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COMMENT

Hollywood's Red Dawn: China's Restrictions on American Film

*Taylor Shortal**

ABSTRACT

The Chinese film market has undergone unprecedented expansion in the past 17 years. As North American box office revenues drop, Hollywood film studios often rely on the Chinese market to balance the costs of blockbuster films. However, Beijing maintains strict regulations on China's film imports, including annual quotas on the number of foreign films released, and limits on the share of grosses. Hollywood studios can receive from their films, and content censorship based on Communist Party directives. Many of these regulations are designed to incentivize Hollywood studios to co-produce films with Chinese companies. Through co-production agreements, Beijing anticipates that Chinese filmmakers will eventually gain enough experience to replace their American collaborators. Faced with these restrictions, Hollywood studios and U.S. officials have several options to negotiate for fewer trade barriers, or to retaliate with restrictions of their own.

*Taylor Shortal is a dual degree-seeking graduate student at the University of Missouri School of Law and the School of Journalism. He was born in St. Louis, Missouri, and grew up in Columbia, Missouri.

I. INTRODUCTION

In 2011, MGM Studios decided to overhaul one of its productions.¹ Although filming and editing were complete, no studio had agreed to distribute the film, and it sat on the shelf without a planned release date.² The film — *Red Dawn* — was a remake of John Milius's 1984 cult classic.³

Made at the height of the Cold War, the original story followed several American teenagers, led by Patrick Swayze and Charlie Sheen, who retreat into the Colorado mountains to launch a guerilla war against invading Soviet forces.⁴ For the remake, the teenagers, now led by Chris Hemsworth, were no longer fighting Russian antagonists, but the Chinese military.⁵ The change drew scorn from Chinese media outlets. *The Global Times*,⁶ a newspaper distributed by the Chinese Communist Party's flagship publisher,⁷ derided the unreleased film for "demonizing" the Chinese government.⁸

At the time, China was the fastest-growing film market in the world,⁹ and the decision-making hub of the Communist state in Beijing only allowed a limited number of foreign films to be released in the nation.¹⁰ Hollywood distributors, fearing a loss of market access, refused to back the theatrical release of *Red Dawn*, even in the U.S.¹¹ To appease distributors, MGM devoted \$1 million to re-edits, reshoots, and digital alterations.¹² All references to the Chinese government were systematically erased.¹³ Through movie magic, the antagonists were no longer Chinese, but North Korean.¹⁴ The film was eventually released in the U.S., but China never selected it for distribution.¹⁵ Although *Red Dawn* intended to show China's military power, it now stands as an example of the country's far-reaching economic power.

1. Dan Bigman, *Why Do North Koreans Invade the U.S. In 'Red Dawn' Remake? For The Money, Of Course*, FORBES (Nov. 21, 2012, 3:32 PM), <https://www.forbes.com/sites/dan-bigman/2012/11/21/why-do-north-koreans-invade-the-u-s-in-red-dawn-remake-for-the-money/#278b42099dea>.

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. Snejana Farberov, *Producers behind Red Dawn remake swapped Chinese flags and insignia for North Korean ones for fear of losing out on billion-dollar box office*, DAILY MAIL ONLINE (Nov. 23, 2012), <http://www.dailymail.co.uk/news/article-2237717/Red-Dawn-remake-swapped-Chinese-flags-insignia-North-Korean-ones-fear-losing-billion-dollar-box-office.html>.

7. Zheping Huang, *Inside the Global Times, China's hawkish, belligerent state tabloid*, QUARTZ (Aug. 9, 2016), <https://qz.com/745577/inside-the-global-times-chinas-hawkish-belligerent-state-tabloid/>.

8. Farberov, *supra* note 6.

9. Bigman, *supra* note 1.

10. Chris Schrader, *'Red Dawn' Villains Switched from China to North Korea*, SCREEN RANT (Mar. 16, 2011), <https://screenrant.com/red-dawn-villains-china-north-korea/>.

11. *Id.*

12. *Id.*

13. Farberov, *supra* note 6.

14. *Id.*

15. Sean O'Connor & Nicholas Armstrong, *Directed by Hollywood, Edited by China: How China's Censorship and Influence Affect Films Worldwide*, U.S.-CHINA ECON. & SECURITY REV. COMMISSION 12 (Oct. 28, 2015), <https://www.uscc.gov/sites/default/files/Research/Directed%20by%20Hollywood%20Edited%20by%20China.pdf>.

China was ranked fifth internationally in box office grosses when MGM decided to refashion *Red Dawn*.¹⁶ For several years, industry analysts have expected China to surpass the U.S. and become the largest film market in the world.¹⁷ Films produced in China are currently outperforming American imports at the Chinese box office.¹⁸ This success is partially the result of protectionist quotas and release controls blocking U.S. films from competing during the busiest movie-going seasons.¹⁹ However, Hollywood studios are still able to find success in China during the decline of the U.S. market. Movies such as *XXX: The Return of Xander Cage* and *Warcraft*, although financial disappointments in the U.S., became box office hits because of their popularity in China.²⁰

This has led to increasing pressure on Hollywood to export films to China.²¹ Complying with Beijing's censorship standards has become vital for studios, affecting everything from the inclusion of certain actors,²² and pro-Chinese government messages,²³ to the exclusion of religious themes,²⁴ and same-sex relationships.²⁵ To evade quotas and other restrictions, Hollywood studios have pursued more co-productions with Chinese studios, which often carry conditions on casting, filming locations, and transfers of filmmaking technology.²⁶

Beijing's system for incentivizing co-productions is intended to facilitate greater Chinese familiarity with Hollywood techniques in the hopes that domestic filmmakers will eventually surpass Hollywood's dominance in visual effects-driven films.²⁷ In pursuit of short term gains, Hollywood studios have been largely complicit in a process designed to one day replace them.²⁸

The growing reliance on China to recoup inflating film budgets has left Hollywood at a strategic disadvantage in negotiating for reduced Chinese regulations. But Hollywood is not without possible solutions. Several courses of action are available, including boycotting the Chinese market, retaliatory trade restrictions, and moving to exclude Chinese films from foreign markets. Each possible solution carries po-

16. Schrader, *supra* note 10.

17. Hollie McKay, *Could China's growing influence in Hollywood affect Christian-themed movies?*, FOX NEWS (June 18, 2013), <http://www.foxnews.com/entertainment/2013/06/18/could-chinas-growing-influence-in-hollywood-affect-christian-themed-movies.html>.

18. Cheang Ming, *China is acting blatantly protectionist in an industry that's hugely important to the US*, CNBC (Aug. 3, 2017, 9:51 PM), <https://www.cnbc.com/2017/08/03/hollywood-blackout-china-is-giving-domestically-made-films-a-boost.html>.

19. *Id.*

20. Ashley Rodriguez, *Who the hell watched "Warcraft"? China is fueling the market for overdone Hollywood action movies*, QUARTZ (Mar. 28, 2017), <https://qz.com/943799/who-the-hell-watched-warcraft-china-is-fueling-the-market-for-overdone-hollywood-action-movies/>.

