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# **Amplifying Music: A Gathering of Perspectives on the Resilience of Live Music in Communities During the Early Stages of the COVID-19 Era**

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<https://doi.org/10.25101/20.1>

## **Abstract**

As the novel coronavirus known as COVID-19 spread throughout the United States in March of 2020, the live music industry was shaken by temporary closures of venues, cancellation of festivals, and postponements of tours, among other effects. However long and to what extent the damage to the music industry would be, one thing was certain. At some point there would need to be a return to (a possible “new”) normal. The Amplify Music virtual conference was one of the first gatherings of music industry stakeholders to immediately address issues around the industry’s resilience in this pandemic and what it might look like. Leaders from throughout the world participated in the twenty-five consecutive hour convening. This paper summarizes many of the perspectives, observations, and ideas presented in regard to the future of the United States music industry post-pandemic.

Keywords: coronavirus, COVID-19, Amplify Music, National Independent Venue Association, NIVA, livestreaming, resilience

## **Introduction**

On the afternoon of March 2, 2020, Kate Becker, Creative Economy Strategist for King County, Washington, concluded her presentation at the closing session of a conference presented by the Responsible Hospitality Institute (RHI), an organization focused on nightlife in cities and “helping cities worldwide harness the power of the social economy.”<sup>1</sup> The conference, held in the heart of downtown Seattle and mere blocks away from Ms. Becker’s office, had begun two days earlier on the morning of February 29 when the very first death in the United States from the COVID-19 virus, also known as the coronavirus, had been reported in nearby

Kirkland, Washington, also a part of King County.<sup>2</sup> A local invasion of the virus, which had already reached sixty countries, infecting more than 87,000, and killing nearly 3,000, could possibly devastate the thriving nightlife and live music economy she had, ironically, been showcasing throughout the gathering.<sup>3</sup>

Unfortunately, that possibility became reality. A little more than two weeks later, during a webinar conducted by the Music Policy Forum, Ms. Becker identified her environment as “ground zero” and as a “true humanitarian crisis.”<sup>4</sup> Minutes after concluding the RHI conference she had been given a new role as part of an emergency team: communication regarding all events involving attendance of fifty or more people, which would of course include live music events.<sup>5</sup> In essence, she now added public health to her job description. In the webinar she shared that during her short time in that role, “musicians lost their gig, festivals began to cancel, shows began to cancel, and clubs began closing,” all in that order, as government restrictions were put in place to try to mitigate the spread of the virus.<sup>6</sup>

In that same presentation, Ms. Becker also issued a warning to participants: “I’m sorry to tell you it’s either with you or it’s coming your way.”<sup>7</sup> In fact, many live music events had already been affected at that point. One of them, the 34<sup>th</sup> edition of the Austin, Texas, based South by Southwest music festival, was canceled only seven days after that first United States COVID-19 death.<sup>8</sup> At that point Dr. Mark Escott, Interim Medical Director and Health Authority for Austin Public Health, said there were no confirmed COVID-19 cases in the county, but had called this a “proactive step in preparing this community for this storm.”<sup>9</sup> At that time the U.S. death toll stood at 17, with all but one occurring in Washington state, and 200 confirmed cases throughout the country.<sup>10</sup> One other major domestic music event, the Ultra Music Festival in Miami, had already been canceled—prior to the South by Southwest decision.<sup>11</sup>

This was only the start. Four days later concert promoter Golden-voice postponed its upcoming Coachella and Stagecoach festivals until October.<sup>12</sup> Tours by superstars Billie Eilish, BTS, Taylor Swift, Elton John, and many others were postponed or remaining dates were canceled.<sup>13</sup> By March 12, the world’s two largest live-event companies, Live Nation and AEG, had suspended all events through the end of the month and created “a global task force to drive strategic support and unified direction ensuring precautionary efforts and ongoing protocol are in the best interest of artists, fans, staff, and the global community.”<sup>14</sup> On March 15, California

governor Gavin Newsom announced the closing of bars, nightclubs, and brewpubs, following several other states' actions.<sup>15</sup> On the other side of the United States the virus was already wreaking havoc when New York City instituted shelter in place orders on March 20, thus further shuttering live music events and venues.<sup>16</sup> By April 1 the virus, which by then had killed more than 43,000 people worldwide, had brought live music in the United States to a virtual halt as the U.S. Centers for Disease Control and Prevention recommended that all gatherings and events of any kind be canceled or postponed until at least May.<sup>17</sup>

There was of course ever-increasing uncertainty and a steep learning curve for many during the adjustment to life during a public health catastrophe. During the shutdowns, alternate deliveries of live music, other sources of income and revenue, and possible payroll and labor adjustments unfortunately had to be considered. Daily music industry news updates on those and other immediate challenges began to flow regularly, providing information and data as to what various stakeholders needed to know.<sup>18</sup> Among those stakeholders were communities whose creative economies were negatively affected, to varying degrees, by the pandemic and by the resulting actions of their governments, health officials, and citizens. Many leaders within those creative economies, like Ms. Becker, were forced to work within those shifting contexts.

With those stakeholders in mind and within weeks of the many cancellations and closures, a unique international virtual conference was organized with the intent of quickly identifying how music in cities, states, and even entire countries would or could be resilient during this public health crisis.<sup>19</sup> Organized rapidly, the free event brought together as many voices as possible from throughout the world to share their experiences, concerns, learnings, and support. The gathering also aimed to connect individuals and networks to support further collaboration and communication beyond the conference itself.<sup>20</sup>

The findings, solutions, ideas, and strategies discussed during the lengthy event were all archived shortly afterward.<sup>21</sup> They now provide a still-frame insight into the perspectives shared at a particular moment during what we now know to be only the early stages of the COVID-19 era. The proceedings of the Amplify Music conference have provided a view into how many communities were addressing the numerous challenges they were experiencing.

The conference sessions addressed music's resilience to COVID-19 through a wide variety of lenses, including mental health, retail, and even music industry education.<sup>22</sup> In this examination of the conference conversations, the focus will be on live music, a segment that would likely involve the most touchpoints in relation to music communities and ecosystems. It is also likely the most affected by society's multiple transformations in the fight to mitigate the coronavirus. Additionally, this analysis involves a sampling of the most applicable sessions, which were a maximum of thirty minutes in length. That was hardly enough time to cover *all* of the related issues, which was not necessarily the intent of the gathering. In many ways the goal was to simply *begin* the dialogue and even create connections to encourage its continuation.<sup>23</sup> Finally, this was a worldwide gathering. Though community leaders from many countries contributed to the conversations, each of them was experiencing a different stage of the pandemic at the time of the conference. The United States in particular was only almost seven weeks past its first COVID-19 casualty. There is thus more of an emphasis on domestic conversations and topics. In this country, how much, or how little, did we really know? What were the major considerations? What were the priorities? Seen through the lens of documented conversations from a particular place and time, a particular convening of stakeholders, did there exist common perspectives on how live music within community ecosystems could be resilient in the COVID-19 era? If so, what were they?

### Amplifying Resilience During the Crisis

By mid-April there was plenty of concern regarding how and when the live music industry would recover from what the World Health Organization had weeks prior declared to be an official pandemic.<sup>24</sup> That concern and the cancellation of South by Southwest prompted the quick creation of the inaugural Amplify Music international around-the-clock virtual conference, which was scheduled for April 23-24, roughly six weeks after the first U.S. COVID-19 casualty.<sup>25</sup> Recognizing the urgency and the need to address recovery in this crisis sooner rather than later, conference organizers included the tagline "Resilience and Community Ecosystems" to highlight its central focus: the recovery of music ecosystems within communities during this crisis.<sup>26</sup> They also developed eleven core themes, including quick actions communities could take and what had been learned thus far,



how resilience might already be present and working in communities, best practices, recovery economics, and what the future may bring.<sup>27</sup>

In order to include other countries beyond the United States, the twenty-five consecutive-hour event would run from 2 p.m. MST on Thursday, April 23 until 3 p.m. MST the following day in order to accommodate speakers from twenty-one countries and twenty-three states in the U.S. The schedule included over one hundred thought leaders, professionals, educators, and other stakeholders for thirty-nine sessions of conversations about the implications of the COVID-19 pandemic to communities, local or national, and their music ecosystems.<sup>28</sup>

### Pandemic Activity Prior to Amplify Music

By the start of Amplify Music on April 23, there had been 42,103 reported deaths from COVID-19 in the United States.<sup>29</sup> 190,000 people had died worldwide.<sup>30</sup> More than 26.5 million Americans had filed unemployment claims.<sup>31</sup> The U.S. House of Representatives had just passed a \$480 billion package to help small businesses and hospitals expand COVID-19 testing.<sup>32</sup> The prior week both the House and the Senate had passed the monumental CARES Act that would put an unprecedented \$2 trillion into the economy.<sup>33</sup> In the United States, New York City was by then the “virus epicenter”.<sup>34</sup> Italy, Spain, France, and the United Kingdom, in that order, had been the most affected European countries.<sup>35</sup> In the Western Pacific Region, Singapore, Japan, the Philippines, and Malaysia were leading in terms of new cases.<sup>36</sup> One day prior to the Amplify conversations President Trump signed a controversial executive order to restrict certain categories of immigrants from entering the United States for sixty days.<sup>37</sup>

### What Is Resilience?

An aim of the very first session of the gathering was, perhaps fittingly, to define resilience. Amy Schwartzman, author of *The Cultural Place-keeping Guide* and a consultant to Performing Arts Readiness and FEMA, among other entities, noted that, “Resilience is the ability to recover from the blows and things that might hit you. So, you need to be grounded. You need to be flexible. You need to have balance. You need to be going both inward and outward.”<sup>38</sup> Mollie Quinlan Hayes, who directs ArtsReady, an organization that helps arts organizations prepare for any type of crisis, emphasized “all hazards planning” in addressing resilience proactively and in the moment.<sup>39</sup> Though the pandemic was a monumental crisis and

we had no idea when it would end, there were “things that could be done to alleviate the fear if we incorporate all hazards planning.”<sup>40</sup>

## Two Early Experiences

Still working incredibly long hours after suddenly being thrust into a public health role for mass gatherings, Kate Becker reported during an early Amplify session that Seattle was figuring out “how to get to a safe place for our community and then how do we get business back up, which is complex.”<sup>41</sup> However, much had been learned thus far, so much so that she and her team had already created a “COVID-19 Handbook”, which they were updating daily on their King County Creative website.<sup>42</sup> Her colleague, Scott Plusquellec, from the Office of Film and Music, said that early in the experience one of the things he and his team did was try to locate resources for shuttered venues.<sup>43</sup> They found that loans and grants were rarely available for businesses that served alcohol, served only people over twenty-one, and had fewer employees, among other issues.<sup>44</sup> But the good news was that music stakeholders and the Seattle Music Commission were joining forces to figure out a structure and to determine how to address their needs.<sup>45</sup> He added that “it brought everyone together in a way that hadn’t happened before.”<sup>46</sup> Ben Van Houten, representing San Francisco, where a case was first reported on March 5 and stay-at-home orders were issued by March 16, suggested that his experience was very similar and “probably tragically similar across the country and across the world.”<sup>47</sup> Everything was now “under the microscope, given how fragile this industry is going to continue to be moving forward...and how critical it is to a recovery.”<sup>48</sup> According to Mr. Van Houten, given the limits that had been put on mass gatherings indefinitely by California’s governor and priorities for shrinking municipal funds, they would be in a “limbo, challenging phase” for a long time.<sup>49</sup>

## Immediate Resources Availability

While Seattle and San Francisco had been facing challenges in seeking funding, in another session Lisa Gedgaudas, Program Administrator of Create Denver in Denver, Colorado, reported that there were by that time 83 COVID-19 deaths locally and 374 deaths statewide.<sup>50</sup> She described the creation of an Arts Through It All campaign, which asked citizens and organizations to contribute to a community support fund and provided ticket buyers of canceled shows the option to donate their refunds to it.<sup>51</sup>

During the previous month, her office created a Denver Artist Assistance Fund, with about \$150,000 to provide to artists experiencing financial challenges.<sup>52</sup> Three hundred applications were received in the first six hours, at which point they had to close it.<sup>53</sup> Her team had also been creating a website that identified not only local funding sources but national funding mechanisms as well.<sup>54</sup>

During the session titled “How Can Local Foundations and Organizations Help?”, Nurit Siegel Smith, Executive Director of the House of Blues Music Forward Foundation mentioned her organization’s Crew Nation initiative.<sup>55</sup> She shared that the program was “a global relief fund that is assisting those working within the music industry who are impacted by the COVID-19 outbreak.”<sup>56</sup> The funding would support the crews and workers who “power live music” and had “fallen through that net” of support.<sup>57</sup>

## The Need for Data

As cities indicated they were seeking financial support, advocacy, and a voice for their music venues and the artists who perform within them, the need for data collection early on in the crisis was a common theme among speakers.<sup>58</sup> This was especially evident during the session in which music community leaders in New Orleans contrasted COVID-19 challenges with their experiences during Hurricane Katrina in 2005, an event that had devastated that city’s economy.<sup>59</sup> Jordan Hirsch, Executive Director of Sweet Home New Orleans, referred to that crisis and how “initially the data we collected was tied to particular resources we were trying to get.”<sup>60</sup> They would say to musicians, “In order to qualify for X program we need to know your pre-Katrina income and post-Katrina income”.<sup>61</sup> They found many other uses for the collected data and this led to more sophisticated reporting which became more and more useful.<sup>62</sup> It even helped them secure significant funding from the Ford Foundation.<sup>63</sup> So, it came as no surprise that the same approach was being applied to the COVID-19 crisis.

Beyond driving private funding and community relations, the importance of data was also discussed during several other parts of the conference as a necessary foundation for developing government policy and funding support. One presenter mentioned that, “Data is the language of policy. The best way to advocate in your community is to get data, because that’s what policymakers want to hear to move the needle.”<sup>64</sup>

That was also the philosophical approach behind I Lost My Gig Australia, an initiative around the live music sector implemented by the Australian Festival Association and the Australian Music Industry Network in the early stages of that country's confrontation with the coronavirus.<sup>65</sup> The organization's website ([ilostmygig.net.au](http://ilostmygig.net.au)) seeks "to bring together the hard data and thousands of stories of live events workers who were suddenly set adrift and to take them to government to press for action."<sup>66</sup>

During a session on working with local governments on a response, Jane Slingo, founder of Global Cities After Dark, shared that after the government announced the cessation of any events involving more than five hundred people, "the speed to getting that [website] live was absolutely crucial."<sup>67</sup> Whenever an artist's performance was canceled, they would enter their data, especially lost wages, at the site.<sup>68</sup> Concert workers also contributed their information.<sup>69</sup> The cumulative data could be tracked day to day for a near-real-time window into what was happening.<sup>70</sup> It "was the catalyst for a sector-wide task force of over fifty organizations with everyone from Spotify to our recording industry association to our performing rights organizations, and on and on" according to Ms. Slingo.<sup>71</sup> From that task force's work a social media campaign was created and it led to a \$650 million funding request to the government.<sup>72</sup> Though it hadn't been approved at the time of the Amplify Conference, Ms. Slingo pointed out that it was nevertheless crucial in making the government realize that the number of workers in the gig economy was much larger than they imagined.<sup>73</sup>

Australia's I Lost My Gig campaign was actually inspired by a program with the same name developed by three individuals in Austin, Texas, and was set up about an hour after South by Southwest was canceled.<sup>74</sup> However, that particular initiative also had a crowdfunding element.<sup>75</sup> A March 15 update on the site stated that the total amount of reported lost income at that point was \$4,285,037.<sup>76</sup> During a session dedicated entirely to data collection, Don Pitts, former head of the City of Austin's Music and Entertainment Division, discussed a national survey his new company, Music Cities Together, had recently begun distributing.<sup>77</sup> He shared that, among other findings, early indications were that the confidence level in obtaining local or federal funding was extremely low.<sup>78</sup> One of his concerns in putting his survey out was a debate that the (Austin) I Lost My Gig initiative might have gone up too early to accurately calculate the losses.<sup>79</sup> Mr. Pitts' team worked for a while on a free survey that cities could

use to gather data.<sup>80</sup> At the moment “six or seven” cities had signed on to utilize that resource.<sup>81</sup>

## New Initiatives

Throughout the many conversations around the resilience of live music there were several other initiatives identified in addition to I Lost My Gig that had already taken root during the early stages of the pandemic. Dayna Frank, owner/CEO of the legendary Minneapolis, Minnesota music venue First Avenue, was only a few weeks into her role as president of the newly formed National Independent Venue Association (NIVA) when she participated in a session on the future of live music venues and events.<sup>82</sup> NIVA was formed soon after the first round of stimulus checks were distributed by the U.S. government, which was an attempt to stimulate the economy ravaged by the pandemic.<sup>83</sup> Ms. Frank described the organization at the time of the conference as “a collection of now almost eleven hundred independent venues and promoters across all fifty states that have joined forces to fight for meaningful federal legislation to protect the future of the independent (live) music economy.”<sup>84</sup>

During a separate session, Dani Grant, owner and general manager of the Mishawaka Amphitheatre in Fort Collins, Colorado, shared that she and several others had very recently created a task force with a goal of helping independent venues to work with their local governments to identify how they can be the best “public health assistant” to their governments when they reopen.<sup>85</sup> Using the moniker Reopen Every Venue Safely (REVS), the task force’s goals would also include allowing a venue to have whatever identity it wants without feeling “watched.”<sup>86</sup> But they would also be seeking funding from government to “have the right-skilled people at the venues to do those types of things.”<sup>87</sup> She added that “my bouncers don’t want to become public health officials and I don’t want them to, either.”<sup>88</sup>

Along with new initiatives borne from the crisis, new means of educating and communicating to music stakeholders were established, especially since so many were having to stay home. Three weeks after the first death from COVID-19 in the United States, the Music Policy Forum began presenting an ongoing series of free Friday webinars dedicated to various music related topics.<sup>89</sup> It was one of many music-related entities that began offering free webinars prior to the Amplify Music conference.<sup>90</sup>

## Considering the Future of Live Music

When would music venues be reopening? That was perhaps the most burning question on everyone's mind during the Amplify Music conference—as well as on the minds of people throughout the music industry. Notwithstanding a cure or vaccine for COVID-19, reopening venues would likely be *the* best first step toward a solution for most of the challenges music communities were facing. During a session that considered the road ahead for live music, the unfortunate short answer was, “I don't know.”<sup>91</sup> Dayna Frank responded that it would simply be up to the local doctors and governments.<sup>92</sup> Eric Gilbert, Director and co-founder of the Treefort Music Fest in Boise, Idaho, referred to guidance in his state that suggested venues and events might be able to reopen as early as the end of June, though possibly with limited capacities.<sup>93</sup> But, he added, “because a lot of these events are booked well into the future, trying to understand that moving target is pretty challenging.”<sup>94</sup> For context, as of mid-April, many major music festivals and tours weren't yet canceled, and some had scheduled postponements. Chicago's Lollapalooza festival, originally scheduled for early August, would not be canceled until June 9.<sup>95</sup> At the time of Mr. Gilbert's comments, Milwaukee, Wisconsin's Summerfest, “The World's Largest Music Festival,” was still on the schedule for September.<sup>96</sup>

The horrible timing of the pandemic, in relation to most concert venue's timelines, had exacerbated the situation, especially for outdoor venues. Chris Zacher, executive director of one of the many Levitt Pavilion amphitheaters in the U.S., expounded on that conundrum by mentioning that, “All of our revenue is generated between May and September of each year, and we have to generate enough revenue to get from September to May the following year.”<sup>97</sup> Potential sponsorships, planning, etc., with so many uncertainties could put venues like his in “preservation mode.”<sup>98</sup> Ms. Frank referred to articles she'd been reading which opined that, due to the shutdowns, local independent venues like hers and Mr. Zacher's would be losing significant market share in the near term to the more cash-heavy major live music companies like AEG and Live Nation.<sup>99</sup> However, Mr. Zacher offered that “the investment in those organizations is going to go down when there's no activity, which might provide a bump for all of us independents”.<sup>100</sup>

There was at least one unanimous sentiment during this and other sessions. The concept of opening at half-capacity or less would be a challenge not only due to the economics, but to the “vibe” of the event as well.

According to Ms. Frank, “It kind of sucks the energy out of the room” for the attendees and the performer[s], comparing it to drastically poor-selling shows.<sup>101</sup> Mr. Zacher added, “The safest thing to do is to wait until it’s safe enough to do full shows. But how many of us are going to be able to survive through that is really the question that nobody can answer right now.”<sup>102</sup> The X factor for local venues appears to be the funding. Mr. Zacher underscored this when he said, “If we’re successful in procuring funding from city, state, and federal authorities, we’re going to have a much better chance.”<sup>103</sup> Another shared prospect within Amplify Music discussions was the distinct possibility that—given this was a health crisis rendering large gatherings as dangerous—music venues had been among the first to close and they could be the last to reopen, a fear that NIVA highlighted in its messages to policymakers.<sup>104</sup>

There were also other unknowns in regard to the immediate or long-term future of live music that were discussed during the sessions. For example, assuming that when venues are reopened it will likely be within the context of a recovering economy, will average ticket prices need to decrease? Given all of the quarantining and staying at home during the pandemic, to what extent will consumers be reluctant to leave their homes for any reason, much less a concert? Conversely, when concert venues reopen, how much pent up demand will exist among consumers who might be aching to return to enjoying live music in person?

