘indie’ title became negligible, as they, in turn, are owned by Walt Disney. (p. 155)

Although the industry labeled the film ‘independent’ in its marketing and Kevin Smith is referred to as an ‘indie filmmaker,’ this thesis contends Clerks (1994) is not an independent film, but a somewhat independent film.

In the financial aspect of the film, Kevin Smith produced an independent film by using his personal assets to produce the film, albeit with credit cards and a FEMA check. The two stages of Clerks’ (1994) production in which content is most affected, scriptwriting and shooting of principal photography, were not affected by Miramax. In the financial environment in which filming took place, outside a studio with no ‘Suits,’ Kevin Smith made a movie with a personal message rather than one to attract audiences and sell merchandise. In this respect, Smith is an independent filmmaker; however, when he relinquished the rights to Miramax, the film became somewhat independent.

**Content.** Though Smith’s film was mainly produced outside the conglomerate system, Miramax made a few changes to Clerks (1994) before its theatrical release, such as transferring from 16mm to 35mm film, adding a soundtrack, and remixing sound for quality. Other changes were made as well, mainly, the final scene of the film in which Dante is killed by a gunshot wound during a robbery after closing was cut. According to interviews in The Snowball Effect (Benson, 2004), this change was suggested early on by John Pierson and Bob Hawk and Smith
agreed. Also, after watching it screen multiple times with audiences, Smith had ideas of where he could ‘trim the fat.’ Therefore, when Kevin Smith made the deal with Harvey Weinstein—also known as ‘Harvey Scissorhands’ for his reputation of severely editing films he acquires—Smith mentioned he already knew 10 to 12 minutes he would like edit. Biskind (2004) explains, “Intentionally or not, Smith was playing him like a fiddle” (p. 163). By doing this, Smith asserted management of the editing process and ended up with complete control. Like a glitch in the conglomerate system, Kevin Smith’s final edit was what Miramax released in theaters and transferred to videocassette.

As mentioned in the “Method” section, categorizing content is difficult due to its fluidity. In the case of Clerks (1994), Smith maintained the integrity of the countercultural film he wrote and directed despite the financial relationship with Miramax. Therefore, Clerks (1994) is a representative of a somewhat independent film as its content is countercultural and a subsidiary film company provided its financial sources for distribution, exhibition, and marketing costs.

Dogma

Clerks (1994) is the first Kevin Smith film and Dogma (1999) is his most controversial. As Smith’s fourth film, Dogma (1999) sparked much interest and criticism in the industry press as well as in the religious community. The film is about Smith’s personal views on Catholicism, which are vastly different from the traditional. Coming off his last two films, Mallrats (1995) and Chasing Amy (1997), Smith had a reputation for writing offbeat scripts. Unlike Clerks (1994), Dogma (1999) was a subsidiary studio film and had some famous names behind it.

Directly after Clerks’ (1994) debut, Smith had the script for Dogma (1999) already written. However, according to Biskind (2004),

…it was a bigger film, and he didn’t feel up to directing it until he’s had more experience. He showed the script to Harvey, saying, ‘This is the next one I want to make with you guys.’ Harvey read it, came back, ‘Great, love it, we’ll put it out on Good Friday!’ (p. 176).

This conversation lends proof to the saying, ‘once you’re in, you’re in.’ Generally, when a filmmaker has proven himself/herself as profitable, it is easier to make more films within that company.

Smith tends to make movies about relationships. Dogma (1999) is about Smith’s, and extensions of Smith seen in other characters, relationship with God. The film has an eclectic
group of characters ranging from fallen angles, demons, apostles, prophets, and a muse. The story follows the comedic interactions of celestial beings and humans all trying to save the earth from an apocalypse. Throughout the story, explanations about organized religion, Jesus’ ethnicity and bloodline, and a thirteenth apostle unravel, leaving the audience questioning their faith in the bible. As to be expected from Smith, the script is verbose, witty, sarcastic, and smart. Characters Jay and Silent Bob return in full force. New Jersey becomes its own character. Recognizable aspects of Smith’s filmmaking style are present.

One major difference between *Dogma* (1999) and films past is the increased production value. According to the film’s main website, Dogma-movie.com, “The production was, in logistics, organization, and sheer scope, by far the most ambitious production Kevin Smith and Scott Mosier had ever attempted” (“Production Notes,” 1999, ¶ 61). Special effects and outlandish costumes are elements of production neither Smith nor Mosier had experience. As Mosier explains, “There were many more arms involved - special effects, CGI, visual effects and it was a huge amount of information to process and control. The ante was upped and we lost a bit of our innocence” (“Production Notes,” 1999, ¶ 48). Miramax allotted for $10 million for the production budget—Smith and Mosier’s biggest budget to date.

Miramax also provided Smith and Mosier with a professional cast and crew. Smith attributes the experienced crew for his rising confidence in camera movements and cinematography. The cast for *Dogma* (1999) is swindled with Hollywood celebrities. In addition to the ‘regulars,’ Jason Lee, Jason Mewes, Brian O’Halloran, and Jeff Anderson, the cast included Chris Rock, Ben Affleck, Matt Damon, Alan Rickman, Linda Florentino, George Carlin, Alanis Morissette, and Salma Hayek.

