Thank you, Marin, for that introduction. A little brief, but that's all right. And I thank all of you for being here. Why? For you bright people to be sitting in a classroom at 3:45 on a beautiful day like this tells me that you need medical attention, all of you. Believe me.

The first thing I am going to do is start my stopwatch. But I want to tell you a story about the stopwatch. I grew up in Houston, Texas, the grandson of Sicilian immigrants. Catholic, in a part of Texas, the Bible belt, where there were very few Catholics, and as you might imagine, damn fewer Sicilians, I'll tell you that. So, I'd go to seven o'clock mass every Sunday morning, with my family. Then about ten o'clock I would join my buddies, Protestants, with their father usually, the mother would go to what is known in Texas as a brush arbor revival. A brush arbor revival is, you get a big tent, and put it over this parched, thirsty, hard slate, Texas earth and you put about 500 folding chairs in there, and then you have a preacher mount the pulpit and kick the devil for about another couple of hours, right in the backside until he is pretty limp. So, the devil, not the preacher. And so one morning, a Sunday morning, the preacher mounts the "rockety" pulpit, and it turns out, according to my young friend,

that this is the most filibustering preacher in south Texas. I mean he could talk for four or five hours and never have to go to the bathroom. So, he took out a big pocket watch and put it right in front of him, and my young friend, we were both ten years old, he tugged his daddy's sleeve and said, "Daddy, what does it mean when the preacher pulls out that watch?"

His daddy leaned down and whispered, "Son, not a goddamned thing." So, I just started my stopwatch. You can take it from there.

By the way, I hope there is in this classroom a young woman who is very valuable to us at the Motion Picture Association – she's serving as a legal intern, Loretta Dennison. Are you here, Loretta? Where are you? Good. Good to see you. Delighted to see you. We are glad to have you down there. If she's an example of the smart people you turn out here, Dean,** I congratulate you.

Let me talk to you a few minutes about some things I feel very passionate about. Indeed, I've been, as the dean and I have talked, on a kind of a travel crusade. I have been to Duke, NYU, Georgetown, last Tuesday I was at Stanford. I intend to go to Yale, Harvard, the University of Texas, and even my own school, where I went to school

* Texas born, Harvard educated, Jack Valenti has led several lives: a wartime bomber pilot, advertising agency founder, political consultant, White House Special Assistant, movie industry leader. In his current role as Chairman and Chief Executive Officer of the Motion Picture Association of America ("MPAA"), Valenti has presided over and led the American film and television industry as it has confronted a sea of change in the landscape of the industry, both in the United States and abroad. He has a B.A. from the University of Houston and a M.B.A. from Harvard. In 1952, he co-founded the advertising/political consulting agency of Weekley & Valenti. In 1955 he met the man who would have the largest impact on his life, Senate Majority Leader Lyndon B. Johnson. Valenti's agency was in charge of the press during the visit of President Kennedy and Vice President Johnson to Texas. Valenti was in the motorcade (six cars back of the President) in Dallas on November 22, 1963. Within an hour of the assassination of John F. Kennedy, Valenti was aboard Air Force One flying back to Washington with the new President as the first newly hired Special Assistant to the President. On June 1, 1966, Valenti resigned his White House post to become the third man in MPAA's history (founded in 1922) to become its leader.

In addition to having authored four books, Valenti maintains a rigorous public speaking schedule and writes extensively for America's preeminent newspapers and magazines. At the invitation of Professor Marin Scordato, Director of the Communications Law Institute of the Columbus School of Law at The Catholic University of America, Valenti delivered this speech in the Byron Auditorium in Washington, D.C. on March 14, 2003.

** Referring to Douglas W. Kmiec, former Dean and St. Thomas More Professor of Law of the Catholic University of America Columbus School of Law from July 2001 through July 2003.
at night—I got all of my college at night—the University of Houston. I’ll be down there as well. Next week, however, I am taking time off. I’m heading to Los Angeles on Tuesday morning, to be there for the Academy Awards. If you tune in, I think you’re going to see me on the show, doing something, I’m not yet sure yet.

At any rate, I have often believed that no free country can lay claim to greatness unless it constructs a rostrum from which will spring, what I would call a moral compact, a moral imperative. And this moral imperative applies to every business, every enterprise, every profession, every university, every family, and to the government as well. Now it is illuminated by what William Faulkner—I’m sure all of you have read Faulkner, and if you haven’t, you should—what William Faulkner called the “old verities,” words like honor and duty, and service and integrity, pity and pride, and compassion and sacrifice.