A separate session centered more on the potential consumer experience with live music gatherings in the context of a “new normal” environment likely ahead.<sup>105</sup> For example, in a world more fearful of viruses, will it be mandatory for everyone’s activities and movements to be tracked via their phones in order to support contact tracing and/or to know where or when crowds have gathered? UCLA professor Gigi Johnson put forth that potentiality as well as the question of liability for venues who admit someone who is infected and spreads a virus to others.<sup>106</sup> Entertainment attorney Dave Ratner pointed out that contact tracing as a practice may have privacy issues to resolve.<sup>107</sup> Add to all of this the fact that permitting for venues is already expensive. Professor Johnson pointed out that if the costs to add many precautionary measures are significant, it could lead to an increase in pop-up/underground shows, thus affecting competition for the conforming venues.<sup>108</sup>

## Livestreaming in the COVID-19 Era...and Beyond?

In early March, at the beginning of the pandemic and the subsequent closing of music venues, the obvious challenge for musicians who lost gigs was how to replace that lost income. Perhaps because it was the most likely go-to, especially considering stay-at-home orders and quarantines, online virtual performances and livestreaming vastly increased in prominence. Viewership in the Music and Performance Arts category on Twitch rose by 524%—from an average of 92,000 viewers to 574,000 viewers—during that month.<sup>109</sup> There was a reported 70% increase in Instagram video streaming from mid-to-late March in the U.S.<sup>110</sup> By the beginning of April, *Billboard* was reporting on companies like StageIt, Side Door, and Looped that were enabling artists to transition from free performances to hard ticketed livestreamed concerts in an attempt to replace lost touring income.<sup>111</sup>

Given this trend and the opportunity it presented for artists, it was certainly appropriate to include a panel discussion on livestreaming within the Amplify conference. During the session, Maestro CEO Ari Evans explained that four years earlier his company had approached artists about livestreaming and been met with a “what is livestreaming?” type of response.<sup>112</sup> But after the collapse of the live music industry due to the COVID-19 shutdowns, artists were not only suddenly flocking to livestreaming but also seeking out new monetization mechanisms within it.<sup>113</sup> Mr. Evans pointed out that the Maestro platform provides that opportunity, supporting the ability to add options like virtual gifts, paywalls, and integrated merchandising to the experience.<sup>114</sup> He considered livestreaming to be the “quintessential communication format of today’s age” because it provides the opportunity to provide deeper relationships between the audience and the artist, among other things.<sup>115</sup>

U.K. artist Emma McGann joined the conversation as an artist who had for the past six years already taken full advantage of livestreaming and made it her full-time approach to performing after starting off on a platform called YouNow.<sup>116</sup> She admitted that, “In the very early beginning it was very unusual to get used to” after she had grown accustomed to performing in person.<sup>117</sup> But it was now “second nature” to her.<sup>118</sup> To her the “why’s” for livestreaming included community building, the interaction with fans, and the lifting of barriers versus the traditional live show.<sup>119</sup> Ironically, she was starting her first in-person trek of the U.S. when the pandemic began and the tour had to be canceled.<sup>120</sup>



When asked what tips she would offer to artists looking into livestreaming, she responded that the first question she's usually asked is, "How do you monetize this straightaway?"<sup>121</sup> Her response has been, "Really you shouldn't be worrying about monetization at this time if this is going to be a long-term thing. First, focus on community building."<sup>122</sup>

While the discussion mostly centered on a strong outlook and a world of possibilities for livestreaming, there were still some potential obstacles to consider. For example, the complexity of licensing issues can be daunting and it is still a "wild west" environment, especially among the various lesser-known platforms.<sup>123</sup> In fact, in an article published the day before the Amplify conference, attorney Eleanor Lackman was quoted in regard to livestreaming that, "There's probably a lot of infringement going on. We've had this flood of use with the stay-at-home orders, and there has to be a lot out there that isn't licensed."<sup>124</sup>

In regard to livestreaming, perhaps the biggest "what if?" mentioned during several other Amplify sessions involved consumer preferences once in-person venues reopened. One panelist insisted that, "While these live experiences online are really great, I don't think they're a replacement for the experience you get at a live show—that energy that people share within the venue. People feed off that, and it's really hard to do when you're looking at a computer screen."<sup>125</sup>

## The Vulnerabilities Had Been Exposed

During a session early in the conference, Seattle's Scott Plusquellec recalled the mood during that weekend at the late-February Responsible Hospitality Institute event, when "it was a conference that was all about the strengths of the (nightlife) industry and about the strides that we had made, where cities were paying more attention to nightlife and their music industries. What were the next magnificent things that will involve this industry?" But, he added, "In some ways this [pandemic] has ripped the whole blindfold off. Maybe we haven't gotten to where we thought we were."

A similar assumption regarding the live music industry may also have been debunked by the arrival of COVID-19. During one of the discussions, Michael Bracy, President of the Music Policy Forum, made the point that, "Music workers, both performers and crew, and everybody who works in the chain, have been extraordinarily vulnerable forever."<sup>126</sup> He later added, in reference to the role of Music Cities organizations, "We

knew that the existing structures did not meet the needs of the challenges of the music community.”<sup>127</sup> Moreover, he concluded, “There’s a fundamental disconnect between the power and importance of music and how it is reflected in economic structures in this country and globally.”<sup>128</sup>

During a session specifically focused on what the crisis has taught us about the current music industry, Karen Reece, President of the Urban Community Arts Network and a professor at the University of Wisconsin-Madison, pointed out an already-existing disparity that was only being magnified by the pandemic.<sup>129</sup> Her work centers on providing equal opportunities for hip-hop artists and people of color in festivals and on stages.<sup>130</sup> She stated that, “With COVID-19, it’s emerging that there are some similar inequities happening within all of the livestreaming that’s coming out.”<sup>131</sup> Within much of the increased livestreaming content being made available “we’re just not seeing that hip-hop representation.”<sup>132</sup>

## Conclusion

Several common themes emerged during the Amplify Music 2020 virtual conference. There clearly existed a much-shared need for external monetary support. It was agreed that the collection of data and development of managed communication were necessary to achieve that support. Moreover, mechanisms to educate, build consensus, and to advocate needed to be activated if they weren’t already. Additionally, there was a recognition of the reality that the live music ecosystem was in itself inherently already vulnerable and would likely have to transform—the extent to which it was still too early to determine given what was known then. These seemed to be among the major perspectives in determining how resilient live music within communities could be during the COVID-19 pandemic.

As of this writing, there is of course an advantage in that at least two months have passed since these dialogues happened. We certainly know more now than we did then, for better or for worse. Either way, live music has made progress in some respects, and in others it has not. For example, some credit for the writing of the RESTART Act, a bipartisan U.S. Senate bill that would support business most affected by shutdowns, has been attributed to NIVA.<sup>133</sup> In the meantime, though, many music venues have not survived the crisis and have closed permanently.<sup>134</sup> What *is* clear at this moment is that the effects of COVID-19 are still by far the most prominent challenges for the live music economy in many cities.<sup>135</sup>

An analysis of just one collection of conversations to form a general observation may have its drawbacks. Not every country in the world, nor every state in the United States, was represented at the Amplify Music conference. That would of course be nearly impossible for any such event. Given how quickly it was organized, scheduling conflicts, and other factors, there were certainly key stakeholders and voices who were not at the table. That fact was acknowledged in the very first Amplify session.<sup>136</sup> Nevertheless, this was a sample, similar in nature to any other experimental dataset. It also represented a distinct and relatively uniform point in time, where no contributor had one hundred percent certainty of what would happen the next month, week, or even day in terms of the spread or mitigation of COVID-19. Perhaps with each moment that passes the Amplify Music conversations are less and less relevant. On the other hand, the conference itself may have been helpful in “moving the needle” more quickly toward recovery. Time will surely tell. Many months or years from now there might be much to learn from the initial actions and reactions communicated during the convening, especially if there is another pandemic. The history of the live music industry during the COVID-19 era, in general and within communities, will of course eventually be written. The Amplify Music conversations could prove to be useful artifacts for that work.

The documentation of the latest version of the playbook for the resilience of music in communities began that day back in early March of 2020 as Kate Becker added a public health element to her creative economy role. One particular Amplify Music speaker referred to her as “our Paul Revere” in that she immediately elevated a call to action in other cities while she was addressing the emergency in her own.<sup>137</sup> The Amplify Music 2020 conference, given its timing and approach, was in essence a gathering of many “Paul Reveres”. Their messages, at that time, were absolutely helpful to the battle ahead and will remain relevant until communities can defeat the effects of COVID-19 on their music economies.

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# **Cancel, Postpone, or Reschedule: The Live Music Industry's Response to Ticket Refunds During the COVID-19 Pandemic**

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## **Abstract**

The impact COVID-19 has had on the live music industry has been well documented. An unprecedented number of events have been canceled, postponed, or rescheduled. While ticket refund policies under normal circumstances are familiar, this paper addresses how ticket refund policies were applied during the pandemic. After a discussion of the economic impact of the pandemic on the live music industry, this paper provides a chronology of significant cancellations and offers a qualitative analysis and visual representation of the 261 major music events affected by the pandemic as reported by *Billboard*.<sup>1</sup> The paper then extends upon the existing *Billboard* data by leveraging modern technological tools to make this data more complete and publicly available for research purposes. Following is an outline of the ticket refund policies of major promoters, independent promoters, and festival promoters and a review of some of the alternatives and incentives offered to ticket holders. The paper concludes with a summary of some of the legal and reputational ramifications faced by promoters and discusses questions for further research.

Keywords: ticketing, COVID-19, music, industry, touring, refunds, cancellations, reschedule, concerts

## The Impact of COVID-19 on Live Music

The COVID-19 pandemic has led to irrevocable shifts in our daily lives, especially in regards to large event gatherings. In the wake of COVID-19, thousands of concerts and festivals have been canceled across the globe, beginning slowly in late January through early March before increasing exponentially.<sup>2</sup> As early as March 5, analysts had already predicted that the music industry could lose up to \$5 billion in live music revenue as a direct result of shutdowns due to the novel coronavirus.<sup>3</sup> On March 11 alone, the stock price for Live Nation (LYV) fell 16.6%, for a single day valuation loss of more than \$1.8 billion<sup>4</sup> and the Madison Square Garden Company (MSG) fell 9.5% the same day.<sup>5</sup>

On March 12, Live Nation, AEG, CAA, WME, Paradigm, and UTA released a joint statement:

The world's leading forces in live entertainment have come together to form a global task force to drive strategic support and unified direction ensuring precautionary efforts and ongoing protocol are in the best interest of artists, fans, staff, and the global community. At this time, we collectively recommend large scale events through the end of March be postponed. We continue to support that small scale events follow the guidance set by their local government officials. We feel fortunate to have the flexibility to reschedule concerts, festivals, and live events as needed, and look forward to connecting fans with all their favorite artists and live entertainment soon.<sup>6</sup>

With the hundreds of concerts directly impacted by the above statement, the declaration of a national emergency on March 13 only served to compound the amount of events that were affected and the live music industry came to a virtual standstill by late March 2020.<sup>7</sup> On April 3, only three weeks after the officially-declared national emergency, *Pollstar* predicted that "the live industry would lose up to \$8.9 billion of revenue if the rest of 2020 were to remain dark," a far turn from the estimated \$12.2 billion that would have been collected had the shows continued as planned.<sup>8</sup>

By June 9, major promoter AEG had to lay off 15% of its workers, furlough another hundred, and cut pay by 20%-50% for its remaining employees. *Billboard* estimated that, at this time, "approximately 45,000 full

time employees [had been] furloughed or laid off and another 300,000-400,000 part-time and freelance employees [are] out of work this summer.”<sup>9</sup> With live music being among the first industries to close and slated to be among the last to reopen, these employees may be unable to find work in the industry well into 2021.<sup>10</sup>

Many predict that independent venues may have to close their doors forever. As one survey conducted by the National Independent Venue Association (NIVA)—an organization created in April 2020 to support independent venues and to lobby for government support due to losses caused by the pandemic—reported, “90% of independent venues report they will close permanently in a few months without federal funding.”<sup>11</sup>

Due to so much uncertainty surrounding the continual spread of COVID-19, there is little consensus as to whether and when concerts and tours will be able to resume. NIVA argues that until major markets—such as Seattle, Los Angeles, New York City, and St. Louis—are open, tours will not be able to be routed across the country, which will impact secondary and tertiary cities as well (Exhibit 1).

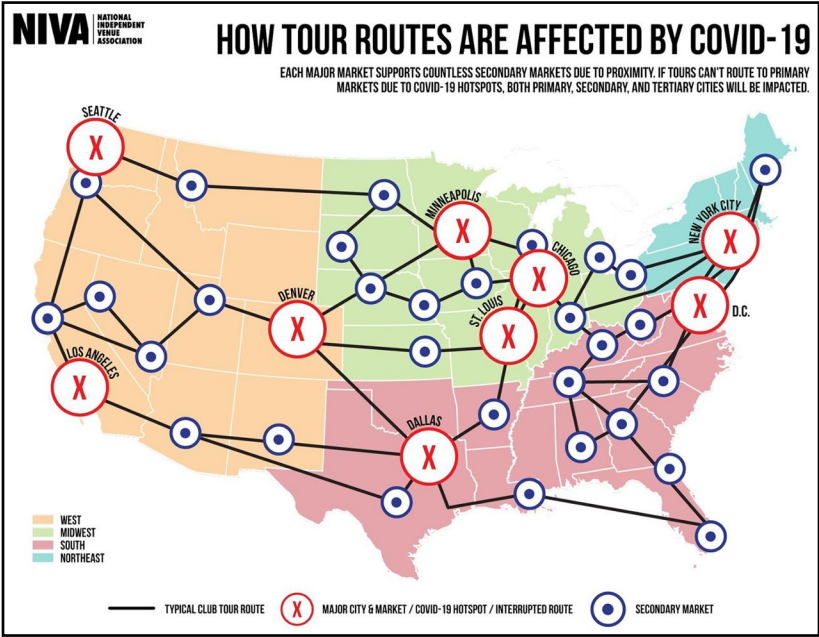


Exhibit 1. How tours are affected by COVID-19 (National Independent Venue Association).

Geoff Steele, independent promoter and Executive Director of the Gillioz Center for Arts and Entertainment in Springfield, Missouri, likens this situation to an ecosystem:

No one is coming to Springfield, they're going through Springfield. They're on their way to Kansas City or St. Louis or Tulsa or Little Rock or Wichita, which are the larger hubs that we're associated with when routing. We're really an ecosystem that's dependent on one another. The number one question that everyone is asking is, "when are we coming back?" And the answer is, that's an industry-wide, collective question because no one is going to get in a bus in Nashville and drive to Springfield when St. Louis is behind us in the reopening process or Kansas City is behind us in the reopening process...we really are living in an unprecedented season where the industry collectively had to hit pause.<sup>13</sup>

This collective reopening may result in countless shows needing to be refunded throughout 2020 and beyond. The erosion of this "ecosystem" has become even more significant as two major markets, New York City and Los Angeles, recently announced that it is "difficult to imagine" live events until 2021.<sup>14</sup>

Not only has the pandemic disrupted the touring ecosystem, it has also derailed the "tenuous ecosystem" of festivals. Some opined that many in the festival business may not survive.<sup>15</sup> By late March, many large festivals had been altogether canceled, including Ultra Music Festival in Miami and South by Southwest in Austin. Others had a more optimistic viewpoint and chose to reschedule to the fall, with Coachella moving its March dates to October. *Billboard* even posed the question, "Will Fall Become the New Summer?" for the festival season at this time.<sup>16</sup> However, the lasting impact of the virus on large events had yet to be seen and by July, most major festivals in 2020 had officially canceled. This list included Coachella and Stagecoach,<sup>17</sup> Austin City Limits,<sup>18</sup> Bonnaroo,<sup>19</sup> and many others.

Now that this paper has summarized the impact COVID-19 has had on the live music and festival business, we turn our attention to what is arguably the most important customer service issue faced by every venue and promoter responding to the pandemic: ticket refunds. This begins



with a qualitative analysis and a novel visual exploration of a few hundred major music events affected by the pandemic. Next will be a review of sample ticket policies and an assessment of the ways promoters managed ticket refunds when faced with postponement, rescheduling, and cancellation. The paper will also take a look at how some refund policies were adapted in the response to the crisis and highlight some of the legal and reputational ramifications associated with these decisions.

## Methods and Results

On January 24, 2020,<sup>20</sup> *Billboard* began compiling a global list of major music events affected by the COVID-19 pandemic. This list has been consistently updated in the past months and at the time of this writing, has been updated through July 1, 2020. The following section provides a qualitative analysis of the information derived from this article, including some of the first major cancellations, the dates of cancellation, the artists or festival names, the statuses of the events, the genres of the musicians, and the refund policies for the individual events.

In this paper, the authors present a novel dataset that they have created, which is free for public use. It is available online via [GitHub](#).<sup>21</sup> To create the dataset, the authors developed an online web scraper which parsed text from the aforementioned *Billboard* article and used natural language processing techniques to extract relevant variables such as the event name and when it was cancelled. The authors then built a bot to automatically search Google for relevant refund information. Finally, they manually verified and edited these results as necessary. This dataset is limited in that it is not comprehensive; this by no means captures every concert that was cancelled in the era of COVID-19 (of which there are thousands). Rather, this dataset, although limited in scope, is a meaningful contribution in that it allows researchers to analyze other factors, such as refund policy, genre, and date of cancellation, with respect to specific events.

Following these initial closures outlined in Exhibit 2, cancellations and postponements began compounding rapidly. As Exhibit 3 shows, this uptick began on March 12, the day before U.S. President Donald Trump declared COVID-19 a national emergency. In the 45 days from January 24 to March 8, only 48 cancellations of major concerts were announced worldwide. In the five days following, from March 9 to March 13, 66 cancellations were announced, around 40% of which occurred on March 12.

First Major Cancellations Worldwide		
Type of Cancellation	Date	Location and Entity
First Major Worldwide Venue Closure	January 24	The Chinese government closes Mercedes Benz Arena indefinitely
First U.S. Festival Canceled, Due to Travel Concerns from Asia	February 25	Korea Times Music Festival, set to occur on April 25 in Los Angeles, is canceled
First European/U.K. Tour Cancelled	March 2	The band Wolf Parade cancels its entire tour, slated to begin on March 2 in the Netherlands
First U.S. Music Festival Canceled, Due to Coronavirus Outbreak in the U.S.	March 4	Ultra Music Festival's Miami festival scheduled for March 20-22 is canceled
First Full U.S. Tour Postponed	March 9	Pearl Jam postpones its U.S. tour scheduled to start March 18

Exhibit 2. First major cancellations worldwide.

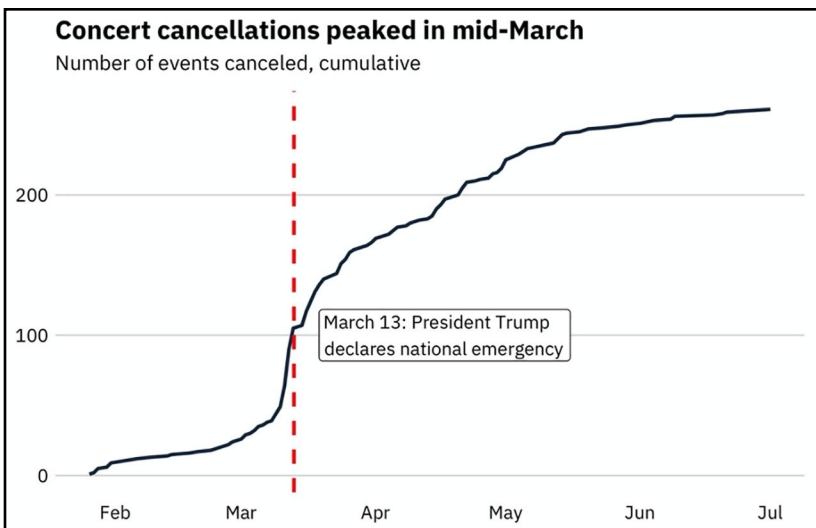


Exhibit 3. Major concert cancellations worldwide February to July 2020.

## Ticket Refund Policies

Historically, the refund policy in the live music space has been more limited than some in the hospitality sector or retail sector. As Limbong has explained, the “live event economy is a complicated one, and it’s been a struggle for ticket buyers to get their money back.”<sup>22</sup> More akin to the airline industry, ticket inventory cannot be warehoused, demand is highly cyclical, and the investment in shows can sometime be irrational.<sup>23</sup> However, unlike many travel-related services (e.g., airlines, car rental, hotel), that offer partial or even full refunds for customers who choose to cancel before the service is rendered, live music events are “normally resistant to refunding post-purchase cancellations” requested by the customer.<sup>24</sup> Despite this historic resistance, in the wake of COVID-19, concert refund policies have had to be exercised at a level never seen pre-pandemic.

It can be argued that fans are more conscious of ticket refund policies than ever before. One study found that in a survey of over 100,000 respondents, 80.7% said that the ability to get a full refund if the event was canceled would influence them to buy a ticket for a future event. Additionally, over 70% said they would be more likely to make a future purchase if they could exchange their tickets for another event or receive credit to be used in the future.<sup>25</sup> The following sections examine various refund policies under the status of cancellation, postponement, or reschedule. This section ends with a novel interactive visualization of various refund policies.

In the analysis of our *Billboard* cancellations dataset, the authors researched the prevalence of three types of refund approaches under the aforementioned statuses: *automatic*, *optional*, and *no refund*. As Exhibit 4 shows, the most prevalent refund strategy at the time of cancellation was an optional refund.

This relationship was mostly static over time. However, notice that concert cancellation refund strategies were more explicitly stated as the coronavirus grew in prevalence. Using March 13 as a cutoff—the day COVID-19 was declared a national emergency—we observe a marked difference in refund strategies. Of the events cancelled up until March 13 (N = 105), 29.5% did not publicize a refund approach at the time of cancellation. By contrast, of those events cancelled after March 13 (N = 156), only 14.1% of the events had an unknown refund strategy. The events in the latter category were instead more likely to offer optional refunds (51.3% of events after March 13, and 30.5% of events up until March 13). Exhibit 5 visualizes the breakdown.

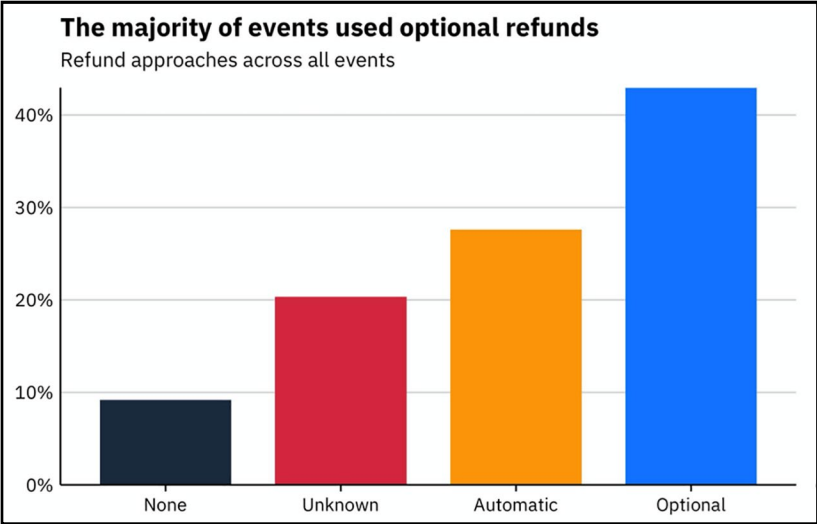


Exhibit 4. Cancellation policies for events in the *Billboard* dataset.