Far from *Clerks* (1994), this production was on a much bigger scale. The film is glossy instead of in black-and-white. The cast is widely recognizable in Hollywood, unlike Smith’s friends and family. The costumes and special effects are capitalized in *Dogma* (1999). In *Clerks* (1994), costumes were from the cast’s personal wardrobe and special effects were obsolete. What Polish, Polish, and Sheldon (2005) would call “cheap mainstream,” these specific visual changes in Smith’s film represent overall differences in the look of independent film before it was co-opted versus after (p. 9). However, compromises of the independent film aesthetic are not limited to how a film looks or who stars in it. Again, this political economic analysis evaluates barriers to entry, categorization, and content.
Barriers to entry. The film seemed to be locked down at Miramax with Weinstein on board. However, controversies between Weinstein and Disney, particularly C.E.O. Michael Eisner, caused problems and eventually restricted the film to be released under the Miramax label because of its content. Throughout the film’s production phase, Miramax offices and Kevin Smith’s email account were littered with death threats and hate mail threatening to boycott everything associated with Disney. The release of the film came to a screeching halt because Disney’s profits were at stake. Thus, a conglomerate posed a barrier to entry in the film’s distribution phase.

When Disney bought Miramax in 1993, Miramax continued using controversy to market films. However, before the release of Dogma (1999), recent films acquired with this method created friction with parent conglomerate Disney. In particular, as King (2005) explains:

The Miramax policy of using controversy as a marketing tool caused difficulties in the case of the handling of two films in 1995: the British import Priest, which centers on the experiences of a gay priest, and Larry Clark’s Kids, a frank portrayal of the sexual and other activities of New York teens. (p. 42)

Both films had a huge backlash with religious speakers and groups, namely William Donohue and the Catholic League, boycotting and rallying against the films based on their content. Because Miramax was now owned by media conglomerate, Disney, the negative attention these films received affected many other areas of the corporations’ profits. Profits gained from box office revenues do not compare to losses in non-related sectors. Consequently, when it came time for Dogma (1999) to be released, according to Mason (2004), Eisner refused, saying to Weinstein: “If one person doesn’t come to Disneyland because of this movie, that’s one person too many” (¶ 9). Thus, Eisner stopped Weinstein from distributing films that may disrupt revenue in other areas of The Disney Corporation.

As the precursor to Fahrenheit 9/11 (2004), Dogma (1999) was also sold to Lions Gate Films for distribution. According to King (2005), the film “was personally bought back from the company by Bob and Harvey Weinstein for a reported $14 million” (p. 43). The Weinsteins bought the film with the intent to sell it to a distributor—enter Lions Gate. Similar to the situation with Michael Moore, Lions Gate seized the opportunity to distribute Smith’s film because it was well received at Cannes Film Festival and had the media buzzing for months. The
controversy between the Weinstein brothers and Eisner became a marketing strategy as controversy tends to spark immediate interest.

According to Box Office Mojo, *Dogma* (1999) opened in theatres November 12, 1999, and grossed $30.6 million domestically (“Movie Index,” 2009). Despite the William Donohue and the Catholic League’s attempt to rally and picket against the film, it was financially successful. In box office revenues alone, profits exceeded the $10 million spent to produce the film.

Furthermore, a documentary about the controversies surrounding the release of *Dogma* (1999) was produced and going to be put on the Columbia Tri-Star released Special Edition DVD version under supplemental materials. However, Disney threatened to sue Sony’s subsidiary company, Columbia Tri-Star, because interviewees were unbiased in answering questions about Disney’s refusal to release the film. Therefore, the documentary, *Judge Not: In Defense of Dogma* (2001), directed by J.M. Kenny, is only available under the special features of *Vulgar* (2002). *Vulgar* (2002) is a small-scale film project of Smith’s childhood friend launched through View Askew Productions and distributed through Lions Gate Entertainment. In the attempt to negotiate with Disney, the documentary bleeps any mention of Disney or Miramax. These bleeps remain in the Lions Gate distributed documentary simply because the original audio does not exist any longer. With the threat to sue, Disney attempted to withhold information about its vested interest in profits and the lengths the corporation will go to procure them.

*Spectrum.* *Dogma* (1999) was produced within the conglomerate system and distributed by a minor studio, Lions Gate Films. According to Table 1.1, these financial sources qualify the film as either a dependent film or a minor studio film. To clarify, this thesis argues *Dogma* (1999) began as a dependent film then shifted to a minor studio film when Lions Gate distributed it.