21. O'Connor & Armstrong, *supra* note 15, at 7.

22. Hannah Beech, *How China is Remaking the Global Film Industry*, TIME (Jan. 26, 2017), <http://time.com/4649913/china-remaking-global-film-industry/>.

23. Joanna Robinson, *Did You Catch All the Ways Hollywood Pandered to China This Year?*, VANITY FAIR (Aug. 5, 2016, 8:00 AM), <https://www.vanityfair.com/hollywood/2016/08/did-you-catch-the-ways-hollywood-pandered-to-china-this-year>.

24. McKay, *supra* note 17.

25. Robinson, *supra* note 23.

26. O'Connor & Armstrong, *supra* note 15, at 8–9.

27. Nancy Tartaglione, *Hollywood & China: Does Donald Trump's Trade Probe Impact The Film Industry?*, DEADLINE (Aug. 15, 2017, 1:24 PM), <http://deadline.com/2017/08/donald-trump-trade-investigation-hollywood-impact-1202149101/>.

28. *Id.*

tential risks and rewards. This article recommends implementing an inclusive solution to increase co-productions with Chinese filmmakers, while limiting Chinese investments in American media.

II. THE EXPANSION OF THE CHINESE FILM ECONOMY

China's rise has been swift. In 2017, total box office grosses in the country passed \$7.55 billion for the first time — over fifty times China's annual box office revenue in 2000.²⁹ In 2015, there were only 5,600 movie theaters for the nation's 1.3 billion people.³⁰ By 2017, the number of theaters reached parity with the U.S. at approximately 40,000.³¹ At one point, an average of 15 new movie screens were built a day.³² By contrast, American theater attendance is declining, with ticket sales in the summer of 2017 falling to their lowest point in 25 years.³³

The expansion of the Chinese film market has been fueled by several factors. The country's middle class has grown rapidly, with the per capita gross domestic product rising from under \$1,000 in 2000 to over \$7,500 in 2014.³⁴ Chinese moviegoers are also younger. Unlike in the U.S., where the average audience member is over 30, the typical ticket buyer in China is just 22.³⁵ With high levels of disposable income,³⁶ younger Chinese audiences, who view film exhibitions as social events,³⁷ are spiking ticket sales.

The rise in Chinese box office sales has also been caused by the rise in American film imports. In the late 1940s, Hollywood led the Chinese market.³⁸ Just after World War II, 67% of movies released in Shanghai were imported from the U.S.³⁹ After the Communist Revolution, however, China closed itself to foreign films.⁴⁰ State media ridiculed American films as being “imperial poison” sedating the Chinese public with “sex and legs.”⁴¹ For years, theatrical offerings were limited to Communist propaganda films.⁴² By the 1990s, film attendance in China dwindled, falling 79% from 1982 to 1991.⁴³ Wanting to boost box office sales, Beijing returned to importing films.⁴⁴ In 1994, the American thriller, *The Fugitive*, starring

29. Patrick Frater, *China's Box Office Passes \$7.5 Billion Landmark*, VARIETY (Nov. 20, 2017, 5:53 PM), <http://variety.com/2017/film/asia/china-box-office-landmark-1202620166/>.

30. O'Connor & Armstrong, *supra* note 15, at 6.

31. Daniel Allen, *Lights, Camera, Approval – China's New Film Law*, EASTWESTBANK (Jan. 9, 2017), <https://www.eastwestbank.com/ReachFurther/News/Article/Lights-Camera-Approval-Chinas-New-Film-Law>.

32. O'Connor & Armstrong, *supra* note 15, at 6.

33. Anthony D'Alessandro, *How Will Studios End the Lowest Summer In 25 Years? By Not Opening Any Wide Releases Over Labor Day*, DEADLINE (Aug. 14, 2017, 4:44 PM), <http://deadline.com/2017/08/labor-day-weekend-box-office-no-major-studio-releases-25-years-years-worst-summer-box-office-1202148544/>.

34. O'Connor & Armstrong, *supra* note 15, at 5.

35. Allen, *supra* note 31.

36. O'Connor & Armstrong, *supra* note 15, at 5–6.

37. Allen, *supra* note 31.

38. KERRY SEAGRAVE, AMERICAN FILMS BROAD: HOLLYWOOD'S DOMINATION OF THE WORLD'S MOVIE SCREENS 158 (McFarland & Company, Inc. ed., 1st ed. 1997).

39. *Id.*

40. *Id.*

41. *Id.*

42. O'Connor & Armstrong, *supra* note 15, at 5.

43. *Id.*

44. *Id.*

Harrison Ford, opened to large Chinese fanfare.⁴⁵ The “historic” release proved financially successful both for the American studio and Chinese theaters, grossing just under \$3 million in China.⁴⁶

Twenty years later, American releases grossed over \$2 billion in China,⁴⁷ accounting for 25% of the country’s box office revenue from 2008 to 2014.⁴⁸ As theatrical attendance in North America falls, and budgets for American blockbusters increase, Hollywood studios are becoming dependent on the international market to recover costs.⁴⁹ In 2014, over 70% of the revenue made by the six largest Hollywood film studios came from foreign markets.⁵⁰ Billion-dollar blockbusters, like Vin Diesel’s car chase spy film, *The Fate of the Furious*, grossed \$393 million in China, while also generating \$226 million in North America.⁵¹ Other high-budget films, including Guillermo del Toro’s giant monster movie, *Pacific Rim*,⁵² and Duncan Jones’s video game adaptation, *Warcraft*, have relied on Chinese audiences to recover from financial losses in North America.⁵³ Domestic disappointments like *XXX: The Return of Xander Cage*,⁵⁴ and *Resident Evil: The Final Chapter*,⁵⁵ failed to crack \$50 million in North America. In China, however, both films grossed more than the Chinese theatrical run of *Star Wars: The Force Awakens*.⁵⁶

In some instances, American imports have faced intense competition from Chinese domestically produced films.⁵⁷ In 2017, with a \$31 million budget,⁵⁸ *Wolf Warriors 2*, a film about a Chinese special ops veteran battling American mercenaries, grossed \$810 million in China.⁵⁹ The film featured an international crew with Joe and Anthony Russo, directors of *Captain America: Winter Soldier* and *Captain America: Civil War*, working as consultants.⁶⁰ Other Chinese films have also generated success by attracting Hollywood filmmakers. Reny Harlin, director of *Die Hard 2: Die Harder* and *Deep Blue Sea*, spearheaded the Chinese production of *Skiptrace*, a buddy action comedy starring Jackie Chan and Johnny Knoxville.⁶¹ Made on a \$30 million budget, the film earned \$130 million in China.⁶²

45. *Id.*

46. *Id.*

47. *Id.* at 7.

48. *Id.* at 6.

49. *Id.* at 7.

50. *Id.*

51. Paul Schrodt, *Hollywood's big bet on China is backfiring*, OUTLINE (Sept. 6, 2017, 1:33 PM), <https://theoutline.com/post/2212/hollywood-s-big-bet-on-china-is-backfiring>.