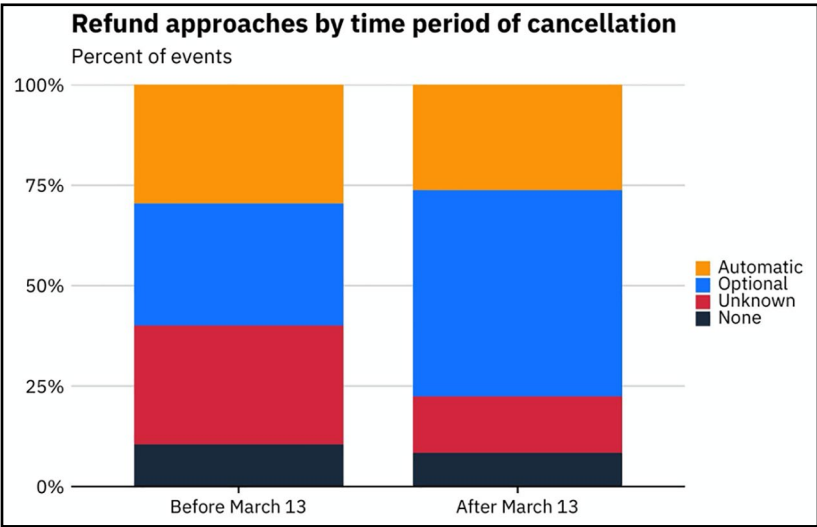


Exhibit 5. Cancellation policies for events in the *Billboard* dataset by time period of cancellation.

This relationship can also be observed with respect to other variables, such as the genre of the artist/event. Exhibit 6 presents this relationship. Here, notice that country artists were more likely than those in other genres to provide automatic refunds. However, this result is interpreted with a high degree of caution, due to the low number of country artists in the dataset ( $N = 17$ ).

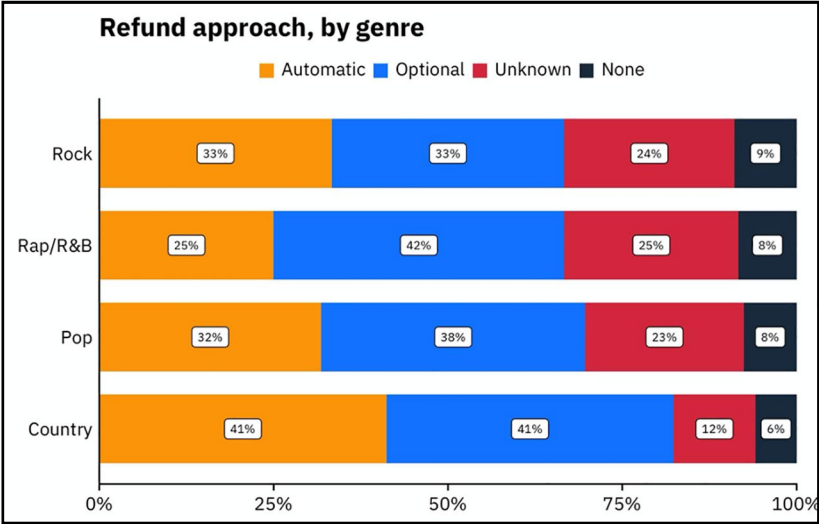


Exhibit 6. Refund approach by genre for events in the *Billboard* dataset.

In addition to our analysis of genres, we look at the *type of event*, most specifically whether the event was a single-artist concert or an entire festival, and whether this factor interacts with refund policies. Notably, it was found that individual artists ( $N = 185$ ) were more than twice as likely as festivals ( $N = 71$ ) to provide automatic refunds (33% vs. 15%). In contrast, festivals were more likely than individual artists to offer optional refunds (58% vs. 36%). Exhibit 7 presents this breakdown visually.

Finally, consider how events with different *cancellation statuses* (canceled, postponed, and rescheduled events) might differ in their refund policies. Here, it is logical to assume that rescheduled and postponed concerts would be less likely to provide automatic refunds, as they intend on occurring at a later date. This assumption is borne out in the data, as Exhibit 8 presents. Canceled concerts ( $N = 109$ ) were more than twice as

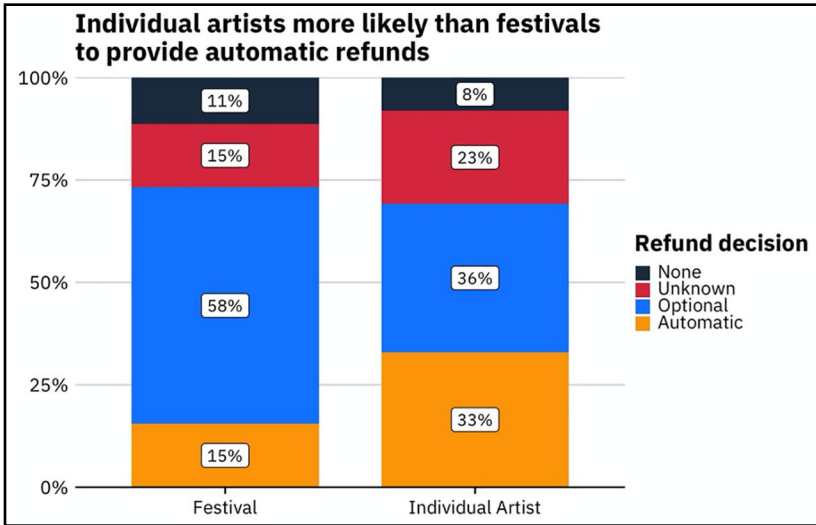


Exhibit 7. Refund approach by event type for events in the *Billboard* dataset.

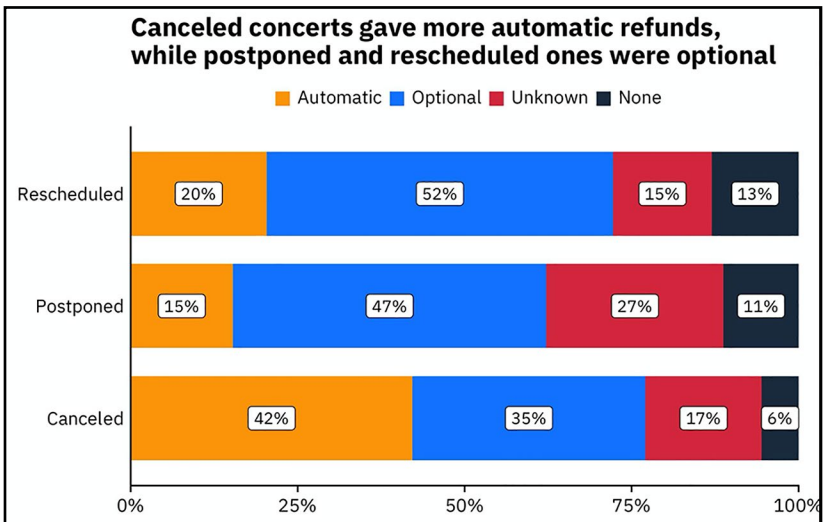


Exhibit 8. Refund approach by cancellation status for events in the *Billboard* dataset.

likely as postponed (N = 98) and rescheduled (N = 54) ones to provide automatic refunds (42% vs. 15% vs. 20%, respectively). Also of note is that roughly one in four (27%) postponed events had not provided a clear refund policy at the time of their announced postponements.

### Interactive Exploration

To be fully transparent and to inspire future research, the authors have developed an *interactive data visualization* based on a dataset built from the original qualitative content reported by *Billboard*.<sup>26</sup> This allows the reader to explore the temporal trend in concert cancellations, with a focus on the refund policy of each event that was cancelled. The visualization can be found online at [GitHub](#)<sup>27</sup> and it is presented in a still image below (Exhibit 9).

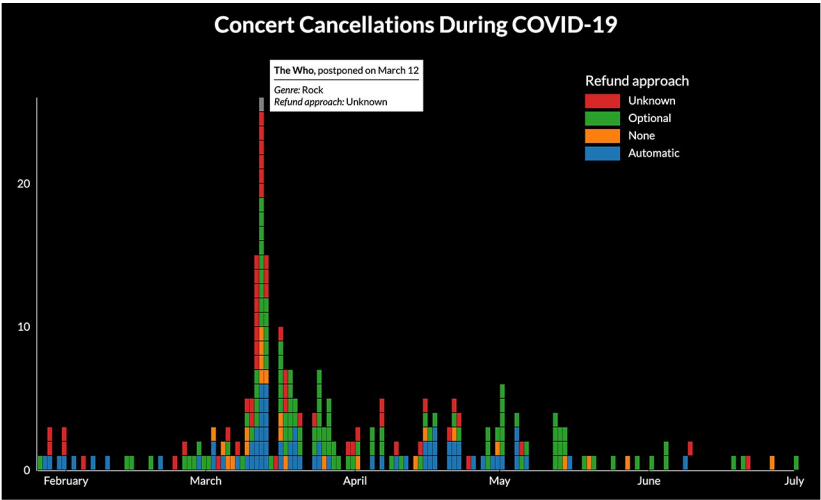


Exhibit 9. Interactive data visualization based on a dataset built from the original qualitative content reported by *Billboard*. <https://connorrothschild.github.io/cancelled-covid-concerts/d3/>.

Now that a better understanding of when live events were announced as canceled, postponed, or rescheduled, and the type of refund policy associated with each has been established, we turn our attention to a deeper assessment of refund policies of major promoters (Live Nation and AEG), independent promoters, and festival promoters.

## Live Nation and AEG Refund Policies

In 2019, Live Nation was the highest selling promoter worldwide with 46.66 million tickets sold; AEG followed in second with close to 15 million tickets sold.<sup>28</sup> Together, Live Nation and AEG “control about three-quarters of the concert business based on ticket revenue” and also control two of the largest ticketing systems, Ticketmaster and AXS respectively.<sup>29</sup> During the pandemic, these two entities were responsible for deciding how to refund thousands of events hosted on their ticketing platforms. Ticketmaster stated on April 17 that “30,000 events...have already been postponed or canceled as a result of COVID-19.”<sup>30</sup>

AXS’s FAQ section has always stated that, “Tickets have a ‘no refund, no exchange’ policy.”<sup>31</sup> While this official statement has never changed, following the start of the pandemic it created a page dedicated directly to their ticketing response for shows affected by COVID-19. It states:

Sometimes events can’t be rescheduled. If your event is cancelled, we’ll email to let you know and automatically refund the payment method used for purchase (usually within 30 business days of the cancellation announcement). See the FAQs below for more info about refunds for cancelled events.

If your event is currently postponed or suspended, a new event date and time have not been confirmed yet. Once an event is rescheduled for a new date and time, you don’t have to do anything: your tickets will still be valid. We’ll email you if your event is postponed or rescheduled, and you can also search for the event on our site or app to see the latest event status.

As further clarified in the FAQ, for canceled events, ticket holders will automatically receive a refund. For rescheduled shows, ticket holders are advised that their tickets are valid for the new date. Only certain shows qualify for a refund and deadlines for submitting a refund request vary by event provider. If shows do not offer a refund, ticket holders are encouraged to try to sell or transfer their tickets. For postponed shows, there is



currently no opportunity to request a refund until the show is officially canceled or a new date is announced and the show qualifies for a refund.<sup>32</sup>

AEG has also implemented its own pandemic ticket policy on top of its ticketing platform AXS's policy, which allows ticket holders to request a refund for rescheduled shows within thirty days of the new date being announced.<sup>33</sup>

AEG Presents will be offering [ticket holders] the opportunity to obtain refunds on shows that have been postponed due to the unprecedented impact of the coronavirus. Refund requests will be honored for any postponed show, once the rescheduled date has been announced. [Ticket holders] will then have 30 DAYS to request a refund on all rescheduled shows.

For shows that have already announced a rescheduled date, you will receive an email from the ticketing company starting on May 1 with instructions on how to refund your tickets. You will have 30 DAYS from the time the email is sent to you to request your refund. Tickets purchased AFTER the rescheduled date has been announced will not be eligible for this refund.

If your show hasn't announced a new date yet, please hold on to your tickets. You will be receiving an email notification from the ticketing company when the show is rescheduled, along with information on how to request a refund should you choose not to attend the rescheduled event. Note that if you wish to attend the rescheduled show, your original tickets will remain valid for the new date.

Like its platform AXS, AEG's policy offers no course of action for ticket holders to obtain a refund for shows in the postponed state.

Live Nation's Ticketmaster fell under scrutiny after it changed the language of its refund policy online amid the growing impact of the pandemic on large gatherings. On March 13, Ticketmaster's policy stated that "refunds are available if an event is postponed, rescheduled or canceled"

while on March 14 the same page showed only that “refunds are available if your event is canceled.”<sup>34</sup> Ticketmaster stated the language change was in line with its refund policy over the last few years despite the above change, and clarified that:

In many cases, event organizers will provide you with the option to request either a refund or a credit toward a future event. Please note that if your event is canceled, you do not have to request a refund as it will be processed automatically in as soon as 30 days.”<sup>35</sup>

Under this policy, ticket holders get a full refund on canceled shows and may opt for a refund if a show is rescheduled or postponed.<sup>36</sup> Despite the similarities between AXS’ and Ticketmaster’s policies, Ticketmaster was heavily criticized for not allowing more restitution for fans and for changing the language of its policy. The legal and reputational ramifications are discussed later.

Since this controversy occurred, Live Nation introduced its ticket refund plan, which is arguably more lenient than any other in the industry.

Ticket holders will automatically receive a refund for cancelled events. Alternatively, if your show is at a Live Nation venue (list below) you will have 30 days to opt in to receiving a 150% credit to use towards buying future tickets. See more information below.

Tickets will automatically be valid for the new date, unless you opt for a refund within 30 days of the new show date being announced. Emails will be sent to ticket holders notifying them of their options. If you have tickets to a show that is postponed, you will be able to select your refund option once the new date is announced. If 60 days has passed since a show was postponed and no rescheduled dates have been announced, the 30-day window for refunds will open at that time.

Like all other policies, for canceled shows, ticket holders will receive an automatic refund. Unlike other policies, Live Nation is also allowing

ticket holders to opt to receive a credit for shows at Live Nation venues. For rescheduled shows, ticket holders may opt to receive a refund within thirty days of the new date being announced. Finally, if a show has been postponed for sixty days without a new date being announced, a thirty-day refund request period will automatically open up.<sup>37</sup>

### Independent Venues Ticket Refund Policies

With over two thousand independent venues registered through NIVA and many more operating globally, it is difficult to accurately cover the scope in which they handled ticket refunds during the pandemic.<sup>38</sup> However, a convenient sample of twelve venues from major music markets may offer some insight (see Exhibit 10).

Independent Venues Ticket Refund Policies				
Venue Name	Location	Refund Policy?	Addressed COVID?	Changed Policy?
Neumos	Seattle	Yes	Yes	No
Bottom of the Hill	San Francisco	Yes	No	No
The Satellite	Los Angeles	No	Yes	No
Hi-Dive	Denver	Yes	No	No
First Avenue	Minneapolis	Yes	Yes	No
The Bomb Factory	Dallas	Yes	Yes	No
Off Broadway	St. Louis	No	Yes	No
Empty Bottle	Chicago	No	No	No
Smith's Olde Bar	Atlanta	Yes	No	No
9:30 Club	Washington, D.C.	Yes	No	No
Bluebird Cafe	Nashville	Yes	No	No
Le Poisson Rouge	New York City	Yes	Yes	No

Exhibit 10. Independent venues ticket refund policies.

After doing a content analysis of the websites of these independent venues, half specifically addressed the COVID-19 pandemic either on the homepage or FAQ section. Out of the twelve venues, nine have a refund policy posted on their websites or event pages and all had some variation

of “no refunds” or “sales are final.” Finally, using the archival tool Way-back Machine<sup>40</sup> it was found that none of the independent venues altered its ticket refund policies after the declaration of a national emergency in the United States.

An interview with NIVA’s founder Adam Hartke<sup>41</sup> provided more insight into how these policies, while officially remaining the same, may have not been strictly adhered to in order to better serve their customer base. As a general proxy for the members of NIVA, as well as a promoter for venues like WAVE in Wichita, Kansas, Hartke suggested that flexibility was key during this time.

We have to work together with everybody and knowing that these are very unusual circumstances, we have to be super flexible...It’s about customer retention and keeping those positive opinions and positive reviews going.

WAVE’s ticket refund policy has never changed. However, WAVE has made exceptions and provided refunds where it wouldn’t normally have because everyone is in “crisis mode” and could not have imagined a pandemic situation when creating the policy. In the end, decisions to refund came down to maintaining relationships with customers and maintaining its role as a community-focused business. For those who did go through with a refund process, Hartke notes that those patrons were “appreciative and happy that it was an easy process” and that an estimated 95% requesting refunds had plans to repurchase tickets in the future.

Unlike large corporations like Ticketmaster and AXS, which faced challenges with refunds because they had already paid event providers and no longer had access to that capital,<sup>42</sup> Hartke states that most independent venues will never consider ticket revenue earned until a show is played. This means that while independents are facing more financial trouble during the pandemic, their reserves may have allowed them to respond quicker and more effectively to refund inquiries.<sup>43</sup>

## Music Festival Refund Policies

As stated earlier, the first music festival in the United States to cancel due to COVID-19 was Ultra Music Festival Miami.<sup>44</sup> Its original refund policy states:

Organizer may, in its sole and absolute discretion elect to either, (a) issue Purchaser a full or partial refund, (b) postpone the Event for a future date and/or (c) offer Purchaser a comparable ‘make good.’

With this language in place, Ultra decided to forgo any ticket refunds to ticket holders and instead allows purchasers to choose to attend a future festival in either 2021 or 2022. In addition, it offered “benefit packages” discussed in more detail in the section below.<sup>45</sup>

Following only two days behind Ultra Music Festival, on March 6, 2020, SXSW was cancelled by the City of Austin due to growing coronavirus concerns.<sup>46</sup> Much like Ultra, SXSW chose not to issue any refunds to ticket holders, as it did not have insurance to cover its losses and did not have the funds to issue refunds to every ticket holder.<sup>47</sup> This implementation aligned with its original refund policy as well, which states:

SXSW does not issue refunds under any circumstances. Any and all payments made to SXSW are not refundable for any reason, including, without limitation, failure to use Credentials due to illness, acts of God, travel-related problems, acts of terrorism, loss of employment and/or duplicate purchases.<sup>48</sup>

Ticket holders were able to choose to roll their tickets over to 2021, 2022, or 2023, and they also received the opportunity to purchase tickets for another one of those years for fifty percent off. These policies were not well received and the ramifications of Ultra Music Festival and SXSW’s no refund policies are discussed in depth later.

Many other high-profile festival cancellations have occurred since the beginning of March to the writing of this paper in early July. Coachella, which was first rescheduled from its original March 2020 dates to October 2020, was altogether canceled on June 10 by the public health officer in Riverside County, California.<sup>49</sup> After its October cancellation, the festival allowed ticket holders to opt for a full refund including fees by July 15, 2020 or roll their tickets over to be used in 2021:

Your passes will automatically be rolled over to 2021 - no action needed. If you would prefer to swap weekends, please visit our Fan to Fan Weekend Exchange.

If you would prefer a refund, please verify that the order ID and email listed below are correct, click the circle below to confirm your choice, and enter any requested information. This page is unique to your order and email address. This cannot be edited or updated.<sup>50</sup>

BTS Hyde Park in London, England offered another approach, choosing to automatically refund all ticket holders. With this approach, it is also offering priority access to purchase tickets for 2021.

The challenges caused by COVID-19 continue to affect the global event industry. After regular consultations with the artist community and The Royal Parks regarding the ongoing crisis, we will continue to monitor the situation before announcing our 2021 programme of artists. As a result, we believe that the best course of action is to automatically refund all ticket holders whilst this process continues. No further action is needed from your side.

Whilst we continue our discussions with the artists, we want to reassure fans that you will not miss out and if your 2020 headliner confirms for the 2021 event, you will be given priority access before the general on sale to re-purchase your tickets for that show. Full details will be released upon artist announcement.<sup>51</sup>

## **Alternatives and Incentives to Offset Refunds and Build Goodwill**

With billions of dollars in live music ticket sales lost due to the pandemic, many promoters sought alternative methods to retain or generate much needed capital.<sup>52</sup> Exhibit 11 summarizes various alternatives and incentives to offset refunds that are described in detail in this section.

<b>A Sample of Incentives and Goodwill Building Activities Offered by Promoters</b>			
<b>Activity or Offer</b>	<b>Offered by</b>	<b>Action and Conditions for Patron</b>	<b>Type and Reason</b>
50% off merchandise	Ultra Music Festival	Up to \$250, Expires December 31, 2020	(Incentive) No refunds available for any ticket holder
Priority admission to “Extra Ultra Hour” exclusive DJ set in 2021	Ultra Music Festival	Opt to roll ticket over to 2021 within 30 days	(Incentive) No refunds available for any ticket holder
Free ticket to a differ- ent Ultra Worldwide or Resistance event in 2021	Ultra Music Festival	Reserve on a first-come, first-served basis	(Incentive) No refunds available for any ticket holder
Exclusive access to additional tickets and upgrades for 2021	Ultra Music Festival	Must pay for upgrades, Reserve on a first-come, first-served basis	(Incentive) No refunds available for any ticket holder
150% credit at Live Nation venues	Ticketmaster	30-day time limit to opt-in	(Incentive) In lieu of a refund
Donate one ticket to a healthcare worker	Ticketmaster	Automatic when choosing 150% credit	(Goodwill) In lieu of a refund
Donate the amount of ticket to United Way	AEG	Opt-in and Consent to share personal information with United Way	(Goodwill) In lieu of a refund

Tiered exclusive incentives including: Limited edition T-shirt "Skip the Line", Ticket upgrades, Exclusive tour, Live set recording, Room rentals, and more	Cain's Ballroom	Make a donation via GoFundMe, ranging from \$10 to \$5,000	(Incentive) Crowdfunding for venue staff
Limited edition T-shirt with proceeds supporting the venue	The Historic Gillioz Theatre	Pay and order during 2-week pre-sale period	(Incentive) Crowdfunding for venue operations
"Drinks for your future self" drink voucher	Le Poisson Rouge	Donate a minimum of \$5	(Incentive) Crowdfunding for venue staff
Donate directly to venue staff support fund	recordBar	Donate any amount via Eventbrite or PayPal	(Goodwill) Crowdfunding for venue staff
Promoter stored excess produce in freezers and offered virtual farmer's market online	WAVE	Purchase goods online to have delivered or pick-up in venue parking lot	(Goodwill) Give venue staff purposeful work, help farmers distribute excess food, support the community
Food and Supply Drive	Empty Bottle	Drop off various supplies at the venue	(Goodwill) Support the community

Exhibit 11. A sample of incentives and goodwill building activities offered by promoters.