Although Lions Gate Entertainment is not in direct connection with one of the ‘majors,’ the company remains competitive in the film industry. According to Standard & Poor’s (2009) business summary, the company offers a wide variety of entertainment in film and television as well as multiplatform programming. The corporation also has many Canadian subsidiary production companies. Revenues in 2007 for Lions Gate Entertainment reached $976.7 million (S&P 500, 2009). The company is not as competitive as a major media conglomerate; however, Lions Gate Entertainment is a diversified company with conglomerate profit-seeking tendencies.
Many films’ categorization shifts throughout the filmmaking process, which is why this thesis utilizes a spectrum. Without it, the process of differentiating between types of films is polarized to a specific phase of its debut. Case in point, *Dogma* (1999) could be classified as a dependent film because Miramax produced it. Yet, the film’s content led to its financial relationship with a minor studio.

**Content.** The script for *Dogma* (1999) does not lack imagination. Genre classifications for this film vary between comedy, fantasy, and adventure, among others. Further exemplified by Scott Mosier from the film’s main website (1999):

At first Mosier attempted to define the movie, but eventually he gave up. ‘This movie is completely uncategorizable,’ he admits. ‘It has it's own tempo, it's own groove that's very different from anything else. Every time you think it's one thing -- a fantasy, a comic journey, an inquiry into faith -- it switches to another mood. The only thing you can do is let go and allow it to happen to you. If you try to say it's one thing or another, you're fighting the nature of the film.’ (¶ 7)

The sentiment expressed by Mosier is how the film’s story is atypical and defiant to traditional, mainstream tendencies. Despite the lack of visual aesthetics in an ‘independent,’ low-budget film, the controversial storyline and dialogue in *Dogma* (1999) are quite countercultural: so countercultural that Disney would not release it in fear of losing profits. However, before Eisner was involved, Weinstein was affecting its release.

Before the film got in the hands of Eisner, Smith and Harvey ‘Scissorhands’ Weinstein had issues in the editing room. Industry insider Biskind (2004) explains:

When Smith emerged from the cutting room, he had a three hour and twenty minute cut. According to the filmmaker, Harvey said, ‘This is fantastic, you guys did a phenomenal fucking job, but I do think there’s about ten minutes we can cut outta there.’ We’re like, ‘All right,’ and we cut out ten, fifteen minutes, and he said, ‘Wonderful, it moves like a sonofabitch, but I really think there’s probably another ten minutes we can dig out of there.’ We got to two hours, and didn’t even notice. Then he wanted to keep going. His whole theory was, you need to program it as many times as possible in one evening...We finally said, ‘No, this is it.’ (p. 344)

After some back and forth, Weinstein stopped pushing them for further edits. According to Biskind (2004), Smith explains his logic of Weinstein’s decision to back off:
‘From what I’ve seen, Harvey only takes movies away from people he has no respect for. We’ve never had that. He’s never lost money on us, he’s only earned off of us, and we’ve never gone through a period of defiance, ‘Fuck you Harvey, I’m in charge.’ We always recognize that he is the man with the wallet that we listen to.’ (p. 344)

Because Smith’s films have been financially lucrative in the past, Weinstein ended up supporting the filmmaker’s editing decisions. From this situation, it seems that to Weinstein, degrees of respect are determined through profits and a sense of authority. Had Smith not had a profitable reputation and a backbone, the film might have taken a different direction.

One aspect of the film’s content that cannot go without discussion is the scene in which Loki, the fallen angel of death, eternally judges multiple board executives of Smith’s fictional corporation, Mooby’s. The sins of the executives range from cutting costs by allowing toxic chemicals in children’s toys to disowning a gay son. Loki kills all but one ‘clean soul’ executive after a speech about the corporations’ immorality and false cartoon idol.

There have been speculations about Disney dropping the film because of the ‘Mooby boardroom’ scene. The Mooby Corporation is a transparent representation of Disney. Instead of Mickey Mouse, Mooby is a cartoon calf. In an article from *Entertainment Weekly*, Shaw (1999) asserts,

> Although Smith was unavailable for comment, people close to him say he attributes at least part of Disney's skittishness to a scene in which Damon and Affleck, playing angels, walk into the board meeting of a Disney-like firm and rattle off lewd personal histories of the execs as cartoon music plays in the background. (p. 9)

In the WWWBoard Summaries of View Askew’s website (2009), Smith maintains pinpointing this scene as the reason Disney dropped the film is laughable,

> ‘As for my speculation that Disney dropped the film over the ‘Mooby’ scene, as discussed in *Entertainment Weekly*: that made me laugh. I was joking about that at the Rider appearance, and it wound up in the magazine. Believe me - that scene had no bearing on why we were cut loose. In fact, I just got a fax from Mister Michael Eisner himself, which was a copy of that article, and a quick note that said ‘Kevin - I thought that scene was funny!’ (¶ 37)

Eisner can afford to laugh. At the time the *Entertainment Weekly* article went to press, *Dogma* (1999) had been through the theatrical system, without ties to the Disney Corporation. While the
religious nature of the film is the main reason cited for Disney’s decision to drop the film, it seems naïve to think an obvious attack on the conglomerate had absolutely no influence in Eisner’s opposition to the film, much less that Eisner actually thought that scene was humorous. Although both parties maintain the Mooby’s boardroom scene was not a deciding factor in Disney representing the film, it likely was a factor nonetheless.