Well these are the words that define what this free and loving land is all about. Now, if you find these, if you treat these words casually, and when I say you, I mean you in this audience today. If you treat them casually, if you think they are not very cool at all, and if you believe that they are mere playthings, that only the rabble and the rubes and the unlearned and the unsophisticated observe and honor, then I promise you, you will bear slow witness to the very undoing of America’s great secret. You know, this is a country where we have had in the newspaper stories about the unbounded avarice of corporate executives who broke this moral code, this moral compact, who knew that they were cheating and stealing from their employees and their stockholders, but because they had the power to do it, and because it was so easy, they did it. As a result, it was a coarse and cynical defiance of this moral compact. And the disclosure of all this fiscal perfidy, I think caused a lot of people to really think hard and long, about the lack of a moral reference within the minds and hearts of these corporate executives.

See, I believe most Americans who don’t have much, don’t resent people who have more than they do, because they believe, and rightly so, that if they educate themselves, and they work hard, and they play by the rules, that they will, by their own efforts, have more tomorrow than they have today. That is the beauty and the sanity of the great American dream. But when reality, the brute reality intrudes on these people that say, “You know what, these guys got it through trickery, and through duplicity, lying and stealing,” then that makes people feel that they’ve been had. And, I tell you, I feel very strongly about that. So, I think that we have no larger objective in this country than the reassembling of civic trust. And not just in corporate executives, but in the government, and in the community — the reassembling of civic trust is one of the things we’re going to have to do. The reaffirmation of honorable conduct, by men and women who are in power, and it’s in politics as well that you see that.

Now, someone once said that all movement is not necessarily forward, and all change is not necessarily progress. So the digital world that we’re getting into, frankly I don’t know if it’s going to be a better world, but it sure as hell is going to be different. The difference between digital and analog, in the words of Mark Twain, is the difference between lightning and the lightning bug. That’s a big difference. Now, the nation’s universities, like here at Catholic University, I presume, are equipped with state-of-the-art, large pipe, high velocity, broadband network systems. None better, none faster. And those systems produce great benefits to the University, allowing for the conveyance of knowledge, information, data, and reference material to move quickly for professors and research experts within the academy.

Now students are also privy to this accessibility of facts and data, and also, guess what, to movies. It’s an “open sesame” opportunity for young students. The best and the brightest, head up to those file swapping sites and bring down movies for which they do not pay, permission of the owner they did not seek, and they use it for their own personal use. And then on the file swapping sites, of course, it goes to millions and millions of sites. When you go on Kazaa, by the way, how many of you have been on Kazaa, Morpheus or Gnutella? Now be honest with me, don’t give me any shambles here. How many of you have been on these file-swapping sites? Come on, more than that. Then you may be the only university in the country where less than one half of the people, I say that ninety percent of every student body is on those file swapping sites. Now if you go on Kazaa, which I did with a colleague of mine last week before I spoke at Stanford, at the bottom of the
screen on Kazaa, it tells you how many people are on Kazaa at that precise moment. And it tells you how many files they are examining and swapping, and how many bits of information that those copies comprise. On that day I went on Kazaa, I think it was twelve noon and there were 4.9 million people on Kazaa, 4.9 million! They were examining and swapping 550 million files, 550 million. And how many bits of information? Five quadrillion. A “quadrillion,” in case you don’t know, is one million billion bits of information. That’s a lot. More zeros than I can count. And that’s what’s going on.

Now, I want to introduce you to a collision of values that erupts from this kind of activity, and is brought on by the migratory magic of digital zeros and ones. One value says, “Digital technology gives me power to roam the Internet, therefore anything that’s out there, I can take down. It doesn’t matter who owns it.” The other value says, “The fact that digital technology gives me the power to use, doesn’t make it right for me to use it, wrongly.” And that’s where we have this collision of values. What we have then as a result is that every university, and everybody in this country, has got to examine. How you deal with it, not just the public, but how the university deals with it, because it’s the university that is the final shaper of the mores and the customs and the values and the ethics that you use. So, it’s something to think about.

Now, Viant, which is a Boston-based research firm, estimated about four or five months ago that 400,000 to 600,000 movies are being illegally downloaded every day. Every day! From Kazaa, from Morpheus, Gnutella, Grockster, Limewire, you name it. And if we got rid of those, there’d be five more popping up all over the country.

The reason why we are losing the war on drugs in this country is because we are going after the supply. That’s the wrong way to do it. You’ve got to go after the demand. Kazaa and Morpheus and all the rest would be nonexistent if there wasn’t a demand on the part, mainly of students, for this kind of quick access to movies and to music. But there is a larger dark issue here. I want to talk about that. It has to do with kind of a code of conduct. None of you, in my judgment, would go into a Blockbuster store and with a furtive glance, put inside your purse or in your jacket, a DVD and then walk out without paying for it. Now why wouldn’t you do that? Well you know why – because you know that is shoplifting. That’s stealing. That’s the Winona Ryder thing. And you don’t – you do read the newspapers – and you don’t want to do that, because you know if you get caught, you’re in serious trouble. And you don’t want that either. Now, why is that? And yet, you will go and put a movie inside your digital jacket and walk off the Internet with it. What’s the difference? Why? Is it because doing it on the Internet its low risk, high reward? If that is so, why is it so? Is it because Ambrose Bierce’s definition of conscience is something you refer to when you are about to get caught? Is that an unwanted truth? Or words like principle, integrity, ethics, are those words that have been expunged from the student lexicon? And if so, why in the hell is that so? Now those are sizable questions. And they have to be answered. And particularly by the universities. As I said, they can’t ignore this progression, they’ve got to do something about it.