Ultra Music Festival, for example, developed a benefits package to supplement its no refund policy. This benefits package includes priority admission for an exclusive DJ set only available for 2020 ticket holders rolling their tickets over to 2021, a free ticket to other Ultra Worldwide



or Resistance events through 2021, a discount code for fifty percent off of merchandise, and opportunities for paid upgrades and other exclusive purchases.<sup>53</sup>

For Live Nation, this came in the form of a 150% credit in lieu of a refund for canceled shows at any of the 136 qualifying Live Nation owned venues. Not only would ticket holders receive the 150% credit if they opted for it within thirty days, but Live Nation also committed to donating one ticket to healthcare workers for every one ticket originally purchased.<sup>54</sup>

AEG also offered a way to donate tickets instead of requesting a refund for tickets bought through AXS.<sup>55</sup> In partnership with United Way, ticket holders whose shows were rescheduled have the option to donate the amount they paid to United Way's COVID-19 Relief Efforts. When selecting this option, the ticket holder's zip code is shared with United Way so that the funds can be distributed to the closest chapter.<sup>56</sup>

Some independent venues created additional donation campaigns outside of ticket refunds to keep their venue operating. In a statement by NIVA, "Live music venues are unique from most industries in that, while generating zero revenue as a result of the pandemic, we are also refunding past ticket revenue from cancelled shows." With so many venues plagued by fixed costs that are not able to be paid by their normal income from shows, additional income from donations may provide the funds needed to keep these businesses open while NIVA continues to lobby for federal support.<sup>57</sup>

Cain's Ballroom in Tulsa, Oklahoma turned to the platform GoFundMe and created the Cain's Family Fund to directly support its venue staff, including "bartenders, stagehands, runners, box office support, medics, security guards," and others. In a tiered incentive system ranging from a \$10 donation to \$5,000, Cain's offered things such as a limited edition T-shirt, the ability to skip the general admission line for a selected show, mezzanine ticket upgrades, a tour of the venue for up to ten people, a live set recording including tech support with the recorded tracks delivered to the client after the event, and room rentals.<sup>58</sup>

The Historic Gillioz Theatre in Springfield, Missouri sold limited edition T-shirts as well, boasting the phrase, "Be safe. Be kind. Be hopeful." This was the same message spelled out on its marquee since it had to close in March and all proceeds went to "help offset the ongoing expenses of our closed theatre."<sup>59</sup> Le Poisson Rouge in New York City sold "drinks to your future self," which included a drink voucher for any donation of

five dollars or more.<sup>60</sup> RecordBar in Kansas City, Missouri also implored fans to donate directly to a fund supporting its venue staff, including “security, bar, technical, and kitchen staff.”<sup>61</sup>

Not only have venues enacted new ways to support their staff, many are opening up their doors to support the community at large. At The Empty Bottle in Chicago, that took the form of a food and supply drive. They encouraged patrons to bring in a variety of essential supplies, which would be housed at the venue until they could be distributed to areas of need in the city.<sup>62</sup> WAVE in Wichita, Kansas created a virtual farmers market. Community members could buy a range of fresh produce and other food products online, have their goods delivered to them at home, or they could pick it up in the parking lot. They also had an option to donate a purchase to those in need. This arrangement aided WAVE, local farmers, and the broader community. When asked about this event, Adam Hartke noted, “It wasn’t really based on generating a lot of revenue, it was more about filling a need and using our space to help people.”<sup>63</sup>

## Legal and Reputational Ramifications

For a few companies whose policies were deemed unfair to ticket holders during the pandemic, negative press coverage and legal actions against those companies followed. Both Ultra Music Festival and SXSW faced class-action lawsuits regarding their no-refund policies. In the suit against Ultra, the named plaintiffs and those who fall into the class of ticket holders are seeking restitution in the form of “damages and monetary relief for the plaintiffs and class, and/or refund ticket holders the cash they paid for their tickets in full.” The representative on the case, Joe Sauder, also followed with this statement:

We understand that the COVID-19 pandemic has impacted every part of the global economy but we do not believe that gives the Ultra Music Festival the right to shift the burden of this extraordinary crisis onto its customers, who, in some cases, paid hundreds of dollars to attend this festival and now the COVID-19 pandemic has or will preclude them from ever using any credit.<sup>64</sup>

SXSW has also been named in a class-action lawsuit for its no refund policy, with the plaintiffs claiming unjust enrichment and breach of

contract. The suit claims “SXSW has, in effect, shifted the burden of the COVID-19 pandemic onto festival goers...individuals who in these desperate times may sorely need the money they paid to SXSW for a festival that never occurred.”<sup>65</sup>

Though both festivals had these no-refund policies in place prior to the pandemic, and the ticket holders agreed to them upon purchase, they had never, before the COVID-19 pandemic, been tested for enforceability to this magnitude. The outcomes of these cases, though undetermined at the time of this writing, may set a precedent for no-refund clauses for festivals in a post-pandemic world.

Not only were previously-set refund policies getting challenged, policies that had been altered after the start of COVID-19 were being criticized as being unfavorable to ticket holders. Ticketmaster and Live Nation were named in a class-action suit for “retroactively revising” its ticket policies. The plaintiffs are seeking “damages, injunctive relief and restitution.” The case outlines that:

Prior to the coronavirus outbreak and at the time that Plaintiff and Class Members purchased event tickets from Ticketmaster Entertainment, Inc., a division of Live Nation Entertainment Co., Ticketmaster assured customers that Ticketmaster would refund ticket purchase prices “if your event is postponed, rescheduled or canceled.” After the coronavirus outbreak forced the cancellation or postponement of most large events and public gatherings, Ticketmaster retroactively revised its policies applicable to the prior ticket sales to allow for refunds only for canceled events, not postponed or rescheduled ones, including when postponed events are “indefinitely” postponed.<sup>66</sup>

As the case was filed prior to Live Nation’s newest refund policy, it is unclear the state of the case and what the outcome may be. Regardless, the press coverage regarding fan outrage and the lawsuit was immense, and may have caused considerable damage to the reputation of the company.<sup>67</sup>

## Discussion and Conclusion

This paper contributes to the ongoing conversation surrounding the state of the live music industry through the pandemic and beyond. Its con-

tributions are threefold. First, it provides a chronological account of the deteriorating state of the live music industry due to COVID-19. Second, it offers a qualitative analysis and visual representation of close to three hundred live music events affected by the pandemic. While the qualitative data provided by *Billboard*<sup>68</sup> was immensely helpful to the industry and these researchers, the information shared was in paragraph form, inconsistently displayed, and incomplete. In this paper, the authors extend upon the existing *Billboard* data by leveraging modern technological tools to make this data more complete and publicly available for research purposes. Further, with the advent of more online academic journals, providing an interactive visual representation of the data seems fitting for those with an increasingly visual appetite. Finally, the paper provides a summarized account of many ticket refund policies and highlights the legal and reputational hits a company may face when policies are perceived as unjust.

While our paper answers some of the questions about the who, when, how, and what associated with cancellation status and refunds, it prompts a number of questions for future research. It would be interesting to measure the satisfaction level of ticket holders when comparing the response of large promoters to those of independent promoters. Would the duopolistic nature of the *big two* yield a satisfaction level that is statistically different from those who engage with independent promoters and venues, which are often an important part of the fabric of local arts communities? Related, it would be beneficial to discover if the largest promoters have a significant advantage over smaller promoters when it comes to providing incentives that would offset refund requests. Furthermore, based on an initial review of the literature and interviews, it would be interesting to catalog the various ways promoters have gone about building goodwill with community stakeholders in the midst of a crisis. While at least one national promoter has offered to donate a ticket to healthcare workers to build goodwill (and possibly offset refund requests), there are thousands of smaller independent promoters who have utilized their limited resources to serve the local community as well. A catalog of these creative efforts could serve as inspiration to other promoters. Finally, the refunds offered during this pandemic prompts the question, if refunds can be provided during a crisis, why can't partial refunds or transferability of tickets be embraced after the pandemic? Xie and Gerstner<sup>69</sup> and Guo<sup>70</sup> have put forth research that would suggest a partial refund policy may have a positive financial outcome for live concerts with high demand. The evidence may

show that a partial refund policy may also allay some of the fears of fans wanting to purchase tickets in a post-pandemic world filled with economic uncertainty.

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# **R-E-S-P-E-C-T:**

## **The Impact of the #MeToo Movement on the Entertainment Business and Its Law, Including Tips to Improve Corporate Culture**

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### **Abstract**

This article examines some important legal developments, as well as corporate strategies, that have occurred as a result of recent movements initiated by U.S. workers, such as #MeToo, Time's Up, and others. It also includes a RESPECT checklist of business strategies to assist in improving corporate culture and climate.

Keywords: #MeToo movement, cultural movements, corporate culture, entertainment business culture, employment disputes, contract law, confidentiality provisions, non-disclosure agreements, alternative dispute resolution, gender pay disparity, corporate best practices

### **Introduction**

Power imbalances between the sexes have always existed in the world of business, and specifically, it appears to be a discrepancy often encountered in the entertainment industry. From pay disparity to diversity issues to discrimination and more, the entertainment industry has created a workplace culture that has impacted individuals differently. Although visibility and transparency have been the hallmark of entertainers as they seek to increase their fandom, such has not always existed in their business relationships...until recently.

In the business world, whether entertainment or otherwise, the horrific experiences recently disclosed by both women and men negatively impacted have been numerous, the wrongs extensive, and the healing slow. Although the stories vary, many times the victims were weaker in

authority or influence while many of the wrongdoers, from comedian Bill Cosby<sup>1</sup> to sports physician Larry Nassar<sup>2</sup>, were (and are) more powerful and well-known. While all of these incidents deserve attention, the reports offered by the *New York Times* and *New Yorker* in 2017 about Harvey Weinstein served as the momentum to inspire a movement.<sup>3</sup> This awareness campaign is often referred to as the #MeToo movement. A few days after the Weinstein reports were released, on October 15, 2017, Alyssa Milano, an American actress, producer, singer, and now activist,<sup>4</sup> tweeted:

“Me too.”

Suggested by a friend: “If all the women who have been sexually harassed or assaulted wrote ‘Me too.’ As a status, we might give people a sense of the magnitude of the problem.”

If you’ve been sexually harassed or assaulted, write ‘metoo’ as a reply to this tweet. (@Alyssa\_Milano, October 15, 2017)

Within a 24-hour span, the hashtag “#MeToo” was tweeted nearly half a million times.<sup>5</sup> “Unlike many kinds of social media activism, it isn’t a call to action or the beginning of a campaign, culminating in a series of protests and speeches and events. It’s simply an attempt to get people to understand the prevalence of sexual harassment and assault in society. To get women, and men, to raise their hands.”<sup>6</sup> This movement proved that harassment, unfortunately, is not rare or even uncommon.

Soon it was discovered that the #MeToo movement pre-existed that famous Alyssa Milano tweet, although she had no knowledge of it at the time. The phrase was originally created by Tarana Burke in 2006 when she founded a nonprofit organization to assist victims of sexual harassment and assault.<sup>7</sup> She developed the motto “Me Too” as a way to build a bridge and amplify the voice of the victim.<sup>8</sup> Through her movement, she sought empowerment through empathy.<sup>9</sup> Soon, Tarana Burke’s “Me Too” movement was tied together with Alyssa Milano’s #MeToo movement as Burke tweeted: “It’s beyond a hashtag. It’s the start of a larger conversation and a movement for radical community healing. Join us. #metoo.”

What began with a focus on healing for the survivor<sup>10</sup> soon transformed into a powerful social experience the world has rarely seen. On January 1, 2018, as a complement to the #MeToo movement, the Time's Up campaign was officially introduced to the world.<sup>11</sup> It was started by more than three hundred women in entertainment, including celebrities Ashley Judd, Eva Longoria, and Jurnee Smollett.<sup>12</sup> It shares a similar vision with the #MeToo movement but appears to provide the next step as a "solution-based, action-oriented" program.<sup>13</sup> Some of its pledges are to change culture "so harassment and inequality are no longer tolerated," change companies "so work is safe and equitable, everywhere," and change laws and policies "so our rights are protected and expanded."<sup>14</sup> "TIME'S UP insists upon a world where work is safe, fair, and dignified for women of all kinds...Governments, businesses, and individuals all benefit from a world free from violence, discrimination, and barriers that hold women back. By working together, we can increase women's power and influence and ensure everyone has an equal chance to succeed at work."<sup>15</sup> In sum, their focus is on workplace issues, including fairness, safety, and equity in the workplace.<sup>16</sup>

Because these movements have shown that no one is alone in their situation by the sheer number of social media responses, if nothing else, many of those who have suffered feel comfortable sharing their stories. There is power and strength, both literally and figuratively, in numbers. At issue for all involved are accountability and transparency shown by legal, corporate, and cultural reforms instituted in response to these very powerful societal movements.

## Background

Numerous accusations of sexual assault perpetrated by entertainment industry executive Harvey Weinstein served as the impetus to the #MeToo movement.<sup>17</sup> As a result, the disgraced media mogul and his now bankrupt company (The Weinstein Company), once one of the largest independent film studios in the United States, have faced various demands from his alleged victims, as well as civil and criminal lawsuits.<sup>18</sup> One of Weinstein's victims, Zelda Perkins, came forward recently to share her story. In the 1990s, while employed by Miramax, she and other employees suffered harassment inflicted on them by Mr. Weinstein.<sup>19</sup> In 1998, in the course of a negotiated settlement, she signed a settlement agreement whereby Mr. Weinstein and Miramax pledged that Weinstein would undergo therapy

and that proper human resource complaints procedures would be created by Miramax, and in return for those promises, she agreed not to disclose the terms of the agreement.<sup>20</sup> During her recent speech to the British Parliament, she explained how “demoralizing” the three days of intense negotiations were for her.<sup>21</sup> Pursuant to the terms of the non-disclosure agreement, she stated that she was not allowed to speak to anyone about her experiences with Weinstein.<sup>22</sup> In fact, she could not even speak to medical professionals about the interactions unless they too signed a non-disclosure agreement.<sup>23</sup> In describing her situation, she stated that she was not even “allowed to hold” the non-disclosure agreement,<sup>24</sup> and she believed that she would go to jail if she breached any terms of the agreement.<sup>25</sup> Summing up this time in her life, Zelda Perkins believes that “her career in film was permanently damaged by her departure from Miramax.”<sup>26</sup> She is not alone.

Zelda Perkins’ recall of the events surrounding her execution of the non-disclosure agreement (NDA) has opened the floodgates for victims to re-visit, if only verbally and emotionally, their decisions related to workplace wrongs, including many in the entertainment industry. As described by Melissa Silverstein, founder and publisher of *Women in Hollywood*, “Perkins was the first one to break the system of NDAs Harvey Weinstein used to keep women silent.”<sup>27</sup> The Weinstein story, among so many others, has served to highlight areas of the law whereby powerful individuals and institutions can silence reports of wrongdoing, as it is often accomplished outside of the courtroom.

## Alternative Dispute Resolution and the Creation of Secret Contracts

Resolution of matters outside the courtroom is not new to American jurisprudence. In 1984, Chief Justice Warren Burger reminded society that we should look for options other than litigation:

The entire legal profession, lawyers, judges, law teachers...has become so mesmerized with the stimulation of the courtroom contest that we tend to forget that we ought to be ‘healers of conflict.’ For many claims, trial by adversarial contest must go the way of the ancient trial by battle and blood. Our system is too costly, too lengthy, too destructive, and too inefficient for a civilized people.<sup>28</sup>



Although the legal industry continues to grow rapidly, the resolution of matters by trial has, as intimated by Chief Justice Burger, undergone a sharp decline. One current trend in jurisprudence and business is the utilization of formal or informal processes to resolve disputes by means other than trial—in other words, alternative dispute resolution. The law, in fact, promotes private settlement of disputes. The utilization of alternative dispute resolution, such as mediation, arbitration, and negotiation, has been extolled as the most expeditious way to offset the high cost of litigation—both economically and emotionally. Contrary to its label, alternative dispute resolution is no longer an alternative or substitute method of resolution. Alternative dispute resolution has become the most desired solution to legal conflict in the United States.<sup>29</sup>

### Employment Disputes: Settlements Contracts Containing Confidentiality Provisions

When a dispute arises, an agreed-upon resolution (in other words, negotiation) between the parties, in many instances, provides the best result. In such cases, it allows the parties to focus on the issues most important to them and resolve the matter pursuant to their wishes rather than as determined by an outsider—the court. It is not unusual for settlement agreements to contain some sort of confidentiality provision, such as a confidentiality condition forbidding the parties from disclosing any details about the settlement or any of the facts that led up to the settlement.<sup>30</sup> In some instances, there may even be reservations for disclosures to the employee's spouse, attorneys, or tax advisors.<sup>31</sup> Furthermore, the consequences for failing to keep the terms of such agreements confidential can be very severe.<sup>32</sup>

These types of provisions, whether defined as a confidentiality clause, non-disclosure clause, or something else, have long been used to settle sexual harassment and similar claims, giving the victim a confidential way to quietly seek financial recourse from the other party while providing protection to the employer and/or the accused party. Even though it is unlawful for any settlement agreement in an employment case to prohibit employees from filing charges with or assisting the Equal Employment Opportunity Commission in its investigations under Title VII of the Civil Rights Act, confidentiality provisions remain a material part of most settlement agreements.<sup>33</sup>

While these confidentiality provisions give the aggrieved party the opportunity to put the matter behind them and allow businesses the ability to avoid negative publicity resulting from non-meritorious claims in many instances,<sup>34</sup> they also prevent important information about the situation to be shared with others, which may make other victims or potential victims more susceptible to the same kind of treatment. Such provisions may also directly or indirectly promote a culture of silence allowing the individual perpetrators to avoid accountability in some cases.<sup>35</sup> The secrecy surrounding these agreements may also allow companies and wrongdoers to avoid reporting these issues to shareholders and regulators.<sup>36</sup> According to a report by the *New York Times*, in the case of Harvey Weinstein, he “enforced a code of silence; employees of the Weinstein company have contracts saying they will not criticize it or its leaders in a way that could harm its ‘business reputation’ or ‘any employee’s personal reputation,’” as well as requiring most of the women who accepted payouts to enter into confidentiality clauses.<sup>37</sup> As privacy, confidentiality, and secret settlements have become the hallmark of these agreed-upon resolutions, what happens when the resolutions reached in private result in the cover-up of reckless, wrongful, or even criminal behavior?

### Employment Contracts: Non-disclosure Agreements Created in Consideration of Hiring

Apart from confidentiality provisions that are often included in the settlement of a claim, employers frequently require their employees to execute non-disclosure or non-disparagement agreements in consideration of hiring.<sup>38</sup> *Black’s Law Dictionary* defines a non-disclosure agreement as a contract or contractual provision containing a person’s promise not to disclose any information shared by or discovered from a holder of confidential information, including all information about trade secrets, procedures, or other internal or proprietary matters.<sup>39</sup> It further defines a nondisparagement clause as a contractual provision prohibiting the parties from publicly communicating anything negative about each other.<sup>40</sup> These types of pre-employment contracts or provisions are important, as businesses have a legitimate business interest in protecting their trade secrets and other proprietary information. In fact, these provisions are “prevalent in the entertainment industry where salacious details about the private lives of public figures can easily be sold to tabloids for a significant profit.”<sup>41</sup> While there are important business reasons to employ non-disclosure

agreements, we must be mindful when these agreements seek to obscure future bad acts and protect bad actors.

## Secret Contracts in the Entertainment Industry

As shown by the experiences of Zelda Perkins and many others, no matter the type of contract entered into by the employer and employee, revelations about the abuse and misuse of confidentiality provisions have initiated a conversation about whether these types of clauses and contracts are valid or contrary to the law; and if not contrary to law, at least, incompatible to our moral code. Accordingly, as our society bears witness to so many accounts of mistreatment, we should not only consider the legal concerns related to these contractual provisions, but we should also examine our ethical responses.

## Contract Law: Common Law

It is a well-founded principle of American jurisprudence that private parties have the freedom to contract as they desire. When testing the validity of a contract, including those that require secrecy, courts generally rely on common law, whereby valid contracts should “be reasonable and negotiated between two equal parties.”<sup>42</sup> In sum, “the formation of any contract requires that legally capable parties mutually assent to the terms of the contract and that consideration be present. Mutual assent is a meeting of the minds of the parties on all essential terms of the contract.”<sup>43</sup> Accordingly, based upon the idea that parties have the freedom to contract if based on a legal purpose, courts generally will not interfere.<sup>44</sup> Some exceptions have been carved out based on public policy<sup>45</sup> or contract defenses,<sup>46</sup> such as fraud, misrepresentation, unconscionability,<sup>47</sup> duress,<sup>48</sup> etc.

Duress and unconscionability are similar to and often intersect with public policy defenses.<sup>49</sup> When faced with a public policy defense and invalidation of a contract or provision, courts generally review based on two avenues of reasoning: “(1) the understanding, bolstered by the principle relating to the dignity of the legal system, that the party seeking relief on this basis did not commit any fault, and (2) that a court’s refusal to allow such unconscionable contracts or terms discourages their formation and use, which eventually benefits public welfare and advances public policy.”<sup>50</sup> Furthermore, a promise or provision is unenforceable on the grounds of public policy if legislation provides that it is unenforceable

or if, when the facts are weighed, the public policy reasons outweigh enforcement of the terms.<sup>51</sup>

Whether it is truly the desire of the parties to keep matters secret or whether there are deficiencies and inequalities in the bargaining process which, in fact, keep the matters hidden, defenses under the common law are available to test the formation and/or validity of the contract. However, in light of recent events, including the #MeToo movement, several states have created specific statutes which also deal with the enforceability of these types of agreements. Some focus on settlement contracts, entered into to resolve employment disputes, that contain confidentiality provisions (see Appendix 1); while others focus on non-disclosure agreements created in consideration of hiring and included in employment contracts (see Appendix 2).