Considering the extremity of the backlash about the film’s content, it is safe to say *Dogma* (1999) challenged the status quo and is countercultural. As such, considering the film’s content coupled with the distribution deal with Lions Gate, this thesis classifies *Dogma* (1999) is a minor studio film. Had Miramax kept the distributed the film, it would have been categorized as a dependent film. However, the distinction is important because Lions Gate, and companies like it, is more likely to be seen as an ‘independent’ entertainment company due to its lack of conglomerate ownership. However, as explained in the “Method” chapter, minor studios have conglomerate profit-seeking tendencies, just on a smaller scale.

**Zack and Miri Make a Porno**

Smith’s latest film, *Zack and Miri Make a Porno* (2008), is the next and final film to analyze. Set in Pittsburgh, Pennsylvania, the film is about a pair of best friends/roommates trying to put an end to their financial woes. The film was produced and distributed within the Weinstein Company. Nearly ten years after *Dogma* (1999) debuted, analyzing Smith’s latest film provides insight to current trends in the film industry.

The Weinsteins parted ways with Disney in 2005. In a highly publicized dispute between the Weinstein brothers and Disney executives, the Weinsteins walked away from the deal with roughly $130 million to start a new company (Halbfinger, 2005). Apparently, the Weinsteins’ decision to part ways from Disney was final when Disney refused to finance *Fahrenheit 9/11* (2004) and *The Lord of the Rings: The Fellowship of the Ring* (2001). Disney also refused to allow the Weinsteins to buy other film companies or invest in branching out to television programming and publishing sectors of the market (Halbfinger, 2005). Starting anew, the Weinsteins lost the copyrights of the company name, Miramax, and the film library they had built over the past thirty years. However, they retained Dimension Films, Bob Weinstein’s production company, and film projects already underway at the time of the deal, including *Derailed* (2005), *TransAmerica* (2005), and Kevin Smith’s *Clerks II* (2006).
Smith has created a large following with his films. Thus, when Smith told Weinstein about his next project, Weinstein immediately agreed. According to Smith’s Zack and Miri Production Blog (2007), before the filming of *Clerks II* (2006), Harvey Weinstein asked Smith what his next move might be. Smith replied with simply the title, *Zack and Miri Make a Porno*, and Weinstein instantly agreed to finance it. Smith (“The Man Who Would be Zack,” 2007) elaborates,

I'd gotten no further than the title when he said, ‘Done. I'm making that movie.’ ‘Don't you wanna know what it's about first?’ I asked. He replied, ‘I thought the title said it all.’ ‘Well it doesn't.’ ‘Fine. What's it about?’ ‘It's a meditation on the Holocaust.’ He stared at me blankly for a beat. ‘Alright,’ I relented. ‘The title says it all.’ (¶ 3)

Smith had not even developed a script and the film had financing. Once again, having proven himself as financially lucrative, Weinstein respected Smith’s ideas enough to finance a film based solely on its title.


The story is about a pair of lifelong best friends/roommates who find themselves without electricity or water in their apartment due to a stack of unpaid bills. In a revelation, title character Zack has the idea that they should produce and distribute a pornographic film to get out of debt. Zack and Miri recruit various friends to help with the project and hold auditions for the rest of the cast. Throughout the filmmaking process, the group struggles with financing and, after their makeshift studio is bulldozed, a place to film the project. After overcoming these obstacles, Zack and Miri realize their feelings for each other and the pornographic aspect of the story fades to the background.

Luckily, Seth Rogen is a fan of Kevin Smith films and agreed to the leading role. Other stars include Elizabeth Banks, Craig Robinson, Ricky Mabe, Justin Long, Brandon Routh, and adult stars Katie Morgan and Traci Lords. The familiar faces of Jason Mewes and Jeff Anderson filled other roles in the film. Dave Klein was the director of photography, just as he was in

According to Box Office Mojo, the film’s production budget was $24 million—over twice that of Dogma (1999) (“Movie Index,” 2009). Yet, the film has a relatively tame storyline production wise, no action scenes or lavish costumes as in Dogma (1999). Rather, the film revolves around characters’ verbose banter, adolescent humor, and, once again, relationships with one another. In this aspect, Zack and Miri (2008) is a typical Kevin Smith film. Not so typical was the A-list actors in each leading role. Most likely, the production budget was inflated with actors’ salaries, which is a common theme in Hollywood. A-list actors tend to attract larger audiences; therefore, their films are highly profitable.