52. Nikki Finke, *'Pacific Rim' \$9M Opening In China Biggest Ever For Warner Bros: Sequel Likely Now*, DEADLINE (July 31, 2013, 4:48 PM), <http://deadline.com/2013/07/pacific-rim-9m-opening-in-china-biggest-ever-for-warner-bros-sequel-likely-553878/>.

53. Schrodt, *supra* note 51.

54. *XXX: The Return of Xander Cage*, BOX OFF. MOJO, <http://www.boxofficemojo.com/movies/?id=xxx3.htm> (last visited Nov. 22, 2017).

55. *Resident Evil: The Final Chapter*, BOX OFF. MOJO, <http://www.boxofficemojo.com/movies/?id=residentevil6.htm> (last visited Nov. 23, 2017).

56. Rodriguez, *supra* note 20.

57. Patrick Frater, *'Wolf Warrior II's' Massive Success Forces Studios to Rethink China Approach*, VARIETY (Aug. 31, 2017, 10:00 AM), <http://variety.com/2017/biz/news/china-wolf-warrior-ii-1202543266/>.

58. *Wolf Warrior 2*, BOX OFF. MOJO, <http://www.boxofficemojo.com/movies/?id=wolfwarrior2.htm> (last visited Nov. 23, 2017).

59. Frater, *supra* note 57.

60. *Id.*

61. Beech, *supra* note 22.

62. *Id.*

Despite filmmaking advances, Chinese productions still trail behind Hollywood technologically.⁶³ Beijing hopes to grow China's film industry by incentivizing partnerships between Chinese filmmakers and Hollywood studios.⁶⁴ The government's aspirations are primarily geopolitical. China's 13th Five Year Plan for the nation's future emphasized developing its domestic film industry to broadcast nationalist and socialist values.⁶⁵ But Beijing's ambitions are not limited to its own borders. Chinese President Xi Jinping has urged China to create a "global creative industry."⁶⁶ Beijing's "Belt and Road Initiative" avows to position China as the center of global culture by interconnecting dozens of economies across Asia, Europe, and Africa.⁶⁷ Chinese officials signed cultural exchange agreements with fifteen members of the Belt and Road Initiative to hold annual film festivals and create a common "cultural link."⁶⁸ Additionally, Beijing is developing a film treaty with Japan, the world's third-largest film market, to strengthen cultural ties between the two nations.⁶⁹

Beijing's international proposals are ambitious, but the current export market for Chinese films is small.⁷⁰ The majority of movie screens in other countries are still dominated by American films,⁷¹ and mainstream distributors in Western countries have declined to purchase Chinese exports.⁷² Moreover, Chinese productions often fall into genres unpopular with international critics.⁷³ Chinese comedies, romances, and patriotic political dramas — though hits at home — have struggled to win selection in European film festivals.⁷⁴ In North America, audience distaste for dubbing and subtitles has fueled a trade imbalance in theatrical releases, with foreign films comprising less than 1% of U.S. box office revenue.⁷⁵ China's biggest blockbuster of all time, *Wolf Warrior 2*, earned only \$2 million in North America.⁷⁶ Even *The Flowers of War*, a \$100 million prestige epic starring Christian Bale about the Nanking Massacre, grossed only \$311,000 in the U.S.⁷⁷

63. Allen, *supra* note 31.

64. O'Connor & Armstrong, *supra* note 15, at 6.

65. David Gitter & Eisa Kania, *US-China Frictions in Film: Hollywood With Chinese Characteristics*, DIPLOMAT (Dec. 29, 2016), <https://thediplomat.com/2016/12/us-china-frictions-in-film-hollywood-with-chinese-characteristics/>.

66. Beech, *supra* note 22.

67. Vivienne Chow, *China's Silk Road Initiative Could Have Far-Reaching Consequences for Entertainment Industry*, VARIETY (Sept. 13, 2017, 8:00 AM), <http://variety.com/2017/biz/news/silk-road-infrastructure-initiative-1202555743/>.

68. *Id.*

69. Patrick Brzeski, *Tokyo Film Festival: Japan, China Working Toward Landmark Co-Production Treaty*, HOLLYWOOD REP. (Oct. 25, 2017, 11:42 PM), <https://www.hollywoodreporter.com/news/tokyo-film-festival-japan-china-working-landmark-production-treaty-1051991>.

70. Stephen Galloway, *How Hollywood Conquered the World (All Over Again)*, FOREIGN POL'Y (Feb. 24, 2012, 12:17 AM), <http://foreignpolicy.com/2012/02/24/how-hollywood-conquered-the-world-all-over-again/>.

71. *Id.*

72. *Chinese Films Off the Radar at Cannes, but Korean Movies Flourish*, HKTDC RES. (May 24, 2016), <http://economists-pick-research.hktdc.com/business-news/article/International-Market-News/Chinese-Films-Off-the-Radar-at-Cannes-but-Korean-Movies-Flourish/imn/en/1/1X000000/1X0A682A.htm>.

73. *Id.*

74. *Id.*

75. Galloway, *supra* note 70.

76. *Wolf Warrior 2*, *supra* note 58.

77. Beech, *supra* note 22.

Private and state-owned Chinese companies have been more successful at entering international film finance and film exhibition.⁷⁸ Since 2012, real estate and entertainment giant, Dalian Wanda — founded by China's richest man, Wang Jianlin — has acquired both AMC Theaters,⁷⁹ and Europe's largest theater chain, Odeon & UCI.⁸⁰ In 2016, Wanda moved further into the international film market with the \$3.5 billion purchase of Legendary Entertainment, the studio behind *Jurassic World*,⁸¹ the 2014 American remake of *Godzilla*,⁸² and Christopher Nolan's *Dark Knight* trilogy.⁸³ A former executive for the Weinstein Company, which worked with Wanda to finance the Jake Gyllenhaal boxing drama, *Southpaw*, said Wanda representatives "were on set and involved in production, postproduction, marketing, everything," because "they wanted to learn how we do what we do."⁸⁴ Wanda officials said its investments in the U.S. were intended to support "China's entry into Hollywood's film industry and generally promote Chinese culture abroad."⁸⁵

Other Chinese companies are backing American productions as well, with hundreds of millions infused into films ranging from *Teenage Mutant Ninja Turtles*, *Star Trek: Beyond*, and the Leonardo DiCaprio wilderness survival thriller, *The Revenant*.⁸⁶ While international buyers ignore Chinese films, American studios are eager to receive Chinese producers as new financial partners.

III. RESTRICTIONS ON AMERICAN FILM IMPORTS

As budgets for Hollywood films rise, pressure mounts on American studios to release films into China.⁸⁷ However, Hollywood films face numerous barriers to succeed in China, including content censorship from Communist Party members,⁸⁸ and quotas restricting the number of foreign films that can be imported.⁸⁹ Additionally, Hollywood studios have no control over their film's release schedules,⁹⁰ and face mandated ceilings on the percentage of box office profits they can receive.⁹¹ The only option available for Hollywood studios hoping to evade import quotas and increase their share of box office revenue is to "co-produce" a film with a Chinese

78. *Chinese Films Off the Radar at Cannes, but Korean Movies Flourish*, *supra* note 72.