Although contract law and recent legislation are mostly based in state law, there has also been some activity related to settlements at the federal level. With the 2017 amendment to the Tax Cuts and Job Act, employers now face greater expense in resolving claims if the settlement involves non-disclosure obligations.<sup>52</sup> The amendment now states that “no deduction shall be allowed under this chapter for any settlement or payment related to sexual harassment or sexual abuse if such settlement or payment is subject to a non-disclosure agreement...”<sup>53</sup> The law also prohibits deduction of any “attorney’s fees related to such a settlement or payment.”<sup>54</sup> Accordingly, no matter the applicable state law, all employers should be mindful of this federal law as certain deductions are no longer allowed.

## Arbitration

In addition to the resolution of claims or demands by way of a negotiated or mediated settlement agreement, another form of alternative dispute resolution is arbitration. Arbitration is a dispute resolution process in which the disputing parties choose one or more neutral third parties to make a final and binding decision resolving the dispute.<sup>55</sup> The parties to the dispute may choose a third party directly by mutual agreement, or indirectly, such as by agreeing to have an arbitration organization select the third party.<sup>56</sup> Parties in arbitration generally forfeit certain constitutional and civil procedure protections<sup>57</sup> since the process occurs outside the state or federal court system, but gain a much quicker resolution with generally less costs and expenses. Subject matter disputes for employment

arbitration may include such things as discrimination, breach of contract, defamation, business torts, or personal injury.<sup>58</sup>

Even though arbitration has traditionally been used as a means of resolving disputes concerning specialized and/or technical issues, there has been a growth of arbitration in the employment realm over the last thirty years.<sup>59</sup> Claims brought to the Supreme Court show that employers often require arbitration in various ways, such as by employee handbooks and applications.<sup>60</sup> It is estimated that over sixty million private sector, non-union U.S. employees operate under mandatory arbitration provisions.<sup>61</sup> Since 2010, according to the Employee Rights Advocacy Institute for Law and Policy, eighty percent of the largest domestic American companies as ranked by *Fortune* magazine use arbitration agreements to resolve workplace disputes and more than one half of the companies appear to have forced arbitration clauses where “workers did not have a meaningful choice to accept or reject the arbitration clause.”<sup>62</sup> As such, there are times when agreements to arbitrate are unilaterally imposed by employers on employees who have little choice but to agree, and, in such cases, meaningful consent is not obtained.<sup>63</sup> For some, arbitration is an “expeditious and economical alternative to litigation,” while others contend that arbitration clauses create “one-sided arrangements that deny consumers and employees advantages afforded by a judicial proceeding.”<sup>64</sup>

### Federal Arbitration Act<sup>65</sup>

As arbitration is consistently well-received by common law, it has also achieved approval in statutory schemes. The Federal Arbitration Act (“FAA”) was enacted in 1925 in response to widespread judicial hostility to agreements requiring arbitration,<sup>66</sup> and to replace judicial indisposition to arbitration with a “national policy favoring [it] and plac[ing] arbitration agreements on equal footing with all other contracts.”<sup>67</sup> The enactment of the new law “declared a national policy favoring arbitration and withdrew the power of the states to require a judicial forum for the resolution of claims which the contracting parties agreed to resolve by arbitration.”<sup>68</sup> The FAA reflects an “emphatic federal policy in favor of arbitral dispute resolution.”<sup>69</sup>

In response to the #MeToo movement, the correlation between heavily utilized mandatory arbitration provisions in the employment realm and sexual harassment claims has also gained a lot of attention. On February 19, 2017, Susan Fowler wrote a now famous blog post entitled *Reflecting*

*On One Very, Very Strange Year At Uber.*<sup>70</sup> In it, she reflected on her tenure at Uber, which began in 2015 when she was employed as a site reliability engineer.<sup>71</sup> The blog entry sets out many of her and other women's day-to-day challenges which, in summary, can best be described as overt "sexism within the organization."<sup>72</sup> In the amicus curiae brief she filed in *Epic Systems Corp. v. Lewis*,<sup>73</sup> Ms. Fowler described the standard contract she signed, along with all other employees of Uber, that contained an arbitration agreement with a class action waiver. She also explained that other technology companies such as Facebook and Google require the same sort of arbitration agreements. Fowler believes that "forced arbitration is kind of a legal loophole that these companies could use—companies like Uber—to cover up illegal behavior."<sup>74</sup> Ultimately, "forced arbitration ends up covering up all these underlying behaviors because they just get funneled through this very carefully crafted legal pipeline. You get pushed into this forced arbitration, you get an NDA, you can never talk about what happened to you. This covers up all these really bad instances of harassment that then becomes systemic. If you have more transparency you can catch the problems in your company way more quickly."<sup>75</sup>

Even though the #MeToo campaign was in full swing and looking for ways that employees could be protected, in 2018 the Supreme Court issued somewhat of a blow to the movement's momentum by consolidating three employment arbitration cases—*Epic Systems Corp. v. Lewis*,<sup>76</sup> *Ernst & Young v. Morris*,<sup>77</sup> and *Murphy Oil USA, Inc. v. NLRB*,<sup>78</sup>—and determining that the FAA's requirement that arbitration agreements should be enforced as written could not be impacted by the National Labor Relations Act's guaranty to class and collective action procedures. Specifically, it addressed the question of "whether an agreement that requires an employer and an employee to resolve employment-related disputes through individual arbitration, and waive class and collective proceedings, is enforceable under the FAA, notwithstanding the provisions of the National Labor Relations Act."<sup>79</sup> The Supreme Court, in a five-to-four decision, held that employees who entered into contracts with employers providing for individualized arbitration proceedings to resolve employment disputes between the parties were not entitled to litigate Fair Labor Standards Act or related state-law claims through class or collective actions in federal court.<sup>80</sup> In 2019, the Supreme Court issued another historic decision regarding arbitration in the case of *New Prime, Inc. v. Oliveira*.<sup>81</sup> This time, the Court "reasoned that before a court could invoke the power of the

FAA to send a dispute to an arbitrator, a court must first assess whether the FAA applies to the particular contract.”<sup>82</sup> The Supreme Court ruled that there was no power under the FAA to compel arbitration of the defendant’s claim, as the FAA was not applicable to contracts of transportation workers.<sup>83</sup> Whether the Supreme Court’s decision in *New Prime* is reflective of “current sociopolitical movements” with a view to a more “restrained interpretative approach”<sup>84</sup> of arbitration cases, or whether the decision and its reasoning is more limited in scope is not yet known.

Even in light of the *New Prime* decision, many scholars suggest that, based on the numerous pro-arbitration cases decided by the United States Supreme Court, they have misjudged the FAA and interpreted its directives too broadly. In support of the #MeToo movement, many advocates argue that mandatory arbitration clauses shield wrongdoers from the public scrutiny provided by an open and transparent court system. Many are demanding that the FAA be modified to address this problem. In February 2018, attorneys general for every state, Washington D.C., and five United States territories sent an open letter to the U.S. Congress seeking an end to mandatory arbitration in sexual harassment claims, stating that “[e]nding mandatory arbitration of sexual harassment claims would help put a stop to the culture of silence that protects perpetrators at the cost of their victims.”<sup>85</sup>

Shortly thereafter, during the 116<sup>th</sup> Congress, the Forced Arbitration Injustice Repeal (FAIR) Act was introduced.<sup>86</sup> This bill would generally prohibit a pre-dispute arbitration agreement from being valid or enforceable if it requires arbitration for an employment, consumer, antitrust, or civil rights dispute.<sup>87</sup> Accordingly, among other things, the FAIR Act would prohibit agreements from making the arbitration of employment claims mandatory. The bill was passed by the House of Representatives on September 20, 2019.<sup>88</sup> In the Senate, it has been referred to the Committee on the Judiciary where at the time of this writing, it remains pending.<sup>89</sup>

In the meantime, several states have stepped in and proposed and/or enacted legislation prohibiting mandatory arbitration of sexual harassment claims (see Appendix 3). Challenges to these state statutes have resulted and will continue, as many legal specialists believe that such state laws are preempted by the FAA.<sup>90</sup> The Supremacy Clause of the U.S. Constitution establishes that the laws of the United States “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”<sup>91</sup>

In addition to the Supremacy Clause, the principle of federalism<sup>92</sup> dictates preemption. Generally, where federal and state laws conflict, the state law is usually displaced, leaving it without effect.<sup>93</sup> The U.S. Supreme Court has held that state laws related to the validity, revocability, and enforceability of arbitration contracts are enforceable.<sup>94</sup> Each of our fifty state courts have laws related to arbitration, such as “arbitrator qualifications, arbitrator disclosures, ethics, and process requirements—hearing location, consolidation of arbitrations, notice and the like.”<sup>95</sup> However, any state laws that seek to interfere with arbitration in other ways are likely preempted by the federal act.<sup>96</sup> Accordingly, it is expected that many of the new state arbitration laws will be challenged by employers, especially for those that conflict with federal laws.

## Gender Pay Disparity

Gender pay disparity is another hotly debated issue encountered in business, and the entertainment industry has been no exception, as has been brought to light in recent years. *The Daily Beast* reported that *American Hustle* stars Amy Adams and Jennifer Lawrence worked about the same amount of time on the film as did their male counterparts, Christian Bale and Bradley Cooper, but only earned \$1.25 million and seven percent of the profits, while the men earned \$2.5 million each and nine percent of the profits.<sup>97</sup> Although her male counterparts were “commended for being fierce and tactical” in their negotiations, when Jennifer Lawrence sought to do the same, she was viewed by some as a “spoiled brat,” and in response, she penned a strongly worded essay about pay inequality.<sup>98</sup> Jennifer Lawrence is not alone in her grievances. While accepting her Oscar in 2015 for best supporting actress, Patricia Arquette concluded her speech with these powerful words: “To every woman who gave birth, to every taxpayer and citizen of this nation, we have fought for everybody’s equal rights. It’s time to have wage equality once and for all. And equal rights for women in the United States of America.”<sup>99</sup>

Pay disparity has been discussed for many years, and some laws have even been enacted to address it. Title VII of the Civil Rights Act of 1964 is the paramount federal anti-discrimination law that provides specific protections against pay discrimination.<sup>100</sup> It bans discrimination on the basis of race, color, national origin, sex, or religion in hiring, firing, terms, and conditions of employment and “compensation.”<sup>101</sup> Title VII has been limited in its ability to provide redress for discriminatory pay policies by



narrow court interpretations, including strict requirements for evidence.<sup>102</sup> A year earlier, in 1963, U.S. President John Kennedy signed the Equal Pay Act.<sup>103</sup> Under the Equal Pay Act, an employer cannot pay men and women different wages for the same or similar job unless this disparity is based on: “(i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex.”<sup>104</sup> Wages “can include more than just hourly or annual pay,” and can include alternative forms of compensation such as “bonuses, company cars, expense accounts, insurance, etc.”<sup>105</sup> The Equal Pay Act provides for recovery of two or three years (if the violation is willful) of back wages and liquidated or double damages of an amount equal to the back wages, as well as reimbursement of attorney fees and costs.<sup>106</sup> “Any violation of the Equal Pay Act is also a violation of Title VII.”<sup>107</sup> Due to the language of the statute and the related court interpretations, the Equal Pay Act “usually reaches only the most overt and narrow forms of gender pay discrimination.”<sup>108</sup>

Even after passage of the Equal Pay Act of 1963 and Title VII of the Civil Rights Act, the reality is that the United States, according to some research, still maintains a pay gap of approximately 20% between men and women,<sup>109</sup> although there may exist some nondiscriminatory reasons for such a gap, such as taking a break from a career to have children or seeking lower paid positions to offer more flexibility in managing a family. According to the Gender Pay Gap Report for 2020, the uncontrolled gender pay gap, which compares the median salary for all men and women regardless of job type or worker seniority (without controlling various compensable factors), shows that women make only \$0.81 for every dollar a man makes; and, the controlled gender pay gap, which controls for job title, years of experience, industry, location, and other compensable factors, shows that women make \$0.98 for every \$1.00 a man makes.<sup>110</sup> Another group of economists found a 13.5% difference when industry, occupation, and work hours were controlled to model “a man and woman with identical education and years of experience working side-by-side in cubicles.”<sup>111</sup> In fact, as of 2015, the gender pay gap for higher-earning women (those who earned wages in the top tenth percentile of earnings) showed they earned \$0.92 for every \$1.00 earned by men.<sup>112</sup>

In a recent study, the wages of 246 male and female actors featured in 1,343 films between 1980 and 2015 were analyzed by economists Sofia Izquierdo Sanchez (Huddersfield University), John S. Heywood (Univer-

sity of Wisconsin-Milwaukee), and Maria Navarro Paniagua (Lancaster University).<sup>113</sup> According to *The Guardian*, “The gap has been quite persistent,” Izquierdo Sanchez said. “It [was] almost the same in 2015 as it was in 1980. It [did not] show any signs of improving.”<sup>114</sup> The economists factored in several variables, including a star’s past success based on box-office receipts, awards won, and popularity on Twitter. When these factors were stripped out, it showed that female stars were paid 56% less than their male counterparts – the equivalent of \$2.2 million less per film.<sup>115</sup>

There had been little federal legislative activity related to pay inequity since the 1960s until the Lilly Ledbetter Fair Pay Act of 2009.<sup>116</sup> This law effectively overturned the decision of the Supreme Court in *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*,<sup>117</sup> a decision which “severely restricted the time period for filing complaints of employment discrimination concerning compensation.”<sup>118</sup> “The Ledbetter Act recognizes the ‘reality of wage discrimination’ and restores ‘bedrock principles of American law,’” including allowing for each paycheck that contains discriminatory compensation to be considered a separate violation, as well as allowing workers to challenge a variety of discriminatory compensation practices, such as “employer decisions about base pay or wages, job classifications, career ladder or other noncompetitive promotion denials, tenure denials, and failure to respond to requests for raises.”<sup>119</sup>

In 2016, there were changes proposed to the Employer Information Report EEO-1 that would require employers with one hundred or more employees to report pay data for all employees, rather than just certain demographic information that the report had historically required.<sup>120</sup> The goal of the enhanced reporting requirements was to facilitate greater pay transparency, both to help enforcement agencies spot trends in pay disparities among industries for targeted enforcement and to facilitate greater voluntary employer compliance with equal pay laws.<sup>121</sup> According to the 2020 court order in the matter of *National Women’s Law Center, et al., v. Office of Management and Budget, et al.*,<sup>122</sup> the EEOC’s EEO-1 Component 2 “pay data” collection for 2017 and 2018 is now complete.<sup>123</sup>

The Paycheck Fairness Act was passed by the House of Representatives in early 2019.<sup>124</sup> If enacted into law, “[i]t [will] amend equal pay provisions of the Fair Labor Standards Act of 1938 to (1) restrict the use of the bona fide factor defense to wage discrimination claims, (2) enhance nonretaliation prohibitions, (3) make it unlawful to require an employee to sign a contract or waiver prohibiting the employee from disclosing information

about the employee's wages, and (4) increase civil penalties for violations of equal pay provisions."<sup>125</sup> At this time, the bill remains unpassed, despite its introduction in every Congressional session since 1997.<sup>126</sup>

Recognizing the significance of pay equity, several states have passed laws seeking to protect and guard against pay inequality, for example:

Massachusetts, the first state in the U.S. to pass an equal pay act in 1945,<sup>127</sup> updated its law to become effective on July 1, 2018.<sup>128</sup> Under the law, no employer shall discriminate in any way on the basis of gender in the payment of wages.<sup>129</sup> Among other things, it permits employees to discuss their salaries with co-workers, prohibits employers from requiring applicants to provide their salary history during the interviewing process, and significantly broadens the definition of "comparable work" by removing the previous judicial requirement that comparable work must entail comparable duties.<sup>130</sup> By updating its law, the state hopes to ensure that everyone has the "opportunity to earn a competitive salary for comparable work."<sup>131</sup>

In 2018, New Jersey enacted the Diane B. Allen Equal Pay Act (DAEPA), which amended the New Jersey Law Against Discrimination (NJLAD), to make it unlawful to discriminate in compensation decisions.<sup>132</sup> Effective July 1, 2018, DAEPA allows complainants to recover damages for up to six years of unequal pay.<sup>133</sup> Additionally, complainants can recover up to three times their actual monetary damages.<sup>134</sup>

Additionally, some U.S. states and territories, such as Alabama, California, Colorado (effective January 1, 2021), Connecticut, Delaware, Hawaii, Illinois, Maine, Massachusetts, New Jersey, New York, Oregon, Puerto Rico, Vermont, and Washington, have expanded employee protections by prohibiting employers from soliciting historical pay data during the preemployment process.<sup>135</sup> Other states, including California and New York, have enacted laws that alter how equal pay claims are analyzed.<sup>136</sup> Current anti-discrimination laws and related court interpretations have

failed to fully close the gender pay gap;<sup>137</sup> thus, it is crucial to improve these laws to effectively do so.

## **Business Response: RESPECT**

Although government should continue to react and respond to the challenges highlighted by these societal movements, no single policy or law is, or can be, sufficient to address all of society's inequalities. All forms of workplace discrimination affect the victims as they suffer, in many cases, immeasurable costs—emotional, physical and financial.<sup>138</sup> Workplace discrimination also affects all workers, even though the damages may not be as personal or direct as those faced by the victims of it. Workplace discrimination, in turn, also impacts employers as there is “decreased productivity, increased turnover, and reputational harm,”<sup>139</sup> among many other costs—both quantifiable<sup>140</sup> and unquantifiable. Thanks to the messages of many victims and the social media outlets that shared their stories, these workplace issues can no longer be swept under the proverbial rug.

When focusing only on law and legislation, it seems that there is one thing missing—respect. Respect, as defined by Merriam-Webster, is “to consider worthy of high regard—ESTEEM.” Delving further, esteem is defined as “to set a high value on: regard highly and prize accordingly.” It is this author's opinion that rules and regulations cannot replace respect, nor can they replace reasonable business decisions, hence, it is important for all companies to respond to, and participate in, the current and dynamic movements which began with #MeToo and Time's Up.

Many companies, understanding that there are compelling business reasons to improve their corporate culture, have responded positively. Shortly after the movements began, in 2017, Microsoft dispensed with arbitration agreements in employee contracts for sexual harassment claims.<sup>141</sup> Soon, other companies such as Google,<sup>142</sup> Facebook,<sup>143</sup> and Uber<sup>144</sup> followed suit. Wells Fargo recently announced its decision to halt the use of mandatory arbitration in any sexual harassment claim.<sup>145</sup> Based on the Wells Fargo news releases, the firm has “taken many steps to create and maintain a workplace environment that promotes and protects the safety and well-being of our employees.”<sup>146</sup>

Businesses that want to do more than just react, must respect the workplace by continually working to create and maintain a positive corporate culture. As companies work to be transparent in this process, employ-

ee confidence will improve. The following sets forth a list of best practices that are critical for every business to employ as they are attentive to and conscious of their corporate climate. It all begins with R-E-S-P-E-C-T... (Can you not hear Aretha Franklin singing her signature song?)

## 1. R – Review the Laws

Of course, businesses should monitor their compliance with the various laws of the jurisdictions in which they operate and focus on improvements to their culture, policies, and procedures through coordination with the law. Compliance with the ever-changing state and federal mandates is essential. Such compliance could become overwhelming as companies operate in various jurisdictions with various and contrary laws, as discussed herein. Accordingly, a systematic approach must be employed.

## 2. E – Evaluate the Corporate Culture

Evaluation of the corporate climate begins with a review of the value placed on a positive and harassment-free workplace. In its 2016 report entitled *Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace* (hereinafter the “EEOC Task Force”), the EEOC Task Force, in an attempt to “reboot workplace harassment prevention efforts,”<sup>147</sup> sought to gain insights on how to prevent workplace harassment. The EEOC Task Force found that workplace culture has the “greatest impact on allowing harassment to flourish, or conversely, in preventing harassment. The importance of leadership cannot be overstated.”<sup>148</sup>

It is corporate leadership and accountability that creates the corporate culture.<sup>149</sup> The “tone at the top” must be evaluated to make sure that core values are being effectively communicated to all.<sup>150</sup> As such, many opportunities exist to create and show the importance of a positive culture, such as getting the employees involved, getting the board of directors involved, and just listening.<sup>151</sup>

Additionally, outside sources can drive this review. Implementation of goals and directives can be a starting point. As of 2019, only 20.4% of the board seats of Russell 3000 Index companies (the largest U.S. traded stocks, representing 98% of all incorporated equity securities in the United States) were filled by women.<sup>152</sup> The 2020 Women on Boards initiative is “a global education, public awareness and advocacy campaign urging corporations to meet or exceed 20% women directors on their boards by the year 2020.” Another initiative by the motion picture industry called

“50/50 by 2020” is hoping to create “equity in Hollywood.”<sup>153</sup> Further, the Academy of Motion Picture Arts and Sciences and the Producers Guild of America have adopted codes of conduct emphasizing the “values of respect for human dignity, inclusion, and a supportive environment that fosters creativity” as they set forth their opposition “to any form of abuse, harassment, or discrimination on the basis of gender, sexual orientation, race, ethnicity, disability, age, religion, or nationality,” and have developed a process through which claims may be brought in order to determine whether membership status should be revoked.<sup>154</sup> These and other initiatives are making strides to increase awareness that all should be treated fairly and equitably, including women in entertainment, the C-suite, and at board level leadership.

### 3. S – Set Clear Corporate Policies

Well-written corporate policies should mirror and support the corporate culture by setting forth behaviors that are and are not acceptable.<sup>155</sup> They should be crafted to help employees understand and comply with company expectations, help prevent problems that may result, and limit liability should an issue occur.<sup>156</sup> Review and/or creation of policies that relate to workplace behavior should be included, such as those that address relationships, travel, hiring, and promotions.<sup>157</sup> Several states, including New York<sup>158</sup> and Washington,<sup>159</sup> have established laws that require certain state departments to establish best practices that can be utilized by corporations.