The film released on October 31, 2008, and according to Box Office Mojo, has thus far grossed $39.7 million in box offices worldwide (“Movie Index,” 2009). Exceeding the $24 million the Weinstein Company budgeted for production, the film is considerably a financial success, a common theme with Seth Rogen films. After his acting debut in The 40-Year-Old Virgin (2005), according to Box Office Mojo, his follow-up film, Knocked Up (2007), grossed just over $219 million worldwide (“Movie Index,” 2009). Then, Rogen co-wrote and starred in Superbad (2007), which earned $169.7 million (“Movie Index,” 2009). Obviously, Rogen has a large following. That is not to say Rogen is the sole reason for Zack and Miri Make a Porno (2008) being successful. However, when a Hollywood actor has fans, high box office revenues for his/her films are almost inevitable.

**Barriers to entry.** As a film with the word ‘porno’ in the title, it was also inevitable that Smith had to go to bat with the MPAA to approve an R-rating for Zack and Miri Make a Porno (2008). As explained in Popcorn Porn (2008), after wrapping filming, Smith was in the process of editing the film for pace when he submitted a copy to the MPAA for review. His logic was if the MPAA decides Smith needs to edit further, he was already planning to do so. The MPAA rated the film NC-17 citing the amount of thrusting in the scene in which Jason Mewes and Katie Morgan are having sex for the porno as inappropriate. Additionally, the scene in which Deacon, principal photographer for the porno, is defecated on while shooting an anal sex scene was flagged as indecent. According to the Zack and Miri (2008) documentary, Smith was “contractually obligated” with the Weinstein Company to produce an R-rated film.

As explained in the “About the Production” (2008) section of the film’s main website,
The director had a formidable task explaining to others, including the MPAA that the film was relatively tame. ‘There’s nothing erotic about the sex in the movie,’ says Smith. ‘We’re lampooning porno sex, which is over-the-top to begin with. So, we had to go more over-the-top. But in our film, it’s for comedy, not for titillation.’

Smith argues the comedic context of the questionable thrusting is its justification. As for what Smith called the “shit shot,” Knutson and Figueroa’s (2008) documentary explains how multiple test screenings, which included that shot, were successful.

Smith felt the overly positive reactions to the fourteen frame shot in test screenings were reason enough to fight to keep it in the film. According to “Production Notes” (2009), Smith submitted the film to the MPAA three times. On each submission, it was slapped with an NC-17. Uncomfortable with cutting any further, he elected to take the film through the appeals process, in an effort to overturn the rating without making any cuts.

The MPAA appeals process is difficult. The odds are stacked against the individual filing the appeal. As explicated on an MPA website (2005),

They gather to view the film and hear the appeal. After the screening, the producer/distributor whose film is being appealed explains why he/she believes the rating was wrongly decided. The chairmen of the rating board states the reason for the film’s rating. The producer/distributor has an opportunity for rebuttal. After appeals boards question the two opposing representatives, they are excused from the room. The board discusses the appeal then takes a secret ballot. It requires a two-thirds vote of those present to overturn a rating board’s decision. (“Appeal of Ratings,” ¶ 5-7)

Therefore, the MPAA makes it nearly impossible to change a rating.

However, as Smith explains in *Popcorn Porn: The Making of Zack and Miri* (Knutson & Figueroa, 2008), since Kirby Dick’s revealing documentary which highlights the appeals process, *This Film is Not Yet Rated* (2006), the MPAA recently changed its rules so filmmakers can cite precedent to state their case. That is, the individual appealing the rating can reference past films’ ratings for comparison. Therefore, Smith articulated his argument citing a graphic sex scene in *Taking Lives* (2004), rated R, as a counterpoint to the MPAA’s reasoning for an NC-17 rating based on thrusting (Knutson & Figueroa, 2008). Additionally, he referenced *Jackass*
(2002), also rated R, to dispute the “shit shot” (Knutson & Figueroa, 2008). *Jackass* (2002) is a feature length film based from a reality television show in which three young daredevils act out ridiculous and repulsive rituals on one another. In particular, the film has a ‘fart helmet’ sequence in which a cut away shot reveals a participant’s feces. Smith argued this *Jackass* (2002) scene is far worse than his, because it reveals actual human feces. In *Zack and Miri Make a Porno* (2008), the ‘shit’ is a special effect, yet the film is rated NC-17. Smith then left the room so the appeals board could cast their secret ballots. Surprisingly, the MPAA changed their rating to an R. Smith let out a sigh of relief.

**Spectrum.** The Weinstein Company financed *Zack and Miri Make a Porno* (2008) throughout its production and distribution phases. Thus, according to Table 1.1, Smith’s latest film (2008) is a minor studio film. The Weinstein Company is a vastly growing private entertainment company. Because the company is private, its yearly revenues are not required to be published. However, projected revenues have been reported in business publications such as CNN’s *Fortune* magazine. As Arango (2007) states, “In the business plan the company presented to prospective investors, the brothers and Goldman Sachs projected revenue of close to $500 million in 2006 and $1 billion in 2007. By 2010 the company projects revenue of $1.8 billion” (p. 84). These revenues are projected and therefore an estimate. However, even as estimates, these are large sums of money.