Now, I know a lot of critics, and I’ve heard them say, “Oh God. You Hollywood types. Get with it. Quit whining and get a new business model.” Hey, that’s a swell idea. I wonder why I never thought of that. Well the reason why is, no business model ever struck off by the hand and brain of man can compete with free. Can’t be done. Believe me, anytime that that Pizza Hut, with that ugly red roof that’s across the street over there, if there was another pizza place next door said, “The pizza is free,” the other guy is going to be out of business. And you know it and I know it. So, I’ll tell you a story. True story. I’m not going to name the university, because it’s one of maybe the top five most prestigious universities in this country, maybe in the world. I was invited to speak there, a couple of years ago when Napster was in full bloom. And I got up before a little larger crowd than here. The day was lousy, I think it was raining that day, so they had no place to go except to hear me. And, I was going speak on the changing American president, I wasn’t going to talk about movies. So I said to the class, I said, “Music is not my turf. I don’t know anything about it except I listen to it. But how many of you are on Napster?” Oh no, first I said, “How many of you have bought a CD in the last couple of months?” Two hands went up. Then I said, “How
many of you are on Napster?” And at least they were honest – everybody’s hand went up.

So I picked out a young man, sitting about where you are. The Provost told me he was going to graduate maybe the top of his class. So I said, “Here you are, an educated, civilized, human being. You’re graduating from one of the great institutions of learning in the Western hemisphere. And you are, in the words of Edith Hamilton, the kind of person best fitted to meet life’s changes and challenges and dangers and to do it all with versatility and grace. So tell me young man, how do you square that with the fact that you’re stealing?”

Well, he looked very crestfallen, I mean his jaw hung down, then his face brightened, like a light bulb went on, and he said, “Well I guess it is a kind of stealing, but hey, everyone else is doing it, and besides, music costs too much.”

I smiled, and I thought to myself, “And for this kind of lesson in moral virtue, parents are paying a bloody fortune in tuition. Hello.”

I’m almost done and then we’ll have some questions from you. I have been meeting, along with my colleagues, with a group of university presidents: the President of Stanford, the President of Yale, the President of Rochester, and the President of Penn State. They’re representing their fellow university presidents, and I’m hoping that you know about this. We’re talking to see whether or not the universities can install a code of conduct that allows students to understand the rules of the game. The University of North Carolina is one of those who’s done it. It’s a wonderful code of conduct, essentially saying, “If we catch you infringing on copyright,” that’s an academician’s way of saying ‘stealing,’ “we will maybe slap you on the wrist and warn you. The second time we may take away your computer privileges. The third time you would be subject to some disciplinary action.”

I don’t want to invade the precincts of the university. Don’t want to do that. I think this is a university matter. But most of all, it matters to you, the kind of person that you are, whether or not you believe that there’s a moral imperative. And

I’m not trying to be religious or anything else; what anybody wants to believe is their business. I don’t want to proselyte anybody. I just want to believe what I want to believe and everybody else leave me alone, and I’ll leave them alone. But everything we do has to be rooted in some kind of a code, otherwise we are anarchists. So the University should do that, within their power, their design, and their final authority.

I think it’s going well, and we’re meeting again. I think the next meeting is on the twentieth. But I have to say that we have to understand what we’re talking about when I say ‘moral imperative.’ While digital is a hyper-modern phenomenon, it’s a new kind of talking to each other, and a delivery system the world has never known. But, it has the molecular connection to an ancient ancestor.

Many, many years ago, William Hazard, great British philosopher, if you haven’t read him, you ought to, he writes magically and musically. William Hazard said, “Man is the only animal who both laughs and weeps, because man is the only animal who understands the difference between the way things are and the way they ought to be.”

So, I think that as we think this thing through, we’ve got all these new scientific, revolutionary things that are happening. We know in the digital world that all the technology we find so magical today will eighteen months from now seem absolutely primitive. The Conestoga wagon to the jet engine. But what has yet to be put in place is a clear understanding of how you deal with the future where you have the power to do things you never had, but you understand you’re not going to use that power if it’s going to injure others.

Now I am rather enchanted with what I am saying up here right now. Am I going too fast for this crowd? Anyway, I’m going to stop and what I’d like to do now is to hear from you. I mean there may be some people who say, “You’re all wet, and I’m gonna tell you why.” I have no problem with that. I’ve been attacked by experts. If you’re in the movie business you find out that you’re not universally beloved. I can tell you that. So let me just stop and let you tell me.