In particular, an anti-harassment policy is critical, as it defines specific conduct that is barred.<sup>160</sup> It should certainly describe and proscribe conduct that is illegal—offensive, unwanted conduct based on race, color, religion, sex, national origin, age, disability, genetic information, and any other classification protected by law, which is either made a condition of continued employment [“quid pro quo”] or is severe or pervasive enough to create a hostile work environment. It should also describe and prohibit conduct that has the potential to become illegal.<sup>161</sup>

The reporting of bad behavior is likewise essential, and the policy should set out a clear process for reporting, including the person or persons to report to<sup>162</sup> and the form to be utilized in the reporting. Additionally, “bystander involvement and witness reporting,” even when anonymous, should be part of the process, and as a result, it should be unequivocal that there will be no retaliation against any person for reporting any conduct that is concerning.<sup>163</sup>

By way of example, the Purple Campaign is working to build a “broad coalition of diverse stakeholders to work together to implement stronger corporate policies” to, among other things, establish policy standards and shared norms, effective training programs, internal reporting systems, and fair investigative procedures.<sup>164</sup> Many businesses are partnering with this campaign, including Amazon, Airbnb, Expedia, and Uber.<sup>165</sup> All of these public efforts seem to be working as evidenced by a survey conducted by Challenger, Gray & Christmas, Inc., which found that fifty-two percent of the companies surveyed eight months after the start of the #MeToo movement reported that they were reviewing their sexual harassment policies; and, fifty-eight percent of those companies stated that they had already updated these policies.<sup>166</sup> Aimed at bettering the American workplace, these types of organizations focus on collaboration between employers and employees not only to self-police against bad behavior in the workplace, but also to focus on positive preventative action.

#### 4. P – Plan the Corporate Investigation Process and Discipline

Once a claim of any sort is raised, it is necessary to have a detailed and transparent investigation process. As part of that process, there should be a clear and fair procedure that protects the parties;<sup>167</sup> properly trains fact finders<sup>168</sup> who are not only neutral, but who are also perceived to be neutral; and maintains accurate records.<sup>169</sup> Confidentiality should be maintained, if at all possible.<sup>170</sup> Additionally, immediate action to investigate potential wrongdoing is imperative.<sup>171</sup> It is significant to note that this proceeding is neither criminal nor civil, thus the objective is not to determine whether any law has been violated but instead to determine if any company policy has been violated and whether the employee’s conduct is deemed unacceptable pursuant to the company’s guidelines.<sup>172</sup> Above all, when confronted with a complaint, the employer should conduct “a good-faith investigation—one that is prompt, thorough, and impartial.”<sup>173</sup> Making certain that the process is fair to the accused is also of great import and “contributes to all employees’ faith in the system.”<sup>174</sup> In addition, it is essential, once harassment has been determined, to impose discipline that is “prompt, consistent, and proportionate to the severity of the harassment.”<sup>175</sup> The discipline may take many forms, from diversity training to remedial coaching to termination.<sup>176</sup> Clear processes and consistent discipline are vitally important to the maintenance of a positive company culture.

## 5. E – Engage in Corporate Training

Not only is it essential to have effective policies and procedures, but it is also important to conduct effective trainings on those policies and procedures.<sup>177</sup> Training takes time and resources.<sup>178</sup> Although empirical studies about the effectiveness of training programs are lacking for several reasons, including lack of access given by corporations to researchers, one conclusion that the EEOC Task Force has drawn is that “training can increase knowledge about what conduct the employer considers unacceptable in the workplace.”<sup>179</sup> Also, even though the empirical data is lacking, practitioners believe that training is a key component of prevention.<sup>180</sup> Some states, such as California<sup>181</sup> and Delaware,<sup>182</sup> require that some sort of training and education be given to all employees. No matter the legal requirements, training programs should be developed to the specific requirements and needs of particular companies; conducted on a regular basis; attended by all employees, including management; taught by qualified, live trainers; and continually updated, as needed.<sup>183</sup> Training should also include workplace civility and bystander intervention processes.<sup>184</sup> Bystander training should teach co-workers how to recognize and respond to challenging behaviors.<sup>185</sup> Additionally, employee climate surveys serve an important role by allowing concerns to be shared by employees.<sup>186</sup> Comprehensive training shared on a consistent basis will provide positive results.

## 6. C – Consider the Corporate Contracts, including Non-disclosure Agreements and Confidentiality Terms

Non-disclosure and confidentiality terms in employment contracts may be appropriate in many circumstances. Except when state or federal statutes have been written to address them, courts will generally not interfere with the freedom to contract—even a contract whereby the parties promise to keep quiet about something.<sup>187</sup> However, corporations should recognize that defenses, such as public policy and duress, become stronger and more viable when there is inequality of the parties’ power and/or defects in the bargaining process. Accordingly, it makes sense for many reasons to protect each party in the process of contracting. A review of the use of all contract provisions should occur, such as examining the terms used, analyzing the negotiation process, ensuring that no provision hinders future criminal investigation,<sup>188</sup> and confirming that both parties’ basic de-



sires have been met so that each particular circumstance is treated individually. Always make sure to include the employee in the process and be certain that the process is transparent.<sup>189</sup> Businesses should seek to balance their underlying desire to keep facts secret for business reasons, such as the company's reputation, while providing victims with individual choice about disclosing those facts—as some may want the ability to share their story while others may place more value on maintaining their privacy. Not only does it make business sense to openly and honestly review contracting policies, but in doing so, the corporate culture will be enhanced. Businesses can provide a vastly more positive work culture when they are willing to lead the way as it relates to contract terms, rather than being forced to respond to legislated efforts.

## 7. T – Take Time to Make Additional Assessments and Analyses

It is important for all businesses to make additional assessments and analyses to determine that they are equitably considering, reviewing, and, if needed, responding to current situations. Some additional reviews to make are as follows:

- a. Assess how promotions and compensations are tracked, including regular audits to determine possible problems with issues and disparities, such as pay equity.<sup>190</sup>
- b. Analyze how third party vendors conduct their business, including whether there are pertinent policies in place for protection of their employees and independent contractors.<sup>191</sup>
- c. Examine the community-based initiatives that are or should be supported by the business, as corporate citizenship and social accountability are extremely important.

## Conclusion

The many societal crusades launched in recent years have inspired change and should serve as a reminder that real progress requires participation and effort. Everyone must do their part to become part of the solution, and it all begins with respect. Employers and employees must respect one another. Lawmakers must respect their positions and seek to do what can be done legislatively. Most importantly, businesses must respect the need for a positive corporate culture that provides protection, transformation, and equal employment opportunities for all.

## Appendix 1

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### Contract Law – Statutes: Employment Disputes – Settlements Contracts Containing Confidentiality Provisions

Some examples of legislation enacted to govern confidentiality provisions in settlement contracts include, but are not limited to, the following:

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|------------|--|
| Arizona    | Arizona's law provides that the terms of a non-disclosure agreement may not be used to prohibit a party to the agreement from responding to a prosecutor's inquiry or making a statement not initiated by that party in a criminal proceeding. It also prohibits public funds from being used as consideration in exchange for a non-disclosure agreement related to sexual assault or sexual harassment. <sup>192</sup>   |
| California | California's law prohibits provisions in settlement agreements that prevent the disclosure of factual information relating to certain claims of sexual harassment or sexual assault that are filed in a civil or administrative action. Claimants can request a confidentiality provision to protect their identity unless a government agency or public official is a party to the settlement agreement." <sup>193</sup>  |
| Illinois   | Illinois' law provides that, as it relates to settlement or termination agreements, any confidentiality provisions are valid and enforceable so long as (i) confidentiality is the documented preference of the employee, prospective employee, or former employee and is mutually beneficial to both parties; (ii) the employer notifies the employee, prospective employee, or former employee, in writing, of his or her right to have an attorney or representative of his or her choice review the settlement or termination agreement before it is executed; (iii) there is valid, bargained for consideration in exchange for the confidentiality; (iv) the settlement or termination agreement does not waive any claims of unlawful employment practices that accrue after the date of execution of the agreement; (v) the employee is given a period of twenty-one calendar days to consider the agreement; and (vi) the employee is given seven calendar days following execution to revoke the agreement. The employer is not to include any provision that prohibits the employee from making truthful statements regarding unlawful employment practices. <sup>194</sup> |

Louisiana	Louisiana's law states that no settlement agreement can be entered into with the state or related state agencies whereby public funds are paid which contains a provision prohibiting the disclosure by the claimant of terms or facts associated with an underlying claim that is related to allegations of sexual harassment or sexual assault. <sup>195</sup>
Nevada	Nevada's law prohibits a settlement agreement from containing provisions that prohibit a party from disclosing information relating to a civil or administrative action for a felony sexual offense, sex discrimination by an employer or landlord, or retaliation by an employer or landlord for reporting sex discrimination. The law also prohibits courts from entering an order that would prevent disclosure of this information. The claimants can request a confidentiality provision to protect their identity. <sup>196</sup>
New Jersey	New Jersey's law states that any settlement agreement (or employment contract) which has the effect of concealing the details relating to a claim of discrimination, retaliation, or harassment shall be deemed against public policy and unenforceable against an employee who is a party to the contract or settlement. If the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable, then the non-disclosure provision shall also be unenforceable against the employer. Further, every settlement agreement resolving a discrimination, retaliation, or harassment claim by an employee against an employer shall include a bold, prominently placed notice that although the parties may have agreed to keep the settlement and underlying facts confidential, such a provision in an agreement is unenforceable against the employer if the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable. <sup>197</sup>
New York	New York's law provides that no employer, its officer, or employee shall have the authority to include or agree to include, in any such resolution of a cause of action that involves discrimination, any term or condition that would prevent the disclosure of the underlying facts and circumstances to the claim or action unless the condition of confidentiality is the plaintiff's preference. The complainant must be given twenty-one days to consider the provision and seven days to revoke the agreement. <sup>198</sup> Additionally, New York has added protections for employees who have been harassed and who choose to enter into a non-disclosure agreement that the provision should be written in plain English and in the primary language of the employee, if applicable, and provide that the

provision is void if it prevents the employee from participating with any government agency's investigation or from disclosing facts necessary to receive public benefits.<sup>199</sup>

- Oregon Oregon's law makes it unlawful for an employer to enter into an agreement with an employee (as a condition of employment, continued employment, promotion, compensation, or the receipt of benefits) that contains a non-disclosure provision which prevents the employee from disclosure of factual information relating to discrimination, harassment, or sexual assault that occurred between employees or between an employer and an employee in the workplace, or at a work-related event that is off the employment premises and coordinated by or through the employer, unless the employee requests to enter into it and has seven days to revoke the agreement.<sup>200</sup>
- Tennessee Tennessee's law provides that any provision in a settlement agreement entered into by a governmental entity that prohibits the parties from disclosing the details of a claim or the identities of people related to a claim is void and unenforceable as contrary to public policy. However, victims of sexual harassment, sexual assault, or other offenses retain the ability to keep their identities confidential.<sup>201</sup>
- Vermont Vermont's employment laws related to sexual harassment require that a working relationship be free from sexual harassment and prohibit agreements to settle a claim of sexual harassment from including provisions that prevent an employee from working for the employer or an affiliate of the employer in the future; require an agreement to settle a claim of sexual harassment to state that it does not prevent the employee from reporting sexual harassment to an appropriate governmental agency, complying with a discovery request, or testifying at a hearing or trial related to a claim of sexual harassment, or exercising his or her right under State or federal labor law to engage in concerted activity for mutual aid and protection; and permit the Attorney General or Human Rights Commission to inspect a place of business or employment for purposes of determining whether the employer is complying with the law related to sexual harassment.<sup>202</sup>

## Appendix 2

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### Contract Law – Statutes:

#### Employment Contracts – Non-disclosure Agreements Created in Consideration of Hiring

Some examples of legislation enacted to govern non-disclosure agreements crafted as a condition of employment are as follows:

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|------------|---|
| California | California's statute prohibits employers from requiring an employee to sign, as a condition of employment or continued employment or in exchange for a raise or a bonus, either a release of claim or a non-disparagement agreement, or other document that purports to deny the employee the right to disclose information about unlawful acts in the workplace, including sexual harassment. The law states that these provisions do not apply to a negotiated settlement agreement to resolve an underlying claim that has been filed by an employee in court, before an administrative agency, before an alternative dispute resolution forum, or through an employer's internal complaint process if the agreement is voluntary, deliberate, and informed, provides valuable consideration to the employee, and the employee is given notice and has an attorney or is allowed to retain an attorney. <sup>203</sup> |
| Illinois   | Illinois' statute states that any agreement which is a unilateral condition of employment (or continued employment) that prevents an employee (or prospective employee) from making truthful statements about alleged unlawful employment practices, or requires the waiver or arbitration of any claim (current or future) related to any unlawful employment practice, is void and against public policy, except when it is mutual. In order to prove mutuality, the agreement must be negotiated in good faith; be in writing; demonstrate actual, knowing, and bargained-for consideration from both parties; and acknowledge the employee's right to report allegations to the appropriate government agency or official, participate in agency proceedings, make truthful statements required by law, and request and receive legal advice. <sup>204</sup>  |
| Maryland   | Under Maryland's statute, it is against public policy to include a provision in any employment contract or policy that waives any right or remedy (substantive or procedural) to a claim that accrues in the future related to sexual harassment or retali-   |

ation. The law also protects employees from retaliation for refusing to enter into such an agreement.<sup>205</sup>

- New Jersey New Jersey's law states that any employment contract (or settlement agreement) which has the effect of concealing the details relating to a claim of discrimination, retaliation, or harassment shall be deemed against public policy and unenforceable against an employee who is a party to the contract or settlement. If the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable, then the non-disclosure provision shall also be unenforceable against the employer.<sup>206</sup>
- New York New York's statute renders void and unenforceable any provision in a contract or other agreement between an employer and an employee (or potential employee) that prevents the disclosure of factual information related to any future claim of discrimination, unless the provision provides notice that it does not prohibit the employee from speaking with law enforcement, the Equal Employment Opportunity Commission, a state division of human rights or local commission on human rights, or an attorney retained by the employee (or potential employee).<sup>207</sup>
- Oregon Oregon's law makes it unlawful for an employer to enter into an agreement with an employee (as a condition of employment, continued employment, promotion, compensation or the receipt of benefits) that contains a non-disclosure provision that prevents the employee from disclosure of factual information relating to discrimination, harassment, or sexual assault related to occurrences between employees or between an employer and an employee in the workplace or at a work-related event that is off the employment premises and coordinated by or through the employer or between the employer and employee off the employment premises.<sup>208</sup>
- Tennessee In 2018, Tennessee made it unlawful for an employer to require an employee or prospective employee to execute or renew a non-disclosure agreement with respect to sexual harassment in the workplace as a condition of employment.<sup>209</sup>
- Vermont Vermont prohibits employers from requiring any employee or prospective employee, as a condition of employment, to sign an agreement or waiver that either prohibits the employee or prospective employee from opposing, disclosing, reporting, or participating in a sexual harassment investigation, or that purports to waive any right or remedy available to the employee with respect to a claim of sexual harassment (except as permitted by state or federal law).<sup>210</sup>

- Virginia Virginia prohibits employers, as a condition of employment, from requiring an employee or a prospective employee to execute or renew any provision in a non-disclosure or confidentiality agreement that has the effect of concealing the details relating to a sexual assault claim.<sup>211</sup>
- Washington Washington's statute prohibits employers, as a condition of employment, to require an employee to sign a non-disclosure agreement that prevents the employee from disclosing sexual harassment occurring in the workplace or at work-related events (coordinated by or through the employer, or between employees, or between and employer and an employee) off the employment premises.<sup>212</sup> Washington also passed a statute that non-disclosure agreements that limit or punish a disclosure of evidence regarding past instances of sexual harassment is against public policy.<sup>213</sup>

## Appendix 3

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### Statutes Prohibiting Mandatory Arbitration of Sexual Harassment Claims

Several states have proposed and/or enacted legislation prohibiting mandatory arbitration of sexual harassment claims. Some examples are as follows:

- Illinois Illinois' statute states, although not exclusively, that any agreement that is a unilateral condition of employment (or continued employment) that prevents an employee (or prospective employee) from making truthful statements about alleged unlawful employment practices or requires the waiver or arbitration of any claim (current or future) related to any unlawful employment practice is void and against public policy, except when it is mutual. In order to prove mutuality, the agreement must be negotiated in good faith; be in writing; demonstrate actual, knowing, and bargained-for consideration from both parties; and acknowledge the employee's right to report allegations to the appropriate government agency or official, participate in agency proceedings, make truthful statements required by law, and request and receive legal advice.<sup>214</sup>

Maryland	Under Maryland's statute, it is against public policy to include a provision in any employment contract or policy that waives any right or remedy (substantive or procedural) to a claim that accrues in the future related to sexual harassment or retaliation. The law also protects employees from retaliation for refusing to enter into such an agreement. <sup>215</sup>
New Jersey	Pursuant to New Jersey's statute, a provision in any employment contract that waives any right or remedy (procedural or substantive) relating to a claim of discrimination shall be deemed against public policy. <sup>216</sup>
New York	New York prohibits any clause in any contract that requires the parties to submit to mandatory arbitration to resolve any allegation of discrimination unless the condition of confidentiality is the preference of the complainant. <sup>217</sup>
Vermont	Vermont prohibits employers from requiring any employee or prospective employee, as a condition of employment, to sign an agreement or waiver that either prohibits the employee or prospective employee from opposing, disclosing, reporting, or participating in a sexual harassment investigation, or that purports to waive any right or remedy available to the employee with respect to a claim of sexual harassment (except as permitted by state or federal law). <sup>218</sup>
Washington	A provision of an employment contract is void and unenforceable if it requires an employee to waive the employee's right to pursue a claim for discrimination or if it requires an employee to resolve claims of discrimination in a dispute resolution process that is confidential. <sup>219</sup>



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# Young Adults' Compact Disc Usage Experiences in 2020

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## Abstract

While compact disc sales have been decreasing for the past several years, the format is not without its adherents. Millions of new units are still sold each year and although streaming services are heavily utilized by young adults—many of whom were raised on file-based music formats—a portion of this demographic still purchases and plays CDs. This study offers a view of 52 young adults' (ages 18 to 26) recent new CD purchase and usage experiences via a survey featuring qualitative and quantitative responses. Results indicated that young adults purchase and use CDs for myriad reasons, including to support favorite artists, as additions to collections, for playback in vehicles, and because the CD was bundled with artists' merchandise or tickets. Using Innovation Diffusion Theory as a lens, this segment of users are not technological laggards in adopting newer playback technology, but rather complement their streamed music service usage with CDs. Some of these young adults remain interested in collecting physical music, are sometimes feeling nostalgic, and are using CDs for practical reasons.

Keywords: physical music media, compact disc, CDs, digital music, recorded music, music industry

## Introduction

A March 2018 article published by the *Los Angeles Times* ran with the headline, "The compact disc era may finally be entering its hospice stage." The author cited Nielsen Music figures, which indicated that CD unit sales had fallen nearly ninety percent from 2001 to 2017, and highlighted how major retailers were phasing out sales of the compact disc (Roberts 2018). Other news articles have declared the CD's death, including two featuring the headlines of "R.I.P. CD" (Farber 2014; Cridlin 2018). An article by *BBC News* questioned whether music ownership would continue via phys-

ical media such as CDs and vinyl records (Savage 2019). However, signs of the CD's dwindling popularity were already published in media reports years earlier. In May 2010, the *New York Times* examined how various retailers had sought to diversify their offerings, reimagining their stores' physical layouts to accommodate floor space for other products to offset the lack of new music sales, primarily CDs (Plambeck 2010). Recently, an RIAA (Recording Industry Association of America) 2020 Mid-Year report noted CD album unit sales slid more than 45% from the previous year (Friedlander 2020). This decline actually began two decades earlier, after reaching a peak sales year in 2000 (Guidolin and Guseo 2015).

Additional signs of diminishing compact disc playback support became apparent when Apple introduced the MacBook Air in 2008, the first in a now-longstanding series of laptop computers that did not ship with an internal optical disc drive (Lowensohn 2013). In 2020, none of Apple's computers provided an option to install an internal optical disc drive. Consumer demand fading for new CDs—coupled with a decreased availability of CD players—has hastened the format's exit, which once held a formidable reign as the primary medium of recorded music for many years.

Sales of new music CDs have also faced technological competition over the past two decades. With the 1990s introduction of the recordable CD-R drive becoming commonplace in consumer desktop and laptop computers, home users could duplicate compact discs, making digital replicas of music initially purchased from retailers. High-speed residential internet access in the early 2000s brought downloadable music—legal or pirated—to homes across the world, mainly via the MP3 file, reducing sales of new CDs. Furthermore, the most recent popular playback technologies, streaming via subscription services such as Spotify, Apple Music, and Pandora, have given end users near-limitless popular music libraries for a monthly access fee, which they could play from devices in purses or pockets.

Digital delivery popularity is evident in revenue figures. Using the RIAA's 2020 Mid-Year Music Revenue Statistics, the total physical value in the first half of the year was \$375.5 million, with CDs generating \$129.9 million, or 35% of that total (Friedlander 2020). With a combined physical and digital value of \$5.65 billion (Friedlander), CD album sales represent a scant 2.3% of overall recorded music revenue. As CD playback options are phased out of consumers' reach with the reduction of available players, it seems likely that younger adults—typically substantial music consumers—may have found fewer reasons or opportunities to engage in



the format. It may not be surprising given that some of these young adults were born in the early 2000s. This was an era in which the compact disc had already seen its first competitor in the downloaded MP3 file. Some may have been raised in a mostly file-based playback environment, as the compact disc might not have been a primary format of music consumption for those whose introduction and engagement with recorded music began years after the 2001 introduction of the Apple iPod.

Still, some young adults are using CDs in the present to varying degrees. Some are avid consumers and collectors, while others might be more casual listeners seeking discs only sporadically. Despite the level of engagement, it is of interest to understand why those in an age range that is so frequently dependent on wireless technologies and immediate delivery remain consumers of physical media at all—especially the compact disc. With recent upswings in vinyl and cassette sales attributed to characteristics such as collectability and a penchant for tactile media, does the CD hold this same desirability quotient?