79. Edward Wong, *Chinese Purchases of U.S. Companies Have Some in Congress Raising Eyebrows*, N.Y. TIMES (Sept. 30, 2016), <https://www.nytimes.com/2016/10/01/world/asia/china-us-foreign-acquisition-dalian-wanda.html>.

80. Beech, *supra* note 22.

81. *Id.*

82. Brooks Barnes, *Dalian Wanda of China Offers a Carrot to Hollywood*, N.Y. TIMES (Oct. 17, 2016), <https://www.nytimes.com/2016/10/18/business/media/dalian-wanda-goes-on-an-entertainment-shopping-spreed.html>.

83. Frederik Balfour & Ronald Grover, *China and Hollywood Team Up for More Co-Productions*, BLOOMBERG BUSINESSWEEK (Sept. 8, 2011, 5:15 PM), <https://www.bloomberg.com/news/articles/2011-09-08/china-and-hollywood-team-up-for-more-co-productions>.

84. O'Connor & Armstrong, *supra* note 15, at 6.

85. Balfour & Grover, *supra* note 83.

86. *Chinese Films Off the Radar at Cannes, but Korean Movies Flourish*, *supra* note 72.

87. Schrodt, *supra* note 51.

88. O'Connor & Armstrong, *supra* note 15, at 9.

89. Gitter & Kania, *supra* note 65.

90. Ming, *supra* note 18.

91. Gitter & Kania, *supra* note 65.

studio.⁹² Co-productions, however, carry additional regulations and remain subject to censorship by state agencies who can still refuse to distribute the film.⁹³

A. Censorship

All films, television programs, and other entertainment goods distributed in China must be approved by the State Administration of Press Publication Radio Film and Television (“SAPPRFT”).⁹⁴ Films with elements opposed by SAPPRFT censors must be re-edited or suffer prohibition from the Chinese market.⁹⁵ The authority of SAPPRFT is far sweeping, with statutory mandates ensuring Chinese Communist Party objectives are enforced.⁹⁶ SAPPRFT is exclusively staffed by Communist Party members,⁹⁷ and the agency’s own directives forbid films from violating the Chinese Constitution or social morality.⁹⁸ Content deemed unacceptable by SAPPRFT has included crime, violence,⁹⁹ nudity, homosexuality,¹⁰⁰ religious themes,¹⁰¹ ghosts, and time travel.¹⁰² Films are also generally barred from depicting China in any negative light.¹⁰³

SAPPRFT censorship has resulted in numerous edits to American films. SAPPRFT resistance to violent imagery in *Django Unchained* lead director Quentin Tarantino to make significant cuts to the film.¹⁰⁴ Disgruntled by the edits, Tarantino urged Chinese fans to pirate an uncensored version of the film instead of watching the theatrical cut.¹⁰⁵ Likewise, the 3D re-release of *Titanic* underwent edits to conceal Kate Winslet during her famous nude scene.¹⁰⁶ Chinese Government officials said, “[c]onsidering the vivid 3D effects, we fear viewers may reach out their hands for a touch and thus interrupt other people’s viewing.”¹⁰⁷

While concerns over sexuality and violence are well-known in Hollywood, American studios often have difficulty anticipating what will be censored.¹⁰⁸ Despite Chinese and American studios working together to co-produce the 2010 remake of *Karate Kid*, starring Jackie Chan, the film was not authorized for release initially because the story’s villain was a Chinese national.¹⁰⁹ With *Pirates of the*

92. O’Connor & Armstrong, *supra* note 15, at 8.

93. *Id.* at 4.

94. *Id.* at 9.

95. *Hollywood and China’s Unequal Affair*, COUNCIL ON FOREIGN REL. (Apr. 13, 2017), <https://www.cfr.org/blog/hollywood-and-chinas-unequal-affair>.

96. O’Connor & Armstrong, *supra* note 15, at 9.

97. *Id.*

98. *Id.*

99. Rudie Obias, *10 Movies That Were Banned in China*, MENTAL FLOSS (July 14, 2016), <http://mentalfloss.com/article/83136/10-movies-were-banned-china>.

100. Patrick Frater, *China’s Art House Alliance Strives to Increase Film Diversity*, VARIETY (Sept. 13, 2017, 8:15 AM), <http://variety.com/2017/biz/news/china-art-house-alliance-sapprft-1202555749/>.

101. McKay, *supra* note 17.

102. Obias, *supra* note 99.

103. Gitter & Kania, *supra* note 65.

104. *Hollywood and China’s Unequal Affair*, *supra* note 95.

105. *Id.*

106. Aaron Couch, *Cut, Censored, Changed: 10 Hollywood Films Tweaked for International Release*, HOLLYWOOD REP. (Jan. 23, 2013, 7:52 PM), <https://www.hollywoodreporter.com/gallery/cut-censored-changed-10-hollywood-414099/1-lincoln>.

107. *Id.*

108. O’Connor & Armstrong, *supra* note 15, at 11.

109. *Id.*

Caribbean: At World's End, Chinese audiences had difficulty following the plot after several scenes featuring rival pirate captain, Chow-Yun Fat, were deleted.¹¹⁰ The inclusion of Fat's character constituted "vilifying and defacing the Chinese," according to SAPPRT.¹¹¹ Further, state censorship extends to how non-villainous Chinese characters are treated by other fictional characters. For the James Bond film, *Skyfall*, SAPPRT required the exclusion of a scene showing a Chinese security guard being killed by one of 007's enemies.¹¹² Even portrayals of Chinese standards of living can draw SAPPRT's ire. Shots of laundry drying on clotheslines in Shanghai were altered in *Mission: Impossible 3* after censors determined the images negatively depicted the city.¹¹³

Further puzzling filmmakers, SAPPRT's censorship is unpredictable and abstract. *Avatar* was originally denied distribution because of its rebellious political themes,¹¹⁴ and was only released after protests.¹¹⁵ *Men in Black III* could only be opened in China after omitting a scene where civilians' memories were erased because, in an ironic twist, the scene could have been interpreted as social commentary on Chinese state censorship.¹¹⁶

Meanwhile, films that retain dissident content over SAPPRT's disapproval, including *Brokeback Mountain* and *The Departed*, are blocked.¹¹⁷ Some films, because of their premise alone, could not be re-edited to appease censors. The Biblical epic, *Noah*, starring Russel Crowe, was barred to enforce the nation's status as a "defiantly secular" society.¹¹⁸ Likewise, the remake of *Ghostbusters* was rejected because media in China are not allowed to "promote cults or superstition."¹¹⁹ True stories have also failed to pass SAPPRT's restrictions.¹²⁰ *Captain Phillips*, the biographical account of a sea captain rescued from Somali pirates by U.S. Navy SEALs, was denied market access for depicting "the big [m]ilitary machine of the U.S. saving one U.S. citizen."¹²¹ By contrast, censors assured, "China would never [use military force to save just one citizen] and in no way would want to promote this idea."¹²² Despite it being decades too late to be reshot or rewritten, *Top Gun* was also barred when re-released in 3D because the fighter pilot film depicted American military might.¹²³ Fellow 1980s classic, *Back to the Future*, suffered a similar fate when dropped from television programming,¹²⁴ because time-travel presented a "disrespectful portrayal of history."¹²⁵

110. *Hollywood and China's Unequal Affair*, *supra* note 95.