As mentioned, the company also retained the Dimension Films production company and has investments in other media outlets, such television programming. For example, the Weinstein Company produces Bravo network’s *Project Runway* (“Overview,” 2009). Consequently, the company has lost the original business objective to produce and distribute risky and countercultural films prior to merging with Disney. Arango (2007) further explains:

But they've yet to replicate their past success at wringing large profits from small movies, in part because Harvey had ambitions of conquering worlds beyond film. Therein lies the trouble. Harvey wanted to be a media titan, the next Rupert Murdoch, staking claims to the Internet, cable television, and fashion. As the acquisitions piled up - aSmallworld (a MySpace for the jet set), a piece of the cable network Ovation, the remnants of the Halston fashion house - box office suffered. (p. 84)

Others may argue the Weinstein Company supports risky films in citing its release of Moore’s latest documentary about the failing U.S. health care system, *Sicko* (2007). However, with past
lucrative success and a solid fan base, producing a Michael Moore film is far less risky than ever before. Although the Weinstein Company, and companies like it, operate on a smaller scale than media conglomerates, these minor studios are nonetheless following their business strategies using diversification, participating in joint ventures, and seeking profits.

**Content.** Profits are a driving force in film companies’ refusal to produce an NC-17 film. As discussed with *Clerks* (1994), films with NC-17 ratings generally are not screened in theaters, thus the loss of box office revenues. Additionally, video or DVD distribution deals with retailers becomes increasingly difficult, as many retailers, such as Wal-Mart and Blockbuster, will not carry NC-17 films. Therefore, when *Zack and Miri Make a Porno* (2008) was rated NC-17 after three submissions, it was vital that Smith successfully appeal the rating to an R. Had the appeal been unsuccessful, Smith would have been forced to cut the questionable scenes to the MPAA rating board’s standards to obtain the R-rating.

Once again, the economic environment in which the film was produced and distributed affects content. In this particular case, the Weinstein Company’s contract with Smith to fund *Zack and Miri* (2008) specifically outlined the film was to be rated R. Therefore, certain scenes in the film would never had been seen in theaters had the MPAA, a powerful organization in the film industry with political ties and vested interests, not overturned its decision. Films produced by *minor studios* are not free of restrictions often put upon films produced by major media conglomerates. Thus, the differentiation between actual *independent* film companies and *minor studios* is significant.
CHAPTER 5
CONCLUSION

This thesis examines the U.S. film industry from a political economic perspective to
determine the state of independent film in relation to ownership, financing, and content. Since its
conception, the film industry has been controlled by a small number of companies—that is, as an
oligopoly. As such, films produced outside the sphere of the majority have been labeled
‘independent.’ However, many of these ‘independent’ film companies either have been co-opted
into the conglomerate system or have adopted their business strategies to remain competitive in
the industry. Further, what classifies as an independent film is subjective. Thus, “The Definitions
of Independent Film” section summarizes academic and industry opinions to understand this
sector of the film industry. Three characteristics were considered: financial sources, budget, and
content. Therefore, to redefine ‘independent’ film, this thesis used a spectrum (Table 1.1)
encompassing each of these elements to analyze and reclassify three Kevin Smith films, Clerks
(1994), Dogma (1999), and Zack and Miri Make a Porno (2008) into one of five categories:
independent, somewhat independent, dependent, minor studio, and major studio. These films
were also analyzed in a political economic context examining barriers to entry and effects on
content.

Clerks (1994) was found to be a somewhat independent film, while Dogma (1999) and
Zack and Miri Make a Porno (2008) are minor studio films. With conglomerate-affiliated
financial backing, Clerks (1994) cannot be classified as an independent film. Although Dogma
(1999) was produced by Miramax and distributed outside the conglomerate system, its
distribution company is a dominating force in the industry with conglomerate tendencies. Zack
and Miri Make a Porno (2008) was funded entirely outside the conglomerate system; it too was
financed by a minor studio, The Weinstein Company, and therefore cannot be classified as
independent.

The analysis of these three films utilizes documentaries, personal writings, and director
commentaries of Kevin Smith to obtain background information for each of these films. These
research materials are useful, but provide second-hand perspectives of the filmmaking process,
which can be viewed as a limitation. The cast and crew, including Smith, give great detail and
reveal more than other filmmakers about industry processes, without which this case study would
not have been possible. However, the only documentary that provided an interview with Harvey Weinstein is *The Snowball Effect* (Benson, 2004). First-hand interviews with Kevin Smith, Michael Eisner, Harvey and Bob Weinstein would have been ideal. However, thesis research is not a high point in these Hollywood figures’ agendas.

The reclassification of these films is important because branding films funded inside or closely interrelated to a media conglomerate with massive market power and A-list corporate bank accounts as ‘independent’ is misleading to the American movie-going public. Wasko (2003) describes a defining characteristic for critical political economic analysis: “Critical political economy also follows the classical theorists’ emphasis on moral philosophy, including not only analysis of the economic system, but discussion of the policy problems and moral issues which arise from it” (p. 8). The moral issue in this case is that of deception.