This study seeks to examine the current compact disc purchase and usage experiences of young adults ages 18 to 26. This population, comprised of Millennials and Generation Z cohorts, are sometimes referred to as “digital natives” (Fernandez and Beverland 2019; Zeng 2011). Two research questions are presented, as follows:

- RQ1: Why do young adults currently purchase and use new music CDs?
- RQ2: Do these young adults foresee themselves purchasing and using more new CDs in the future?

## Background

While home and mobile access to media has changed over the past few decades, the CD has been almost entirely unchanged in the retail marketplace since its introduction. Except for some disc-based variants—SACD (Super Audio CD), DualDisc, Enhanced CD (Wikström and Burnett 2009)—the standard music CD of 2020 is quite similar to the product that was introduced nearly forty years earlier. The CD would go on to surpass vinyl record sales in 1988 (Straebel 2009), though that trend began to reverse in 2020, with vinyl LP and EP revenues besting the CD, according to the RIAA’s 2020 Mid-Year report (Friedlander 2020). And while CD unit sales are higher than vinyl (Friedlander), just over 46 mil-

lion CD shipments in the United States were reported in 2019, a fraction of the nearly one billion CD shipment peak in 2000 (Watson 2020). Overall album sales fell by nearly 19% in 2019 (Eggertsen 2020).

CDs are still in demand in Japan, with physical recordings comprising almost 70% of the music sales market (Imahashi 2020). However, even Japan has seen signs of streaming becoming commonplace with more J-pop artists adding releases to subscription services (St. Michel 2019). In recent years, the CD has faced increasingly stiffer competition in tandem with its falling sales revenue. Automobiles, a longtime personal audio playback environment, had been equipped with CD players in nearly every model for many years. These in-car CD players initially arrived in 1985 (Pryor 2017), usually as an optional upgrade in higher-end marques, but later were installed as standard equipment in some basic models. More recently, major auto companies such as Fiat Chrysler and Honda have abandoned the standard installation of compact disc players in favor of audio streaming technologies via touchscreen inputs and phone-integration interfaces (Kubota and Bennett 2016).

Complicating matters for physical album sales is the practice of bundling recorded media, such as CDs or vinyl, with other artist merchandise or concert tickets. This practice can help sell additional units, increasing sales figures and chart positions (Eggertsen 2020). This action was addressed by *Billboard*, published on July 13, 2020, in which the company is instituting a series of rules changes to better ensure that bundled albums would no longer count towards album and song sales chart performance unless the album is promoted and sold as a separate, add-on purchase (Eggertsen). Given the recency of *Billboard's* announcement, the effects of the rules change on CD album sales is yet to be determined.

As the first popular digital audio format, the compact disc provided distinct advantages over its predecessors. Its audio reproduction capability was a primary characteristic that exceeded the typical consumer analog options of the early 1980s, which included the vinyl record, cassette tape, and eight-track cartridge. Downes (2010) notes that some audiophiles resisted the CD and instead held their vinyl records in high regard for myriad reasons, including the CD's sound and a lack of interactivity with the medium. Used vinyl record retailers actually benefitted from listeners who had switched formats to the compact disc, offloading their entire record collections (Shuker 2016).

In an interview, Mervis (2018) quotes a record store owner, who said, “I can’t remember the last time a person under 40 bought a CD in this store.” The owner adds that most CD consumers are middle-aged males and that younger customers are streaming music or purchasing vinyl. Still, some record store employees interviewed by Mervis (2018) and Cridlin (2018) predicted that the compact disc will either sustain itself in the marketplace or a resurgence may occur due to a nostalgic demand. CD nostalgia was even noted in a newspaper article by Nyman (2012), in which memories of the format’s usage is discussed.

Part of this study takes into consideration the adoption of audio technologies by this younger cohort. Looking to Rogers’s (2003) Innovation Diffusion Theory as a guide, which details the various categories in which technologies are adopted (from innovators, to early adopters, to early majority, then late majority, and lastly, laggards), raises another question: are these young adult CD users considered the laggards—described by Miller (2015) as tending to be “traditionalists” (268)—in the music media marketplace? Or are they merely being pragmatic about using an available technology that is both proven and ubiquitous?

## Methods

This study utilized an online survey administered via Qualtrics consisting of several qualitative and quantitative questions. Participant qualifications were within the age range of 18 to 26 years, to effectively capture the segment equivalents of the Millennial cohort’s tail end with a sizable population from Generation Z (Dimock 2019). Participants were also required to have purchased and played a new compact disc within the last year. All participants had to agree to the informed consent before taking the survey.

An email invitation was sent to primarily undergraduate students at a large university in the western United States. Depending on the skip logic function, participants were asked to answer eleven to thirteen questions, three to four of which required open-ended qualitative answers in an essay response box, plus a couple of demographic questions. A total of 57 participants responded to the survey questions from May 2020 to June 2020, however five participants only partially completed the survey, therefore 52 participants completed all questions presented to them. The average age of the participants was 21.5 years. After reaching a satisfactory level of

data saturation, responses were themed by the author as presented in the Discussion section of this article.

## Results

The earliest reported new CD purchase was made in May 2019, with the most recent purchase in June 2020. May 2019 was the most frequent month/year of recent purchases by the participants ( $n=15$ ), followed by March 2020 ( $n=7$ ) and June 2020 ( $n=7$ ). Target was the most popular source of new CD purchases ( $n=17$ ), followed by the artist's official on-line store ( $n=10$ ) and Amazon ( $n=7$ ). Other notable sources of new CD purchases included unspecified online retailers, ticketing agencies, Best Buy, concert venues, and Walmart.

Participants owned an average of 28.98 CDs, with a range of 1 CD to over 100 CDs reported. While all participants were required to have purchased a new CD in the last year, 73% reported they had not purchased a used CD in the last year. Of the participants who had also purchased used CDs in the past year, it was on average about 41% of their total CD purchases. A multiple-choice question asked if the participants foresaw themselves continuing to purchase new CDs in the near future, with selections including "definitely yes," "probably yes," "not sure/neutral," "probably not," or "definitely not." The most popular response was "definitely yes," as selected by 42.3% of participants, followed by "probably yes" at 30.8% and "not sure/neutral" at 13.5% of participants.

Most participants played their CDs in the car ( $n=26$ ), followed by at home ( $n=15$ ), with ten noting that they play CDs both in the car and at home. Two participants indicated that although they keep their CDs at home, they do not play them. Devices used for playback varied, but it was commensurate with the majority listening to CDs in the car, as exclusive use of the car stereo was the most popular device, followed by the computer (laptop or desktop), portable stereo ("boombox") and home stereo. Several participants reported using multiple devices for playback, including varied combinations of car stereo, home stereo, DVD player, and computer. Four participants used a portable personal device for CD playback (e.g., "Discman"). One participant noted using a video gaming console (Xbox), and another used a karaoke machine for CD playback.

Participants were also provided a list of eleven compact disc characteristics from which they could choose their current CD usage reasons or preferences. Participants could select as many characteristics as they

felt applied to their CD use preferences. In order of most selected to least selected, participants chose artwork (n=35), part of a music collection (n=33), lyrics (n=24), interaction with tangible recording (n=20), lasts a long time (durable) (n=16), affordable (n=15), sound quality (n=14), still own CD player(s) (n=13), easy to use (n=12), compact size (n=9), and plenty of CDs available for sale (n=9). The option to include an additional characteristic ("other") was available with an attached qualitative response. Four responses included, "If I run out of data or if [my] phone has a low battery," "I only use them because I already had them from the past," "bonus tracks," and, "in the past, I've enjoyed taking them to shows to have them signed."

Another multiple-selection question sought the genres of music recently purchased on compact disc by young adults. A list of fifteen popular music genres in the United States was presented, also with an "other" selection for any not listed. As in the earlier question, participants could select as many genres as they felt applied to their CD listening routines. Pop was the most selected genre (n=36), followed by rock (n=21), hip-hop (n=19), R&B (n=13), soundtracks (n=11), classical and Latin (n=6 each), EDM and religious (n=4 each). Six participants selected the "other" classification. Three of these responses noted K-pop as a genre listened to on CD. Some of the other responses included "indie," "show tunes," "alternative," "metal," and "pop-punk/emo."

In terms of other audio format playback preferences, nearly all participants used streaming services (n=51 of 52 respondents) via audio/visual channels such as Spotify, YouTube, Pandora or Apple Music. Vinyl records were also a popular selection (n=22), as were MP3 files (n=20). Two participants selected cassettes and one had indicated FLAC files as an "other" selection.

Qualitative responses to open-ended questions elicited a variety of insightful answers. The first question, which asked participants why they purchased a new CD (or CDs) in the last year, offered a host of interesting responses. The top reason was to support particular artists. Examples included, "I purchased new CDs to support some of my favorite bands during their latest album cycles," and, "I got it [from] one of my favorite artists that came out with his second album." The next most popular reason was for collections or display purposes. These examples included responses such as, "I like to purchase CDs of artists that I like. I like to support them, but I also like to have a physical copy I can look at to add to my

collection,” and more simply, “I wanted to start a CD collection.” Other similar responses included, “The CD is an album of my favorite artist, IU. It’s a K-pop album, and I’ve been collecting my favorite artist albums for my dream music room to display,” and, “I collect them. A lot of my favorite bands, I own at least one CD. Some bands I own every album on CD.”

Other reasons for recent CD purchases included gifts for others or themselves, (“I purchased it because I wanted to get my cousin a gift,” “It was a gift for a friend who likes using her old Walkman”) and because the CD was bundled as part of a package that included concert tickets or other merchandise (“The CD came with a concert ticket that I purchased,” “I am a big fan of The Weeknd. I didn’t purchase a CD but the concert tickets that I bought came with a CD”). More reasons included the extra content on the CD (“I wanted to get some bonus tracks which were only on the CD version”), signings (“My favorite artist had a deal to where you bought a CD of hers and she would autograph it for you and mail it on release day”), and playback in automobiles (“My car is able to use CDs, so I buy them to play in my car,” “My car doesn’t have Bluetooth and the aux sounds weird,” “At the time I didn’t have unlimited data on my phone and would run out of data so I would oftentimes [resort] to CDs I had in my car”).

An open-ended question asked all participants to explain why they currently owned and played CDs. This question also produced a variety of responses, with some listing multiple reasons. Perhaps not surprisingly, these responses echoed or offered further detail in response to the previous question. The most popular reasons included car playback, either due to a lack of phone connection (“I like to listen to certain music while in my car, and since I don’t have a way of connecting my phone to my radio, I use CDs”), or due to in-car convenience (“Sometimes I don’t feel like setting up my phone to [use] Spotify in my car. I have a bunch of CDs so I can listen to whatever I want and have it right there for me to choose in person,” “I just like having them in my car to play sometimes”). Another popular response was due to nostalgia, as some participants recalled using them earlier in their lives. Responses included, “Some of the CDs I have are packed with memories,” “It feels nostalgic, it really takes me back to the early 2000s when CDs ruled,” “I grew up with them, I still have several dozen CDs from my childhood and a few from movies like *Frozen*, *Tangled* or classic Disney music collections,” and, “I like to support the artists I like. Playing CDs and records give me a good nostalgic feeling so I tend to like playing those than listening to Spotify sometimes.”

Other response categorizations were similar to previous questions. These included display or collection purposes, as noted by the participant who said, "I like keeping them for my collection and I also enjoy having the physical copies of some of my favorite albums," and another participant who stated, "I think CDs are more like a collector's items now just like [vinyl] records are becoming a collector's piece." The discussion of collections was further evidenced by this response: "I'd say that I own CDs a lot more than I actually play them. In addition to truly liking the artists' entire discography enough to buy the album(s), I also collect the albums of certain artists each time they release new music, so that contributes to the increase in my CD collection."

The purchase of the CD provided an opportunity for some participants to support their favorite artist(s), as evidenced by these similar responses: "I own and play CDs because I love being able to support my favorite bands by buying their music and I prefer having physical copies of my favorite pieces of music," and, "I enjoy having a physical copy of my favorite artists' music and playing CDs in the car or stereo at home is more satisfying to me."

Depending on the response to whether or not participants predicted themselves continuing to purchase new CDs in the near future, the survey's skip logic would present one of three options, two of which were open-ended questions. For the participants who answered with "definitely yes" or "probably yes," the next question asked why they expected to purchase new CDs in the near future. This provided several predictions, many of which largely echoed the reasons why participants purchased a new compact disc in the last year. (One participant succinctly responded, "For the same reasons listed earlier!") The most popular response was artist support or artist preference. Examples included, "If I like an artist, there's a high possibility that I will buy their CD," and, "I like purchasing CDs from my favorite artists or albums that I like from start to finish." One participant even referenced the lack of live performances due to the current COVID-19 pandemic, stating, "Now more than ever, it's one of the best ways to support an artist, especially since tours are on hold, cancelled or postponed." Another popular response was to purchase CDs as part of a collection or display. Again, these responses were consistent with the previous category, including, "I want to collect all the CDs that my favorite artists put out," "For display purposes if it's from an artist I like," "I enjoy collecting CDs of my favorite artists. Also, it's a way for me to support

them with my purchase,” and, “I like collecting them and seeing them as memories in time when they are stacked up in my room after I switch them out.”

Other categories generated from responses to this question included the medium’s tangible and physical nature, as stated here, “All artists produce their albums digitally and physically. I like holding the physical copy of the book, it gives me joy looking at them, and I like supporting great artists. Also the small [stationery] items in it makes it very interesting!” A similar response was provided here, “I enjoy purchasing CDs and looking at the album artwork when listening to them for the first time.” And another participant noted, “I like the physical part of listening to music or movies.”

The opportunity to receive bonus tracks and added content was noted here via a K-pop purchase: “Unlike American CDs, the Korean industry provides additional incentives to buying albums. As I mentioned, photocards and a photobook are included, but they tend to have preorder specials as well that may come with limited edition photocards, or different CD styles and such. So it feels like I’m engaging in collecting multiple items.” And this response compared the portability and program length of CDs to vinyl records, stating, “I will probably buy more CDs in the future because [vinyl is] harder to bring around and CDs have bonus tracks.”

For those who responded with “probably not” or “definitely not,” the next question asked why they were not expecting to purchase new CDs in the near future. The responses from this question were far more limited in quantity. Just two categorizations could be formed from the responses, the first being that participants had opportunities to stream music instead: “I do not own any convenient devices that can play CDs. Plus, I really enjoy having easy access to music through Spotify and other streaming services. I would only buy CDs if it was part of a merch bundle or to get access to a CD signing.” And another participant echoed a similar reason, stating, “I use streaming services like Spotify, Apple Music or YouTube much more than CDs.”

The second reason for not expecting future CD purchases was due to the playback method—in this case, the vehicle in which their CD player is located. Said one participant, “My plan is to get a new car soon, so I assume I won’t need CDs.” And another noted, “My car’s CD player recently broke so I have nothing to play the CD on, I’ve put all of my CDs in my sister’s car which I occasionally drive.” And lacking access to



Themes Based on Participant Responses	
Theme	Selected Responses
1. Supplementary Content	<ul style="list-style-type: none"> <li>• “I wanted to get bonus tracks that were only on the CD version”</li> <li>• “The visuals and booklet drove me to buy the CD, as I do not get the same experience from online music”</li> <li>• “[I] wanted to own a special artwork version of the soundtrack”</li> </ul>
2. Reminiscent Qualities	<ul style="list-style-type: none"> <li>• “I grew up with them. I still have several dozen CDs from my childhood...”</li> <li>• “I used to love them as a kid. Now I just listen to them because of the nostalgia...”</li> <li>• “Some of the CDs that I have are packed with memories”</li> </ul>
3. Pragmatic Value	<ul style="list-style-type: none"> <li>• “It also works in my car better than my aux since my car is old”</li> <li>• “They’re reliable on long car rides”</li> <li>• “For home stereo and surround sound”</li> </ul>
4. Artist Loyalty	<ul style="list-style-type: none"> <li>• “Now more than ever, it’s one of the best ways to support an artist, especially since tours are on hold, cancelled or postponed”</li> <li>• “I’ll buy the CD of my favorite artists no matter what it is, if it has their name I’ll buy it”</li> <li>• “I wanted to support the artist(s) that I listen to”</li> </ul>
5. Purchase Intention	<ul style="list-style-type: none"> <li>• “I had to buy merch off the Harry Styles website to get the presale code for the concert”</li> <li>• “Purchasing a CD came with a free shirt at the Jonas Brothers concert”</li> <li>• “I didn’t purchase a CD but the concert tickets that I bought came with a CD”</li> </ul>

Table 1. Themes based on participant responses.

playback devices at home was stated here: “[Compact discs] are outdated, I personally don’t have a boom box nor does my computer have a CD-ROM [drive].”

## Discussion

Five primary themes had emerged from the reviewed responses in answering RQ1 (Why do young adults currently purchase and use new music CDs?). Examples of responses relative to each theme are provided in Table 1. The first is *supplementary content*, in that the compact disc complements the young adult users’ current streaming music media experience. It fulfills and augments certain tangible functions that most streaming cannot accomplish, such as offering the ability to visually consume the complete artwork, photography, credits, and lyrics in a printed booklet. In some instances, the CD version contains tracks not available on other formats. Given that nearly every participant reported access to streaming music, and that the average participant had fewer than thirty compact discs in his or her collection, the CD may not be the primary conduit for music consumption. However, it does serve a purpose in providing tangible content that could not be delivered via a streaming service.

A second theme was *reminiscent qualities*. Participants may be young adults, but the nostalgia of their youth was a factor in CD usage. The act of merely playing a compact disc, coupled with the content which may represent a reference point of their earlier years, allows for reminiscing. Using terms and phrases in responses such as “memories,” “tradition,” “remind me of when I was younger,” and “cool physical relics,” these participants recall earlier periods of their lives through CD use.

The third theme was *pragmatic value*. The compact disc holds a practical purpose for some of these young adults. Due to the functionality of their players (primarily in the car), the participants are still able to utilize the CD format within their broader media realm. Playing CDs may be a function of not having other options while in the car, or because the CD is a more reliable source of audio, not susceptible to interference or intermittent connectivity. This pragmatism is evidenced by some of these participants’ responses. The automobile as a popular space and location of compact disc playback lends itself to questions about the future viability of the format’s support. As these vehicles’ stereos (or the vehicles themselves) malfunction and wear out, compact disc playback options diminish, as newer, replacement vehicles may be less likely to be equipped with

CD players, instead featuring technology such as smartphone integration and streaming audio playback. This situation is similar for the home stereo, boombox, or portable CD players. Given that such devices are reliant on mechanical operation, these mechanisms may wear out over time. Like the in-car or at-home eight-track stereo systems of the 1970s, support for the format may reduce as these vehicles and devices lessen in usability.

A fourth theme is *artist loyalty*, which suggests that participants engage in CD use and purchases simply out of support for the artist. Much like a concert T-shirt or poster, the compact disc provides another option for consumers in this study to enhance identification with their favorite artists. The CD helps to express approval of such artists by allowing participants to showcase their collection of products and memorabilia. In putting such physical media on display, the participant can further solidify their fan identities. Examples of such loyalty were especially apparent with K-pop listeners, who offered details about their CD collections.

The fifth and final theme is *purchase intention*. While some responses indicate that participants specifically sought an artist's music on the CD format, other participants were more or less obligated to make a purchase containing a CD often to obtain another item, such as a concert ticket or other merchandise. While these participants are also fans of the artists, the distinction is that their originally intended purchase was not always the CD itself. Instead, the CDs were included as part of a purchased bundle. As one participant noted, "the main reason why I have CDs is because of my concert ticket purchases. I don't actually play CDs—or even open them—because I have Spotify." As mentioned earlier, future bundling practices may be altered by the new *Billboard* requirements.

In response to RQ2 (Do these young adults foresee themselves purchasing and using more new CDs in the future?), the young adults surveyed who currently purchase and play new CDs are more likely than not to purchase more new CDs in the near future. The combined affirmation of a "probably yes" or "definitely yes" by just under three-quarters of the respondents (as opposed to far less than a quarter combined for "probably not" or "definitely not") reveals a moderate adherence to the format. The inclusion of items such as special artwork and bonus tracks with the compact disc further buoys such purchase desire. Some cited bonus material on the CD as a factor in their purchase, especially if they are fans of a particular artist. This may be akin to Clement, Engh, and Thielmann's (2003) findings of fans' preference for the added value content included in the En-

hanced CD format, which was popularized in the early 2000s. However, for a minority, compact disc playback may not be of much concern. After all, these participants indicated that they purchase and use CDs for display purposes, artist signings, or because the CD was part of a more substantial purchase. To them, the CD—in all its un-played glory—could just as well be a photograph or other tangible object that exhibits their preference of a particular artist.

While there is a penchant for some to maintain a collection, the average number of CDs owned (under thirty) may be perceived as low, given the commonality and affordability of compact discs, especially used CDs. This is likely due to nearly every participant indicating that streaming—and its countless song or album selections—was another music playback option and they are not exclusive to compact discs. Pointing back to Rogers’s Innovation Diffusion Theory (2003), these findings suggest that the participant population are not laggards and that the CD supplements streaming service use. Some are being pragmatic by using CDs in vehicles already equipped with disc players, rather than streaming music in vehicles that may lack effective smartphone integration or incur substantial data use charges.

## Conclusion and Future Directions

This study does not attempt to predict the CD format’s longevity and sustainability as it nears its fortieth year in the marketplace. However, it will be of interest to see if *Billboard*’s July 2020 policy change announcement in accounting for sales of albums bundled with other products (Eggersen 2020) will alter the future course of CD sales. Still, some genres seem more conducive to being sold via the CD format, if not for the music, than for their fanbases who thrive on collectibles. As K-pop continues to become an increasingly notable presence as a popular music genre in the U.S., its influence on CD sales and usage could also be worth further examining. K-pop only comprised a few of the participants’ genre preferences, yet they appear dedicated to the genre’s artists and its associated products. As one participant said, “I tend to buy Korean Pop albums. My main collection is for BTS. In the K-pop culture, collecting albums is a very big deal. They contain the CD, photo album, photo cards, and other memorabilia.” Another participant offered similar sentiments on K-pop’s relationship with the compact disc, stating, “I do have CDs that are either rock or pop (these are VERY dated though), but with the genre of K-pop, it

is very common to purchase albums because of the detail and attention to them. Fans collect the albums, CDs, and goods included in new releases.” Reports in the media about the K-pop influence of current CD sales tend to support these participants’ purchase reasons (Rolli 2020; Kesvani 2019).