111. *Id.*

112. Couch, *supra* note 106.

113. O'Connor & Armstrong, *supra* note 15, at 11.

114. Obias, *supra* note 99.

115. Galloway, *supra* note 70.

116. O'Connor & Armstrong, *supra* note 15, at 11.

117. *Id.* at 9.

118. Obias, *supra* note 99.

119. *Id.*

120. O'Connor & Armstrong, *supra* note 15, at 11.

121. *Id.* at 12.

122. *Id.*

123. *Id.* at 11.

124. Richard Hartley-Parkinson, *Great Scott! China ban films and TV shows featuring time travel (just in case anyone wants to rewrite history)*, DAILY MAIL ONLINE (Apr. 15, 2011, 9:19 AM), <http://www.dailymail.co.uk/news/article-1376771/Great-Scott-China-bans-time-travel-cinema-TV.html>.

125. Obias, *supra* note 99.

Furthermore, films overtly critical of the Chinese government are, of course, outlawed.¹²⁶ Both *Seven Years in Tibet* and its star, Brad Pitt, were banned from the country because the film positively depicted the Dalai Lama.¹²⁷ Martin Scorsese and his film, *Kundun*, were both prohibited for the same reason.¹²⁸ *Red Corner*, starring Richard Gere, portrayed an American wrongfully accused of murder in China,¹²⁹ and was also banned for its unfavorable portrayal of the government's legal system.¹³⁰ Furthermore, Gere, a long-time advocate for Tibetan independence, has been blacklisted by Hollywood studios because Chinese officials refuse to import his films.¹³¹ Fearing similar reprisals, the filmmakers behind the Marvel film, *Dr. Strange*, purged the screenplay of all references to Tibet,¹³² and even cast a European actress as a character originally intended to be Tibetan.¹³³

Self-censorship in Hollywood often progresses beyond the script stage.¹³⁴ In *Star Trek: Beyond*, a shot displaying John Choo's character, Sulu, kissing another man was cut by the studio anticipating state censorship.¹³⁵ Moreover, emails leaked from Sony illustrate how the studio axed a scene in the Adam Sandler comedy, *Pixels*, where the Great Wall was attacked by 1980s arcade game characters.¹³⁶ For the remake of *Red Dawn*, the alterations were, of course, far more comprehensive.¹³⁷ And, in the case of *The Dark Knight*, Warner Brothers declined to even screen the film for state officials, with commentators speculating that scenes where Batman captured a Chinese villain in Hong Kong may have been perceived as offensive.¹³⁸

China's censorship has established a powerful chilling effect over Hollywood productions.¹³⁹ This prevents audiences from seeing various forms of artistic expression and social commentary.¹⁴⁰ Presented with the choice, however, Hollywood studios elect to suppress the creative intentions of a filmmaker, rather than lose billions in box office revenue from Chinese cinemagoers.¹⁴¹

B. Import Quotas and Release Controls

Hollywood studios are further pressured to engage in self-censorship because only a limited number of foreign films are imported into China.¹⁴² Studios rushing

126. *Hollywood and China's Unequal Affair*, *supra* note 95.

127. Erica Ho, *Can Hollywood Afford to Make Films China Doesn't Like?*, TIME (May 25, 2011), <http://content.time.com/time/world/article/0,8599,2072194,00.html>.

128. O'Connor & Armstrong, *supra* note 15, at 12.

129. Tatiana Siegel, *Richard Gere's Studio Exile: Why His Hollywood Career Took an Indie Turn*, HOLLYWOOD REP. (Apr. 18, 2017, 6:10 AM), <https://www.hollywoodreporter.com/features/richard-gere-studio-exile-why-his-hollywood-career-took-an-indie-turn-992258>.

130. *Hollywood and China's Unequal Affair*, *supra* note 95.

131. Siegel, *supra* note 129.

132. *Hollywood and China's Unequal Affair*, *supra* note 95.

133. Beech, *supra* note 22.

134. *Hollywood and China's Unequal Affair*, *supra* note 95.

135. Robinson, *supra* note 23.

136. *Hollywood and China's Unequal Affair*, *supra* note 95.

137. Ho, *supra* note 127.

138. Obias, *supra* note 99.

139. O'Connor & Armstrong, *supra* note 15, at 11–13.

140. *Hollywood and China's Unequal Affair*, *supra* note 95.

141. O'Connor & Armstrong, *supra* note 15, at 12.

142. *Id.*

to accommodate the sensibilities of Chinese censors may still find their films rejected.¹⁴³ This was the case for the remake of *Red Dawn*. Although the film underwent substantial plot alterations, it failed to be selected by state authorities for release.¹⁴⁴

Foreign films imported into China face two separate quotas: approximately 40 flat-fee films,¹⁴⁵ and 34 revenue-sharing films.¹⁴⁶ Flat-fee films are sold from American studios to Chinese exhibitors for a single sum.¹⁴⁷ American studios do not receive box office returns from flat-fee imports and the films are sold at prices significantly under market value.¹⁴⁸ Conversely, for revenue-sharing films, Hollywood studios may receive up to 25% of Chinese ticket sale revenue.¹⁴⁹ However, this is still far below the share studios would receive from U.S. theaters, which typically ranges between 55% and 60%.¹⁵⁰

Moreover, American studio profits can be drastically affected by the lack of control over the release date of revenue-sharing films. Foreign films are typically blocked from Chinese exhibition during peak periods of attendance, like during the summer months.¹⁵¹ Additionally, Hollywood films with overlapping audiences are sometimes pitted against each other.¹⁵² In 2015, *Pixels* and *Minions* were released just two days apart, cutting box office attendance short for both films.¹⁵³ The unpredictability of release scheduling can also deprive studios of a chance to effectively market their films.¹⁵⁴ Meanwhile, Beijing can ensure Chinese theaters grant preference to domestic films. For the release of *The Founding of an Army*, a dramatization of how the People's Liberation Army was formed in the 1920s, state officials required every film exhibitor in China to show the film on at least 45% of their screens.¹⁵⁵

Though the quota on revenue-sharing imports rose from 10 films annually in the 1990s,¹⁵⁶ to 20 in first decade of the 2000s,¹⁵⁷ the U.S. government still challenged Beijing's import restrictions in a 2007 claim brought to the World Trade Organization ("WTO").¹⁵⁸ The WTO is an international organization designed to encourage normalized trade relations between member nations and reduce protectionist economic policies across national borders.¹⁵⁹ In 2009, the WTO ruled in fa-

143. *Id.*

144. *Id.*

145. *Id.* at 5.

