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Broadway: Adapting and Overcoming Post-COVID

BY EMILY FELDMAN/ ON NOVEMBER 16, 2020



Photo by Jeenah Moon from Reuters

On Wednesday, March 11, 2020, a Broadway usher tested positive for COVID-19.¹ A day later, on March 12, 2020, one of New York's most significant cultural institutions, and a symbol of the city itself, entered an indiscernibly long hiatus when The Broadway League, an organization representing Broadway theater owners and producers, announced that Broadway would be shutting down.² What was initially meant to be a short break for Broadway's 41 theatres quickly evolved to an extended one. Although the theatres intended to reopen in June 2020, this deadline was moved first to January 2021, and subsequently to May 2021.³ While the move was undoubtedly necessary for the health and safety of New Yorkers, tourists, and patrons it was a significant blow in many respects. One of Broadway's greatest icons stated: "Broadway — I'm romanticizing, but that's the heartbeat of the city, and to think that they've been forced into darkness is shocking."⁴

During the 2018-19 season, Broadway productions grossed \$1.83 billion in ticket sales and contributed an estimated \$14.8 billion to the local economy. Additionally, according to last season's figures, the industry provides for 12,600 direct and 74,500 indirect jobs, for a total of

87,100 jobs.⁵ The shutdown has affected thousands of workers in the industry, from actors and producers to landlords who own theatre spaces, and left them reeling at a time when financial stability is crucial. Several shows that were supposed to premiere never did. Other long-time favorites were put on the chopping block and cancelled after years of successful production.

One of the most vocal groups since the shutdown has been the Actors' Equity Association, a labor union representing actors and stage managers nationwide. In the wake of the shutdowns, theatres have actively tried to bridge the divide between actors and audiences. In this attempt, some have turned to technology in the form of livestreaming. The Actor's Equity Association established new streaming rules which established work agreements for producers who wish to take their shows online. These agreements were meant to "protect the economic security of Equity members with additional weekly salaries and health care contributions." However, since they are relatively new, there have been issues with implementation.

In April 2020, Red Bull Theater, a well-regarded Off-Broadway company, was forced to cancel a livestream performance of John Ford's *'Tis Pity She's a Whore*, following objections by Actors' Equity Association.⁶ The Actors' Equity Association argued that Red Bull was not complying with their rules, while Red Bull argued that they were not required to consult the Association because the performance *"did not involve any theatrical production or venue known to be covered by their jurisdiction."*² However, off-Broadway company Rattlestick Playwrights Theater, was able to effectively navigate these rules to enter into a streaming agreement that permitted them to sell virtual tickets and compensated actors for the performance.⁸

Large, well-funded shows have made use of more popular streaming platforms. *Diana: A True Musical Story* was meant to premiere March 31, 2020 but was prevented from doing so by the pandemic shutdown. However, in August, the Actors' Equity Association announced that it had come to an agreement and approved a safety plan for the production. The provisions of the safety plan include significant requirements, the most important being that the show will now be performed with no audience. It will, however, be filmed for a Netflix Premiere scheduled to air in early 2021.²

New York's theatre industry has faced a significant setback and will continue to face setbacks long after the pandemic is over, as it will strive to regain their patronage and re-establish themselves as a cultural powerhouse. The Actors Equity Association has made it clear that even when theatres are permitted to open, they will be subject to the Association's safety standards to ensure the safety of performers.¹⁰ Additionally, it is not difficult to imagine that patrons may have safety concerns of their own. It remains to be seen how the pandemic will affect the industry in the long term and what role streaming platforms will play.¹¹ While at home, streaming provides a modern twist to the traditional musical experience, Broadway as a whole seems resistant to this change and there is nothing quite like experiencing a production live.

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- Michael Paulson, Broadway Usher Tests Positive for Corona, N.Y. Times, https://www.nytimes.com/2020/03/11/theater/broadway-show-usher-coronavirus.html (Mar. 11, 2020), [https://perma.cc/RKR4-NX7Q].
- Michael Paulson, Broadway, Symbol of New York Resilience, Shuts Down Amid Virus Threat, N.Y. Times (Mar. 12, 2020), https://www.nytimes.com/2020/03/12/theater/coronavirus-broadway-shutdown.html [https://perma.cc/Y7LY-PA42].
- Mark Kennedy, Broadway Shutdown Extended Through Early January Amid Pandemic, NBC (Jun. 29, 2020), https://www.nbcnewyork.com/news/local/broadway-shutdownextended-through-early-january-amid-pandemic/2490648/ [https://perma.cc/NAC9-H7M8]; Alison Durkee, Broadway Shutdown Extended Through May 2021, Forbes (Oct. 9, 2020), https://www.forbes.com/sites/alisondurkee/2020/10/09/broadway-shutdownextended-through-may-2021/ [https://perma.cc/EV5G-NHHM].
- 4. Paulson, supra note 2.
- 5. Broadway Theatres: An Economic Engine for New York, Dep't. of Labor, https://www.labor.ny.gov/stats/PDFs/Broadway-Theaters-An-Economic-Engine-for-New-York.pdf [https://perma.cc/LC6S-2B5P].
- Matthew Windman, The Show Must Go On: Legal Issues Affecting Broadway Amid COVID-19, The New York Law Journal (July 16, 2020), https://www.law.com/newyorklawjournal/2020/07/16/the-show-must-go-on-legalissues-affecting-broadway-amid-covid-19/ [https://perma.cc/2E7H-VYNN].
- Red Bull Theater Forced to Cancel Livestream of 'TIS A PITY SHE'S A WHORE Due to Equity Dispute, Broadway World, (Apr. 1, 2020), https://www.broadwayworld.com/article/Red-Bull-Theater-Forced-to-Cancel-Livestream-of-TIS-A-PITY-SHES-A-WHORE-Due-to-Equity-Dispute-20200401 [https://perma.cc/EYX8-UQPA].
- 8. Jonathan Handel, Actors' Equity Unveils Streaming Agreements as Virus Shutters Live Venues, The Hollywood Reporter (Mar. 19, 2020), https://www.hollywoodreporter.com/news/actors-equity-unveils-streaming-agreements-as-virus-shutters-live-venues-1285 [https://perma.cc/YZA8-7UR3]
- Nicole Sperling, Delayed 'Diana' Musical to Be Streamed on Netflix, N.Y. Times, (Aug. 12, 2020), https://www.nytimes.com/2020/08/12/theater/diana-musical-netflix.html [https://perma.cc/UWS9-Y4FV].
- 10. David Michaels, Four Core Principles Needed to Support Safe and Healthy Theatre Productions (May 15, 2020), https://actorsequity.org/resources/Producers/covid19-

info/ensuring-the-safety-and-health-of-equity-members.pdf [https://perma.cc/8G6K-CLKH].

11. Karen Carter, Broadway Industry Fails To Embrace Online Video Streaming Technologies, NYTIX (Mar. 17, 2020), https://www.nytix.com/news/broadway-fails-toembrace-online-streaming [https://perma.cc/9UT3-XZMP].