The six conglomerate-owned ‘independent’ subsidiary film companies or ‘specialty film divisions’ deceiving audiences are: Time Warner (New Line Cinema), News Corporation (Fox Searchlight Pictures), General Electric (Focus Features), Walt Disney (Miramax), Viacom (Dreamworks), and Sony (Sony Pictures Classics). These six transnational, transindustrial media corporations presently control over 85% of the film industry (“2008 Studio Market Share Breakdown,” 2009). The ‘majors’ have massive market control and reach international audiences with the help of powerful private trade organizations that pressure the U.S. government to deregulate policies that were once implemented to ensure a diverse free market to replace them with regulations that meet their private interests, such as the expansion of copyright laws.

To better understand the current lack of diversity in the film market, a review of the literature assessed the history of the U.S. film industry with an understanding of the political and economic environment in which the film industry exists. The “Free Market Failure” section examined Adam Smith’s (1776/1931) theory of capitalism and the free market to understand its goals and logic. However, as seen throughout the history of the film industry in relationship to capitalist economics and politics throughout the 20th century, it became evident these goals have yet to be met and the free market is not diverse or free from political influence.

Media conglomerates infiltrated the independent film market in the early 1990s because independent film was prospering. However, the original goal of independent film is to resist the status quo and defy expectations through the communicative art of filmmaking, not producing profits. Unfortunately, over time ‘independent’ has become a brand intended to lure young
audiences to theaters under the false pretense they are viewing a film meant for niche audiences. In actuality, these ‘independent’ films are marketed and produced with full intentions of gaining profits from as large an audience as possible.

In the “Method” chapter, Mosco (1996) identifies three ‘entry points’ for the political economic analysis of communication: commodification, spatialization, and structuration. The U.S. film industry operates using each of these processes. Therefore, examining the effects of these processes in relation to the independent film brand raises important ethical and cultural issues.

Commodification refers to “the process of transforming use values into exchange values” (p. 141). Commodification occurs when a communication artifact, such as film, is not valued in society by its use, but rather by money. The U.S. film industry commodifies film in each stage of its production. In the scriptwriting process, the profit potential of the story determines whether the film will be made. Before a single frame is shot, various elements, including the involvement of famous actors or directors, are used to calculate profit estimations, which determine production and distribution budgets. During exhibition, box office revenues establish how successful the film is perceived to be. Even if a film that has no cultural value does well at the box office, it is often hailed in industry magazines and newspapers as a ‘must-see film’ or a ‘blockbuster hit.’ Simultaneously, if a film has high cultural value and does not do well in theaters, it is ostracized as a ‘flop.’ Media conglomerates produce, distribute, and exhibit films, while consumers watch, buy, and identify with films. Measuring a film’s worth through the dollar is problematic because its qualitative value to society cannot necessarily be measured in fiscal terms.

As pointed out in “The Focus on the Blockbuster” section, films produced out of the Hollywood studio system are focused around star power, special effects, and a film’s potential to be widely marketable and merchandisable. Therefore, when a film is lacking any of these characteristics, it is likely to either be marginalized, not produced, or financially unsuccessful. Wasko (1982) exemplifies the decreasing emphasis on film content and increasing emphasis on film commodification:

Film as a creative art form or communications medium has been less important to bankers than film as a commodity. Their interests have been, not only in film as a product in itself, but also in those valuable properties association with film companies (i.e., real
estate and other assets), in the film industry as a *market* for other products (e.g., sound equipment), or in the film business as one *component* of the diversified activities of large conglomerate organizations. (pp. 215-216)

Wasko (1982) explains from an investment point of view the ongoing tendency to subjugate a film’s subject matter and accentuate its monetary value. This tendency results in certain types of films being produced significantly more often than others, which then creates a norm that discredits and disenfranchises films that do not fulfill blockbuster characteristics.

Second, major film corporations have extensive corporate power and use corporate concentration business strategies to maintain high revenues and intensive market power. Thus, the spatialization process outlined by Mosco (1996) is also present within the film industry. As stated, 85.5% of the 2007 domestic film market share is controlled by six transnational, transindustrial, and oligopolistic media corporations. Additionally, as shown in the “Free Market Failure” section, these media conglomerates own an array of domestic and international subsidiary companies that are either directly affiliated with the distribution and exhibition of films, outside the film industry, or both, demonstrating the use of vertical and horizontal integration as well as globalization.

Furthermore, copyright regulation has surpassed the power of the consumer by placing policy decisions in the hands of those who have vested corporate interest, such as the MPA and the MPAA, rather than in the hands of consumers (McChesney, 1999). The film industry uses yet another form of corporate concentration, synergy. As demonstrated in “The Focus on the Blockbuster” section, major Hollywood studios are looking to produce films that will increase profits in all areas of the conglomerate corporation (Meehan, 2005). A film’s potential to be produced by a media conglomerate is based on whether profits can come from higher attendance at theme parks, merchandise sales, and a guaranteed audience for the sequel, just to name a few.