146. Schrodt, *supra* note 51.

147. O'Connor & Armstrong, *supra* note 15, at 4.

148. *Id.*

149. Schrodt, *supra* note 51.

150. Jake Jones & Katherine Biek, *Some theaters may not show 'The Last Jedi' due to Disney Demands*, WPTV WEST PALM BEACH (Nov. 6, 2017, 1:27 PM), <http://www.wptv.com/nct/world/some-theaters-may-not-show-the-last-jedi-due-to-disneys-demands-1>.

151. Ming, *supra* note 18.

152. O'Connor & Armstrong, *supra* note 15, at 10.

153. *Id.*

154. Tartaglione, *supra* note 27.

155. Ming, *supra* note 18.

156. Schrodt, *supra* note 51.

157. O'Connor & Armstrong, *supra* note 15, at 4.

158. *Id.*

159. *Overview*, WORLD TRADE ORG., https://www.wto.org/english/thewto_e/whatis_e/wto_dg_stat_e.htm (last visited Nov. 24, 2017).

vor of the U.S., finding quotas on foreign film imports violated the free trade obligations required for WTO membership.¹⁶⁰ The Chinese government appealed, but, in 2012, the WTO upheld its prior decision, requesting Beijing lift all restrictions on imported entertainment.¹⁶¹ Following the WTO's decision, the U.S. government entered bilateral negotiations with the Chinese government and agreed to the current quota of 34 revenue-sharing films, with a pledge to renegotiate the deal in 2017.¹⁶² However, no new agreement has been reached,¹⁶³ and Chinese-produced films retain substantial market advantages.

C. Co-production Requirements

The only method to bypass the quotas on film imports, and increase Hollywood's share of box office revenues, is to co-produce the movie with a Chinese company.¹⁶⁴ Co-productions are treated as domestic films by Chinese authorities, and grant foreign investors up to 43% of box office revenue.¹⁶⁵ However, co-production agreements require numerous creative and financial commitments to gain approval from the China Film Co-Production Corporation, which is overseen by SAPPRFT.¹⁶⁶ To qualify as a co-production, a film must receive 33% of its financing from Chinese studios, film at least one scene in China,¹⁶⁷ and hire a certain percentage of Chinese actors.¹⁶⁸ In 2013, the President of the China Film Co-Production Company spoke to an audience of American filmmakers, stating, "[w]e have a huge market and we want to share it with you [but] we want films that are heavily invested in Chinese culture, not one or two shots . . . [w]e want to see positive Chinese images."¹⁶⁹

In some instances, clearing the hurdles to acquire co-production status may only have slight effects on a film's final product. For the co-produced *Iron Man 3*, Marvel Studios cut two different versions of the film,¹⁷⁰ with Fan Bingbing, China's most famous actress,¹⁷¹ featured in a scene only shown to Chinese audiences.¹⁷² SAPPRFT's influence can be farther-reaching on other co-productions, however. For the sci-fi film, *Looper*, to become a co-production, a key sequence where the protagonist ventures to France for several years of his life was relocated to China.¹⁷³ Likewise, the third installment in the *Mummy* franchise, starring Brendan Fraser, followed a similar path; China replaced the Egyptian setting familiar to fans of the series.¹⁷⁴

160. O'Connor & Armstrong, *supra* note 15, at 4.

161. *Id.*

162. Gitter & Kania, *supra* note 65.

163. *Id.*

164. O'Connor & Armstrong, *supra* note 15, at 8.

165. *Id.*

166. *Id.*

167. *Id.*

168. Balfour & Grover, *supra* note 83.

169. O'Connor & Armstrong, *supra* note 15, at 9.

170. *Id.* at 11.

171. Beech, *supra* note 22.

172. O'Connor & Armstrong, *supra* note 15, at 11.

173. *Id.* at 10.

174. Balfour & Grover, *supra* note 83.

Co-production agreements often arrange that technology and filmmaking training be shared between American and Chinese film producers.¹⁷⁵ For the upcoming sequels to *Avatar*, James Cameron's production company entered agreements with Chinese film studios to develop innovative 3D technology in China.¹⁷⁶ Likewise, the U.S. based DreamWorks opened Oriental DreamWorks, an entirely new animation studio in Shanghai, to facilitate more co-productions.¹⁷⁷ To create *Kung Fu Panda 3*, one of the highest-grossing co-productions,¹⁷⁸ DreamWorks shared advanced animation programs and acting techniques with its Chinese studio.¹⁷⁹

Beijing expects these artistic and technological transfers will foster advances in its domestic film industry,¹⁸⁰ and eventually displace American movie studios altogether.¹⁸¹ Beijing's strategy has been effective in some cases. The animated film, *Monster Hunt*, one of the biggest hits in Chinese box office history, was created entirely by Chinese filmmakers,¹⁸² and directed by an alumni of Oriental DreamWorks, who began his career working on the *Shrek* series.¹⁸³ Through the use of co-production agreements, and other restrictions, Beijing appears to be succeeding at encouraging American studios to divulge filmmaking expertise to domestic producers.¹⁸⁴ This is consistent with Chinese Communist Party directives to develop the country's "cultural productive forces" and pursue the "socialist path of promoting cultural advance with Chinese characterizes."¹⁸⁵

IV. POSSIBLE SOLUTIONS

A. Withhold American Film Imports from China

Hollywood has moved to counter unfavorable trade policies of foreign nations in the past by withholding American film imports altogether.¹⁸⁶ This has curtailed the revenues of foreign film exhibitors, prompting the owners of theater chains to lobby the foreign government to revise trade policy.¹⁸⁷ Currently, Chinese theaters rely on Hollywood imports to generate greater profits than on grosses made from exhibiting Chinese films alone.¹⁸⁸ By removing American imports from the Chinese market, revenue losses from film exhibitors in China could prompt Beijing to reconsider trade and expression restrictions on American imports.

175. See Gitter & Kania, *supra* note 65.

176. O'Connor & Armstrong, *supra* note 15, at 9.

177. See Tartaglione, *supra* note 27.

178. Beech, *supra* note 22.

179. O'Connor & Armstrong, *supra* note 15, at 9.

180. Gitter & Kania, *supra* note 65.

181. Tartaglione, *supra* note 27.

182. O'Connor & Armstrong, *supra* note 15, at 7.

183. Tartaglione, *supra* note 27.

184. Gitter & Kania, *supra* note 65.

185. *Id.*

186. Associated Press, *Hollywood Returns to Indonesia with 'Harry Potter'*, HOLLYWOOD REP. (July 25, 2011), <https://www.hollywoodreporter.com/news/hollywood-returns-indonesia-harry-potter-215266>.

187. *Id.*

188. O'Connor & Armstrong, *supra* note 15, at 6.

In 2011, the six largest American studios pursued this exact course of action in Indonesia,¹⁸⁹ the world's fourth most populous country.¹⁹⁰ In February 2011, the Indonesian government raised import duties on films by 100%,¹⁹¹ hoping to spur local film development.¹⁹² Hollywood studios including Walt Disney, Warner Bros. Entertainment, Twentieth Century Fox, Sony Pictures Entertainment, Paramount Pictures, and Universal Pictures responded by boycotting the entire Indonesian market — a nation of 237 million.¹⁹³ Film fans took to social media to complain about the lack of options.¹⁹⁴ “They’re taking away our right to watch high-quality films,” one Indonesian woman complained.¹⁹⁵ Consumer spending on theatrical films, typically reaching \$6.2 million a month in Indonesia,¹⁹⁶ plummeted 60-70% in four months after the Hollywood boycott.¹⁹⁷ Meanwhile, the black market for pirated Hollywood releases grew,¹⁹⁸ with an estimated 50% increase in pirated DVD sales.¹⁹⁹

Afraid of missing the final installment of the *Harry Potter* series, many Indonesians resorted to flying to the nearby nation of Singapore to watch the film.²⁰⁰ The influx of Indonesian film tourists in the neighboring country was so great, one Singaporean theater chain began offering Indonesian viewers a free film screening for every purchase of eight other film tickets.²⁰¹ Faced with declining revenues, Indonesian theater owners began pressuring its government to revisit the tariff on film imports.²⁰² Finally, the government relented and agreed to revise the tax.²⁰³ After a five-month standoff, the Indonesian government announced *Harry Potter and the Deathly Hallows - Part 2* would be released domestically before the end of that summer.²⁰⁴

Boycotting the Indonesian import duty proved successful for Hollywood studios,²⁰⁵ but a similar withdrawal from the Chinese market would face notably different challenges. Chinese theater owners depend on American imports for significant amounts of revenue just as Indonesian theaters do.²⁰⁶ However, unlike the still-developing Indonesian film industry,²⁰⁷ Chinese film production is thriving.²⁰⁸ A

189. Kathy Quiano, *Indonesians to finally get the reel thing*, CNN (July 28, 2011, 8:31 P.M.), <http://www.cnn.com/2011/WORLD/asiapcf/07/27/indonesia.films/index.html>.

190. Wahyudi Soeriaatmadja, *Indonesia's anti-graft agency detains House Speaker*, STRAITS TIMES (Nov. 21, 2017), <http://www.straitstimes.com/asia/se-asia/indonesias-anti-graft-agency-detains-house-speaker>.

191. Quiano, *supra* note 189.

192. Niniiek Karmini, *Indonesians scramble to keep Hollywood films*, WASH. TIMES (Feb. 21, 2011), <https://www.washingtontimes.com/news/2011/feb/21/indonesians-scramble-to-keep-hollywood-films/>.

193. *Id.*

194. *Id.*

195. *Id.*

196. *Id.*

197. Ben Child, *Indonesian filmgoers miss out on Hollywood magic*, GUARDIAN (June 28, 2011), <https://www.theguardian.com/film/2011/jun/28/indonesian-filmgoers-miss-hollywood-blockbusters>.

198. *Id.*

199. Associated Press, *supra* note 186.

200. Quiano, *supra* note 189.

201. *Id.*

202. Karmini, *supra* note 192.

203. Child, *supra* note 197.

204. Associated Press, *supra* note 186.

205. *Id.*

206. O'Connor & Armstrong, *supra* note 15, at 6.

207. Karmini, *supra* note 192.

208. Frater, *supra* note 57.

withdrawal of American imports would likely reduce the profits of Chinese film exhibitors, but the fall may not be steep enough to spur diplomatic action.

Further, unlike the Indonesian government, Beijing has already shown it will renounce popular cultural imports for geopolitical purposes.²⁰⁹ In July 2016, to protest South Korea's adoption of the American THAAD missile defense system, Beijing initiated a cultural embargo on South Korean entertainment, including television programs, music, and films.²¹⁰ China still maintains this prohibition despite previously importing more South Korean-produced television and music than any other nation in the world.²¹¹ Regardless of the appeal of South Korean media within China, over 80% of Chinese citizens support the embargo, according to polls conducted by state-owned news agencies.²¹² Commenting on the polls, one media outlet stated, "[i]t reflects Chinese placing love for their home country before popularity of entertainment stars."²¹³ Although these results are subject to direct government censorship, the reports still demonstrate Beijing prioritizes geopolitical objectives over increased entertainment revenue. A Hollywood withdrawal from China may provoke a comparably strong response from the Chinese government, leaving Hollywood with fewer market opportunities in the country than it currently holds.

B. Disrupt the Chinese Film Industry in the International Market

To counter restrictions on American imports into foreign markets, the U.S. government has previously established retaliatory regulations on foreign films released in the U.S. Theoretically, counter regulations should prompt the foreign nation to ease its protectionist measures in exchange for the U.S. lawmakers responding in kind. However, this strategy has not always proved successful. In 1958, the U.S. agreed to exchange ten American films for seven films from the Soviet Union.²¹⁴ By 1969, the number of American films purchased by the Soviet Union had only reached forty-four.²¹⁵ The modern U.S.-Chinese relationship is, of course, the polar extreme of Cold War diplomacy. The U.S. and China are each other's largest trading partners, and are both sensitive to economic disruptions. Nevertheless, this financial interdependence does not ensure China will yield to U.S. pressure from retaliatory quotas. Chinese studios are not dependent on the North American market, with Chinese films rarely finding large success in the United States.²¹⁶ Retaliatory quotas may cost Chinese studios little revenue, leaving government officials uninfluenced by the restrictions.

Despite the lackluster reception of Chinese films by American audiences, Beijing continues to promote expanding Chinese culture into other nations.²¹⁷ Beijing's

209. Patrick Frater, *China Reportedly Bans Korean TV Content, Talent*, VARIETY (Aug. 4, 2016, 5:38 AM), <http://variety.com/2016/biz/asia/china-confirms-ban-on-korean-content-talent-1201830391/>.

210. Patrick Frater, *China's SARFT Head Calls Korean Film, TV Blockade an 'Emotional Issue'*, VARIETY (Oct. 20, 2017, 5:05 AM), <http://variety.com/2017/film/news/china-says-korean-film-tv-blockade-is-emotional-issue-1202595080/>.

211. Frater, *supra* note 209.

212. *Id.*

213. *Id.*

214. SEAGRAVE, *supra* note 38, at 212–13.

215. *Id.* at 213.

216. Galloway, *supra* note 70.

217. Chow, *supra* note 67.

Belt and Road Film Culture Exchange Cooperation links fifteen countries throughout Asia and Europe.²¹⁸ Additionally, China has announced a film treaty with Japan encouraging co-productions and an exchange of at least ten films a year.²¹⁹ However, future international ambitions could be threatened by preemptive Hollywood exclusion. In the past, Hollywood studios have negotiated with theater chains in other countries to limit competition from foreign films.²²⁰ Similar action could be implemented again.