All of these business strategies create barriers to entry in the film industry. Without the power of market domination, ownership of multiple domestic and global subsidiary companies, political influence, and synergized profits, production companies which operate outside the media conglomerate system have a marginal chance of staying afloat in the corporate capitalist economy; therefore, minor studios work in conjunction with conglomerates as they adopt similar profit-seeking strategies to remain in business.
The differentiation between the *dependent* and *minor studio* category in the spectrum (Table 1.1) is a pertinent topic of discussion as some may view these studios as one in the same because each produces films labeled as ‘independent.’ However, the distinction between these types of studios is valid because conglomerate parent corporations do not own minor studios, whereas *dependent* films are financed by conglomerate subsidiary companies. Therefore, films produced or distributed by minor studios are more likely to be seen as independent of the conglomerate system. In spite of this, minor studios, such as The Weinstein Company, still have dominance in Hollywood because revenues are substantial, and these companies are diversifying. Additionally, films produced by minor studios are not immune to restrictions conglomerates inflict on the types of films they produce, as seen in the case of *Zack and Miri Make a Porno* (2008). Further research should explore a political economic history of minor studios to explain the rise of these companies and the films they produce in a political economic context.

A focus within structuration that is applicable to the film industry is in relation to hegemony. According to Mosco (1996),

…hegemony is the ongoing formation of both image and information to produce a map of common sense sufficiently persuasive to most people that it provides the social and cultural coordinates that define the ‘natural’ attitude of social life. (p. 242)

Social life, in terms of the film industry, is the ‘common sense’ expectations the movie-going public has about ‘natural’ aesthetics within film. Thus, highly advertised, star-studded, and special effect-filled expectations of film are created and perpetuated due to a lack of diversity in kinds of films produced. In this aspect, structuration explains the hegemonic effects from a lack of diversity in film content. The cultural effect of this lack of diversity is a research area in which future studies should focus.

Additionally, hegemony is a concept associated with social totality. Wasko (2003) explains, “Political economy is a holistic approach, or, in concrete terms, explores the relationship among commodities, institutions, social relations, and hegemony” (p. 8). In this aspect, the relationship between films and audiences is hegemonic in that audiences do not question the ‘independent’ label associated with a film. In essence, why people believe these films are independent is because they are told repeatedly in marketing campaigns and industry publications that these companies and the films they produce are independent. Therefore, the assumption that films that are ‘independent’ by industry standards are actually independent
becomes a ‘common sense’ and ‘natural’ certainty. Again, the co-optation and branding of ‘independent’ films is deceptive, misleading, and leaves a void in the market for actual independent films.

This void in the market is unmistakable and worrisome. Foreign films, lesbian and gay centered films, and progressive documentaries, among numerous others, are not prevalent or seemingly viable in the current U.S. film industry. Rather, as aforementioned, the types of films that dominate the market are blockbuster spectacles.

However, Anderson (2004) argues that the blockbuster mentality is actually hindering profit maximization in the film industry. Anderson’s (2004) “Long Tail” theory proposes that the sum of profits from many small niche markets surpasses profits from mainstream entertainment. Using Netflix statistics as evidence for his claim, Anderson (2004) states:

There are any number of equally attractive genres and subgenres neglected by the traditional DVD channels: foreign films, anime, independent movies, British television dramas, and old American TV sitcoms. These underserved markets make up a big chunk of Netflix rentals. Bollywood alone accounts for nearly 100,000 rentals each month. The availability of offbeat content drives new customers to Netflix - and anything that cuts the cost of customer acquisition is gold for a subscription business. Thus the company's first lesson: Embrace niches. (¶ 35)

While the “Long Tail” theory is far more complex than explicated above, the fact of the matter is that there are profitable film markets that are underserved because of the focus on producing blockbuster films.

In addition to Anderson’s (2004) theory, the rise of digital technology is promising for the rise of niche, non-conglomerate related film production. The cost of camera and sound equipment has decreased sufficiently in the last decade. Also, the development and access to user-friendly editing software is more prevalent than ever before. The rise of the Internet and the ability to create private domains also creates a medium in which independent media can be viewed by the world.

While these outlets have potential, the facts remain that the U.S. film industry operates as an oligopoly. This thesis uses Kevin Smith films as a case study to examine the media conglomerate co-optation of independent film. ‘Independent’ films have become products rather than cultural expressions that challenge views and represent the many voices of a true
democracy. Without the recognition of this shift, the movie-going public will continue participating in a corporate hegemonic effect that silences the cultural art that is independent filmmaking.
REFERENCES


BIOGRAPHICAL SKETCH

Grace Kathleen Keenan, known by friends and family as Katie, is a self-proclaimed Kevin Smith dork, as well as a fan of film in general. She was born on June 6, 1984 in scenic Hilton Head Island, South Carolina. Graduating from her undergraduate program in three years, she received her B.A. in English Literature in the summer of 2005 from Florida State University in Tallahassee, Florida. After receiving her M.A. in Media and Communication Studies, she hopes to continue her academic career in multiple areas of study including film and television studies, political economy of communication, public speaking, and education.