American domination of the international film market was part chance and part strategy. From the technological development of film in the 1890s, until the start of World War I, movie screenings in most countries were not overwhelmingly dominated by films from a single nation.²²¹ While French films generally led worldwide screenings, fierce competition was the norm.²²² Market shares varied, with theaters in countries like Germany importing 31% of releases from the U.S. in 1913, 27% from Italy, 10% from Britain, and producing 12% domestically.²²³

Hollywood initially sidelined efforts to establish an overseas distribution network in order to focus on meeting the demand of the growing U.S. domestic market.²²⁴ Germany, along with Britain, were the only foreign markets where American imports held the largest market share.²²⁵ Most European film industries either slowed or halted after World War I while American film production increased to match demand.²²⁶ In a process known as “block booking,”²²⁷ Hollywood distributors ended any threat of future foreign competition in European theaters by negotiating exclusive contracts with film exhibitors.²²⁸ By only offering theaters the option to book large volumes of preselected titles, Hollywood distribution contracts could sometimes fill foreign theater release schedules two years in advance, leaving no time for the theater to screen movies outside the preregistered block of films.²²⁹ Movies from other distributors, including those producing films outside the U.S., could not be shown for long stretches of time — making it difficult to compete with American imports.²³⁰

Before World War I, in markets like Britain, theater owners could choose from individual films offered by distributors.²³¹ Hollywood’s block booking retired this process. During the four years preceding the war, 50-60% of British releases were American imports.²³² By 1919, an estimated 90% of movies shown in Britain were American, while less than 1% were British.²³³ Further, in France, 80% of the French

218. *Id.*

219. Brzeski, *supra* note 69.

220. SEAGRAVE, *supra* note 38, at 15.

221. *Id.* at 1.

222. *Id.*

223. *Id.* at 4.

224. *Id.* at 3.

225. *Id.* at 4.

226. *Id.* at 12.

227. *Id.* at 4.

228. *Id.* at 14.

229. *Id.*

230. *Id.*

231. *Id.* at 4.

232. *Id.*

233. *Id.* at 20.

market had been composed of French films before 1914, but by 1917, the share was cut to 30.4%.²³⁴

As the film industries of the allied nations were locked out of their own markets by Hollywood distributors,²³⁵ the U.S. government acted just as aggressively against films from the central powers.²³⁶ After the U.S. entered World War I, Congress formed the U.S. Division of Films to promote American culture in Europe.²³⁷ President Woodrow Wilson commented on the mission of the U.S. Division of Films, stating, “[F]ilm has to rank as the very highest medium for the dissemination of public intelligence, and since it speaks a universal language, it lends itself importantly to the presentation of America’s plans and purposes.”²³⁸ Selling American imports to theaters in neutral Scandinavian markets, the U.S. Division of Films reduced the market share of German films in the region from roughly 50% to approximately 3% after 1918.²³⁹

Through World War I, U.S. diplomatic efforts and private Hollywood negotiating ultimately removed the bulk of foreign competitors in the international film market. A similar process could be employed against Beijing’s film export ambitions. If Hollywood could aggressively negotiate for privileged partnerships with exhibitors in countries Beijing is targeting for expansion, American film producers could use their position to restrict Chinese releases in those countries. For the restrictions to be effective leverage, however, domestically produced Chinese films would have to become lucrative exports for Beijing. Grosses for Chinese exports are currently low,²⁴⁰ and American releases still dominate in most markets.²⁴¹ A strategy of excluding Chinese films from other markets would change little for either Hollywood or Beijing.

Although Chinese film exports abroad have not shown competitive potential, Chinese investors have acquired significant entertainment assets in other countries, including the United States. Chinese investments in Hollywood films have become profitable and common.²⁴² Additionally, Chinese companies have purchased controlling stakes in Hollywood studios and U.S.-based exhibitors, such as AMC theaters.²⁴³ While curtailing Chinese releases in other markets may not be a viable strategy for Hollywood studios, U.S. lawmakers could limit the amount of investment into American studios and theater chains.²⁴⁴ In 2016, 16 Congressmen urged the Committee on Foreign Investment in the United States to contain the expansion of China’s “soft power” and increase scrutiny over foreign acquisitions of American media organizations.²⁴⁵ Beijing has already implemented ceilings on foreign capital

234. *Id.* at 14.

235. *Id.*

236. *Id.* at 15.

237. *Id.*

238. *Id.*

239. *Id.*

240. Galloway, *supra* note 70.

241. Michael Cieply, *Hollywood Works to Maintain Its World Dominance*, N.Y. TIMES (Nov. 3, 2014), <https://www.nytimes.com/2014/11/04/business/media/hollywood-works-to-maintain-its-world-dominance.html>.

242. *Chinese Films Off the Radar at Cannes, but Korean Movies Flourish*, *supra* note 72.

243. Beech, *supra* note 22.

244. Wong, *supra* note 79.

245. *Id.*

invested in Chinese films.²⁴⁶ Equivalent regulations in the U.S. would be a proportionate counter-measure.

C. An Inclusive Solution

The strategies discussed thus far have emphasized an adversarial, zero-sum game. If Hollywood and Beijing negotiated a compromise, one party would still lose some of its objectives. A creative, problem-solving approach may be more persuasive for Chinese policymakers. Inclusive solutions emphasize collaboration and building relationships through serving the interests of both parties.²⁴⁷ Beijing has a long-term interest in advancing its filmmaking capabilities through co-productions with Hollywood studios. In exchange for reducing restrictions on American imports, Hollywood studios could offer to increase investment in Chinese co-productions.

Raising the number of co-productions would provide Chinese producers greater exposure to Hollywood production methods. Moreover, further co-productions could grant Hollywood studios an opportunity to profit from films tailored toward the Chinese market, such as the small-budget blockbuster *Wolf Warriors II*.²⁴⁸ These films are much lower risk than co-productions designed to appeal to both North American and Chinese markets, such as *Transformers: The Last Knight*, which, budgeted at \$217 million,²⁴⁹ grossed under \$229 million in China.²⁵⁰ A pledged deal to increase co-productions could motivate Beijing to loosen restrictions on imports and lead to higher interconnection between American and Chinese markets overall. Even if successful, this strategy is still only a short-term solution. Greater reliance on China's box office could backfire if domestic Chinese films ever reach comparable quality with American imports and co-productions.²⁵¹ Ultimately, Hollywood must learn to entertain American audiences again.

V. CONCLUSION

As American moviegoers vanish, screening films in Chinese theaters is becoming more important for Hollywood studios. Enforcing the compliance of Beijing's trade policy with WTO standards for cultural goods seems unlikely. However, Hollywood and U.S. officials still have options to negotiate for fewer restrictions on American film imports. This article recommends Hollywood should neither boycott the Chinese market, nor move to exclude Chinese film exports from other markets. Instead, pledging to increase co-productions with Chinese companies, while limiting Chinese investment in American films and theater chains, may be more successful in bringing Beijing to the bargaining table.

246. O'Connor & Armstrong, *supra* note 15, at 8.

247. STEFAN H. KRIEGER & RICHARD K. NEUMANN, JR., *ESSENTIAL LAWYERING SKILLS: INTERVIEWING, COUNSELING, NEGOTIATION AND PERSUASIVE FACT ANALYSIS* 41 (3rd ed. 2007).

248. Frater, *supra* note 57.

249. *Transformers: The Last Knight*, BOX OFF. MOJO, <http://www.boxofficemojo.com/movies/?id=transformers5.htm> (last visited Nov. 23, 2017).

250. *Id.*

251. Gitter & Kania, *supra* note 65.