Following up this survey with in-depth interviews could offer greater detail and answer questions not addressed in the initial survey. Future research may include a better understanding of the appeal of displaying and collecting CDs, or if audio fidelity is considered in playback. Also, as this study specifically sought only those who had made a recent new CD purchase, it would be enlightening to understand why many young adults do not engage with CDs in the present, to get a sense of what portion of this same age segment has abandoned the format altogether.

Record labels, distributors, retailers and musicians may benefit in knowing what consumers want from new CD purchases and why they continue to engage with the format. The inclusion of bonus material and additional packaging items such as posters may find some consumers opting for the CD due to the added value. While sales of new compact discs have steadily declined, this study’s responses offer insight into why some who were raised in an era of file-based formats have found the disc appealing. Said one participant, reminiscing about the format, “I think it’s really beautiful how all those songs are on a slim disk, like so much talent on a paper thin disk. It blows my mind.”

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# Leadership in the Creative Industries: Addressing an Uncertain Future

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## Abstract

In recent years, the rise of the gig economy has brought a host of freelance opportunities for people working in creative arts professions, including music, entertainment, and media. Freelance professionals generate piecemeal income from several vocations. The freelance market's competitive nature requires recent graduates to cultivate a host of skills beyond their creative specializations. Equally concerning is the precarious state of the arts and entertainment sectors amid global health and financial collapse. In such uncertainty, the timing is right to consider how educators best prepare students to succeed in the coming years. This article argues for a shift in pedagogical mindset from an entirely skill-based model to a more holistic approach drawing on leadership across four areas: creativity, sustainability, vision, and community. The article puts forward a new theory, Creative Industry Leadership, to encourage a cooperative and holistic teaching and learning framework in the creative industries.

Keywords: creative industry, leadership, creative arts, sustainability, higher education

## Introduction

Educators working in the music, arts, and entertainment industries (termed creative industries) face an unprecedented set of challenges—both healthwise and financially. The perilous road ahead is unpredictable, and economists question how solvent the creative industries will be in the coming years. In early 2020 colleges and universities shifted to delivering courses via distance learning because of the increased global pandemic risk. To minimize the potential risks for infection, institutions around the United States sent students home and asked faculty and staff to work re-

motely. With little time or preparation in e-learning platforms and pedagogical best practices, many went into survival mode. Overhauling courses from traditional classrooms to Learning Management Systems (LMSs) in two weeks proved difficult. Indeed, these efforts are commendable; they are not, however, sustainable over the long term.

It will take several years to thoroughly analyze the impact of a global pandemic and economic downturn—this is especially true in colleges and universities training students for careers in the creative industries. Institutions scramble to make up for financial deficits due to shrinking enrollments, issuing refunds, and a lack of tuition. The creative industries also face significant hurdles as rising unemployment numbers hint at a major recession. Artists are often the first to feel the brunt of such dramatic changes. Freelancers piecing together multiple streams of income rely heavily on the discretionary spending of their peers. Without a safety net, the future looks murky.

This article argues that there is some upside to the unpredictable situation in which we find ourselves in higher education. The timing is right to consider how we might rethink our pedagogical approach in training the next generation of artists, musicians, and industry representatives. Instead of emphasizing business, management, and specialized paths, the article advocates a more cooperative model that emphasizes leadership—a term with a range of connotations. The following sections explain what leadership is. After defining the gig economy and creative industries, the article proposes a theory of Creative Industry Leadership based on four areas—community, vision, sustainability, and creativity. These four factors draw on the art and science of leadership; they prioritize how educators and practitioners can focus on the creative industries’ long-term solvency outside of the university.

## What is Leadership?

Leadership affects all aspects of organizational culture; leaders influence managers, employees, partners, and communities. In the arts, healthy leadership guides decision-making, funding choices, and curatorial direction. Yet, if management is more natural to pinpoint, what is it that leaders do, exactly? Precisely, what does leadership “look” like in the creative arts economy? Burns (1978) defines leadership as:

[The] reciprocal process of mobilizing, by persons with certain motives and values, various economic, political, and other resources, in a context of competition and conflict, in order to realize goals independently or mutually held by both leaders and followers. The nature of those goals is crucial. (425)

If someone is deemed a “leader,” or as “having leadership potential,” a sensible question is whether they cultivated those skills or were born with them. Much like the nature versus nurture debate, researchers in leadership studies seek to understand the qualities that define a leader in organizations of all kinds. Kouzes and Posner (2007) argue that leadership is learned.

It’s just pure myth that only a lucky few can ever understand the intricacies of leadership. Leadership is not a gene, and it’s not a secret code that can’t be deciphered by ordinary people. The truth is that leadership is *an observable set of skills and abilities...* (339, original emphasis)

We all have a vested stake in successful leadership. We elect politicians to offices, watch coaches lead teams in competition, and buy products from companies with high-functioning executives.

Northouse (2010, 3) defines leadership as “a process whereby an individual influences a group of individuals to achieve a common goal.” A leader influences followers in a fluid and dynamic way involving more than one person (Northouse 2010). Burns (1978, 18) expressed that leadership “is an aspect of power, but it is also a separate and vital process in itself.” Burns noted the power dynamics between the leader and follower:

*Leadership over human beings is exercised when persons with certain motives and purposes mobilize, in competition or conflict with others, institutional, political, psychological, and other resources so as to arouse, engage, and satisfy the motives of followers.* Leaders are a particular kind of power holder. Like power, leadership is relational, collective, and purposeful. Leadership shares

with power the central function of achieving purpose. (18, original emphasis).

Leadership is complicated and draws on the fundamental aspects of human behavior. Moreover, leadership maintains an intentional focus in all kinds of organizations, drawing on emotions, psychology, and social interaction (Burns 1978).

## Leadership vs. Management

Zaleznik (2004 [1977]) first wrote about the key aspects of both in the *Harvard Business Review* over forty years ago. Leaders and managers rely on each other, but their roles and responsibilities diverge at times. For example, Kotterman (2006) argues that the differences between managers and leaders is often unclear, particularly in large, complex organizations.

Leaders and managers often hold similar attributes and accomplish related goals. Rarely, though, does one person fulfill a leadership and managerial role; executives frequently overlook managers for training and promotion (Kotterman 2006). Lunenburg (2011) agrees, stating: “First, good leaders are not necessarily good managers, and good managers are not necessarily good leaders. Second, good management skills transform a leader’s vision into action and successful implementation” (3).

Toor’s (2011) empirical study of leaders and managers produced three significant themes.

First, leadership pursues change that is coupled with sustainability, while management endeavors to maintain order that is tied with the bottom line. Second, leadership exercises personal power and relational influence to gain authority, whereas management banks on position power and structural hierarchy to execute orders. Third, leadership empowers people, whereas management imposes authority. (318-319)

Leadership and management enjoy a complementary and supportive relationship in a healthy organization. That is not always the case, but Toor’s (2011) research suggests that leaders build coalitions through influence and building into others. For artists entering a fraught and competitive market, building coalitions, much like guilds, allows a group of

people to build strength in numbers and build on each other's knowledge and creativity.

## The (Creative) Gig Economy

Music is everywhere. Though technology facilitates access to music in sundry ways, the ease of access to music makes it difficult to make a living. Gross states: "musical abundance, which denotes the ability for anyone to access music, anywhere at any time, if they have the right equipment;" easy access poses risks for the gig economy as the industry becomes fragmented and too competitive (481). In her estimation, the value of musical work as a commodity lowers along with the value of participatory cultures (Gross 2019).

Markusen, Wassell, DeNatale, and Cohen (2008) sought to define the creative economy—noting that the word "creative is popular but problematic" (24-25). Markusen et al. explain: "Cultural industries employ many workers whose work does not involve creative tasks, whereas cultural occupations include many cultural workers who are self-employed rather than assigned to any particular industry" (25).

In the creative sector, there is an allure about being entirely independent. The "gig economy," as it is often called, conjures up notions of freelancing and completing jobs via an app (De Stefano 2015). Friedman (2014) provides a description:

'Gig workers' are employed in occupations across the American economy. While the term comes from the employment of musicians to play for a particular set or for an evening performance, it is now used to describe a wide range of employments. (172)

Freelancers have some control over their schedules; however, being self-employed brings a series of complications. Burtch, Carnahan, and Greenwood (2018) found that while the gig economy provides employment opportunities, short-term ventures and failed crowd-sourcing campaigns negatively impact entrepreneurial efforts. At a basic level, being successful in the gig economy requires that there are enough opportunities to pay the bills and the ability to juggle multiple on-demand jobs. Kalberg and Dunn (2016) provide a cogent description of the gig economy itself:

The gig economy is generally characterized by short-term engagements among employers, workers, and customers. In this sense, the gig economy is not new. Instead, it represents a digital version of the offline atypical, casual, freelance, or contingent work arrangements characteristic of much of the economy prior to the middle of the twentieth century and that have reappeared in the past thirty years. (11)

The authors conclude that as digital platforms broker work between companies and freelancers, the payment structure, connection to the company, and level of personal control varies widely in the gig economy (Kalleberg and Dunn 2016). Analyzing salaries between on-site workers and those in the gig economy, Kalleberg and Dunn note:

Despite the relatively high pay in online platform jobs, wages are lower than they are in equivalent brick-and-mortar jobs, assuming workers are able to get those jobs (due to spatial or other constraints). (13)

In the arts, training emphasizes performance and related skills. The challenge here is that while universities can train people in a particular craft—music—for example, there is little emphasis on meeting the rigors of the gig economy, much less long-term Leadership skills.

The freelance market is brutal for some. Equally, we live in a changing world with divisive rhetoric and an all-out assault on the arts. Symphony orchestra payment scales remain fluid as ensembles must find ways to attract new audiences and address budget issues (Pompe and Tamburri 2016), and politicians look for ways to cut funding to arts organizations both nationally and at the state level forcing alternative fundraising strategies (Gallagher 2020).

Likewise, as of this writing, the world finds itself in a state of pandemic chaos. For at least the foreseeable future, the creative sector's future remains uncertain. Online lessons and streaming performances offer some solace, but there is an entire population whose financial prospects seem dire. Universities are no exception to this prognosis. Many institutions face a steep road ahead. Falling enrollments and refunds for room and



board will hurt smaller institutions in particular. The global economy will take many years to recover.

If there is *any* upside to what's happening, it might be the reflective opportunities that come about in the downtime. For those of us working with students in the creative arts industries, the precarious future ahead requires that we take time to check where we are as a community of educators. It is precisely for this reason that this article calls for a more in-depth inquiry into leadership training as early as possible in the creative industries.

One might consider that leadership is a skill worth cultivating in university programs. Institutional vision statements, along with accreditation requirements, stipulate the curricular foci of degree offerings. The closer the learning outcomes align with the institutional mission, the better. Yet, it is reasonable to ask whether programs in the creative industries “meet the moment” when pressed with ongoing challenges.

How do music business and related programs know if they train capable leaders? If one considers that leadership takes time and experience to build, they acknowledge the nurture side of the debate. Alternatively, advocates of the nature concept believe that leaders are born, not made. Either people have it or they don't, and it is not an institution's responsibility to make that prediction.

These are binary perspectives—written to spark some reflection on whether leadership matters. The truth most likely resides somewhere in the middle. People have certain inherent traits that increase their likelihood of leadership acumen later in life. Environment, social class, gender, and race, all play a part in determining upward mobility. We also have to question what leaders are and what they *do*. In a pathway so individualistic as the creative arts, this is a difficult task.

“Meeting the moment” means being tested. One cannot meet expectations without first knowing what such requirements are. And, while no one can predict when a catastrophic or paradigm-shifting event happens, it behooves us as educators to reflect on our primary aims in pedagogy and vocational training. What I propose is a renewed focus on leadership training in the creative arts.

Meeting the moment happens when stakeholders respond appropriately in times of uncertainty. Myriad possibilities exist here; one need not contrive a natural disaster as the mark of testing one's inner strength. Yet, as the music and entertainment industries crash amidst the coronavirus

quarantine, educators must reevaluate their vision and mission. Getting past purely vocational competencies for a moment, how else do we know what we're made of if we don't test it? Embedding leadership concepts into pedagogy requires an understanding of what leadership is and what it offers.

## **Mentoring and Building Leadership in the Creative Industries**

As expressed, meeting the moment and guiding change requires thought and action. Leaders have varied skills. A leadership-focused pedagogical framework evolves across four areas, Creativity, Sustainability, Vision, and Community. By no means exclusive, these four areas touch on fiscal, personal, and organizational matters affecting institutions and communities. Mentoring implies that leadership can be learned. The four aspects of leadership here seek to work towards continuous, long-term change in the music and entertainment business and educating those for such careers.

### **Creativity**

Teaching creative leadership concepts starts by considering the merits of service and project-based learning. Creativity is often process-oriented and based on small, incremental changes that eventually lead to insights. Sawyer (2006) contends that "explaining creativity can help our leaders to respond better to the challenges facing modern society" (4). For educators working in the creative arts, considering the merits of scientific research on creativity may prove helpful in dispelling myths of what creativity is and is not. Using psychology, for example, to understand better how the brain works, opens up interdisciplinary modes of thinking, teaching, and learning.

Problem-solving, or project-based learning, affords learners a chance to tackle a practical issue. Presented with an issue needing a solution, students work independently and in teams to find workable answers to the question. Sawyer (2006) notes that "explaining creativity can help educators teach more effectively" (5). Simulating real-world issues requires learners to communicate clearly, budget their time, and pool resources to carry out the task. Here, the educator's role gradually morphs into that of a supportive mentor. Peer feedback and review are encouraged, and experimentation prioritized. Any "failures" in the group exercise, along

with practical and supportive instruction, give learners valuable experience. Sawyer elaborates:

Explaining creativity provides more than intellectual satisfaction; it will lead to a more creative society, and will enhance the creative potential of our families, our workplaces, and our institutions. (2006, 5)

Service-learning functions similarly to project-based learning in that learners work with local or regional organizations on a collaborative project to provide students with field experience (Furco 1996). Though researchers have different views on the breadth and scope of service learning, Furco proposes a nuanced view: “Each program type is defined by the *intended beneficiary of the service activity* **and** *its degree of emphasis on service and/or learning*” (3, original emphasis).

Leaders foster relationships inside and outside an organization. Their role is, in some senses, much like an ambassador. Leaders communicate with a range of stakeholders; partnerships evolve, and projects begin. In the classroom, educators and learners work on a project, perhaps with a local non-profit, and complete it over several weeks or months. Service-learning projects may also support inclusion and social justice. Building connections across cultures is a crucial aspect of leadership.

## Sustainability

Like leadership, sustainability carries varied connotations. One might consider green and eco-friendly forms of energy or investment strategies that focus on long-term planning. Both of these are commonly expressed in business and in education. In their education research, scholars Hargreaves and Fink defined Sustainable Leadership below:

It is a shared responsibility, that does not unduly deplete human or financial resources, and that cares for and avoids exerting negative damage on the surrounding educational and community environment. Sustainable leadership has an activist engagement with the forces that affect it, and builds an educational environment of organizational diversity that promotes cross-fertilization of good ideas and

successful practices in communities of shared learning and development. (Hargreaves and Fink 2004, 9)

In their view, leadership emerges when human beings consider the impact of their decisions on the world; ideas evolve when people cooperate and build into each other over a long period of time (Hargreaves and Fink 2004).

Gardening, as a metaphor, aptly describes cultivating sustainability in leadership. Planting seeds, a phrase often used by educators, reinforces the concept that education is a lifelong pursuit. Working in the creative industries, one must continually update skills to stay relevant. Such a quest requires “learning how to learn” over one’s career. For a farmer or horticulturist, knowing the climate and the local conditions is paramount for success. More importantly, understanding one’s roots in a given place informs one’s abilities to challenge the status quo (Shevock 2017). Gardeners must consider timing issues too. Growing reflects a personal and professional mission. As creative entrepreneurs amass experiences and skills, they apply such knowledge in an ever-changing work environment. To be successful, one must consider the time needed for investment and expansion.

Sustainability happens when an organization or person meets the demand of the market while enduring fluctuations. Another way of describing this is solvency. Being solvent is both financial and logistical. Leaders understand that significant change happens with time. Solvency depicts a model that is supported by adequate resources and operations. Such goals can be met with advanced planning and change as needed. One must consider that ideas and concepts change and evolve. Therefore, being solvent requires a proper mindset. This happens through critical thinking, evaluation, decision-making, and communication. Establishing teams with persons of like-minded interests and goals accomplish solvency.

Another way of referring to solvency is longevity. Successful companies, and individual leaders, combine a successful blend of communication, personal traits, stakeholder agreement, collaboration, and innovation. Consider for a moment any successful company. How did the organization achieve such long-term productivity? There are multitudes of explanations. Yet, as educators, it is our responsibility to cultivate an ethos of longevity in our students.

It is not enough that they meet the moment, once. Haas (2016) argues for a concept known as post-traumatic growth—the idea that human beings can build resilience from failures and difficulties. By controlling the mind, and one’s reaction to negative circumstances, growth and healing is possible. Haas takes care not to underestimate trauma; rather, she argues that resilience can be learned and nurtured over time and that science backs this assertion.

Training leaders requires that such persons meet the moment again and again. This happens after experiencing setbacks and failures. It is in the corrective actions where an entity matures. Thorley’s (2020) research on failure, the creative industries, and higher education reveals a correlation between risk-taking and innovation. He writes:

A new approach should nurture creativity and innovation, enable learning and development, and also acknowledge the role of failure. Creativity is the development of novel ideas which have usefulness—without such ideas, a University is unlikely to flourish. (73)

Flexibility, or pliability, is a trait that educators ought to prioritize in the creative arts. If the pace of change is such that business models and technologies become obsolete quickly, we must help our students understand how to be malleable. Just as planning and vision-making take time to grow, our students need to be flexible. Some visions and plans are not immediately clear. Forecasts change. How well are we preparing our students to meet a creative industries sector best described as vague? Flexibility, here, signifies people’s ability to mold themselves into settings as necessary. Like clay, one’s skill set meets the moment as the gig economy dictates. One achieves such a missive by being teachable and committed to moving ahead.

Haas (2016) explains that resilience “is a matter of small steps, of inching forward one step at a time” (7). In her interviews with survivors, Haas noticed that “[it] was only after they embraced their suffering and let it penetrate them to the core did things change” (7). Resiliency is akin to leadership. Progress happens slowly and takes time to advance. The crucial point is in how human beings use the mind to adjust and react to difficult circumstances. For educators, fostering resilience must be intentional,

steadfast, and built over a stretch of months and years. We can engage our students in that process too.

## Community

Leadership effectiveness is proportional to the quality and quantity of one's followers. Leaders cannot function in isolation. Their capacity to inspire and motivate happens through a community of people that share like-minded ideas and values. In the creative industries, leaders oversee non-profit organizations, performing ensembles, and businesses of all kinds. Freelance professionals build their portfolio one connection and project at a time. Referrals and word-of-mouth drive the progression of an independent's career in the early stages.

Working in teams is beneficial; this is especially true when people rally behind a common idea or vision. Seth Godin (2008) writes: "People want connection and growth and something new. They want change" (2). Leaders are formally and informally defined. The connection to shared values and ideas is crucial. Industry or internship-based courses also offer helpful context by giving students access to professional environments—particularly those that embrace collaborative creativity. One's career path is precarious in the gig economy. Instilling a leadership mindset requires that the person navigating the creative economy have a clear vision and ability to communicate it with others.

The leadership ethos here is not confined to power structures and hierarchies. Leaders build. They bring people together, see the best in them, give their colleagues room and support, and collectively work together to meet success. Leaders understand their success is reflected by the people they surround themselves with and by a willingness to learn. Educators must shift away from presenting the creative arts as a single, craft-based venture.

Adopting a leadership mindset in the classroom need not detract from learning one's craft—music, for instance. The philosophy explored here does away with a Darwinist presentation of success to one that brings people together. It is in building the communities that demonstrable change happens. DuFour (2004, 6-11) explains that successful learning communities embrace three ideas:

1. Ensuring that students learn: cooperative efforts by faculty to connect with students;

2. A culture of collaboration: pooling resources, process-driven, removing barriers; and
3. Focus on results: daily improvements, adjusting goals, revising approaches.

Equally important in such environments is that faculty learn from students. Industry and community partnerships also improve the quality of knowledge exchange.

Cultivating leadership demands that educators stay current about sociocultural issues in the industries they represent. Being current shows a commitment to guiding students ethically and practically. Such mentoring builds a legacy of future leaders armed with the self-efficacy and resilience needed to navigate the creative sector. Educators inspire and equip learners with an honest assessment of the challenges they'll face after graduating. Leader-educators prioritize connectedness, rather than competition. Competition exists, as does market saturation. Leader-educators strike a careful balance of honesty *and* supportive instruction.

Effective mentoring can also be learned. Professional development (PD) is a proper venue to address issues of resilience, self-efficacy, and building communities. Darling-Hammond, Hylar, and Gardner (2017, v-vi) analyzed over thirty studies on professional development and found that the most successful ones shared the following characteristics:

- Content focused;
- Promotes active learning;
- Supports collaboration;
- Uses models of effective practice;
- Provides coaching and expert support;
- Offers feedback and reflection; and
- Is of sustained duration.

In precarious times, compassionate PD provided at no cost may yield positive results and underscore the need for ongoing conversations on how to foster leadership in the creative industries.

Supportive instruction promotes a healthy and respectful learning environment; feedback is honest but fair. Students and teachers learn from each other. Leadership is not a top-down enterprise. Engaged leadership occurs when *everyone* in the classroom has a say. Their skills and talents find a home—the community emphasizes collaboration and cooperation.

Creativity is emphasized. Sawyer's (2017) research on group improvisation and creativity suggests that balancing collaboration with improvisation, coupled with the right environment, inspires people to innovate. The result of such efforts is that the creative sector changes. Educators build a legacy of leaders, rather than tradespeople.

## Vision

Unlike management, which concentrates on the day-to-day operations of a unit, leadership takes on a broader perspective. In the creative industries, vision touches on artistry and entrepreneurship. Conductors embrace a concept for the direction the orchestra takes, the sound the ensemble produces, and the programming to attract subscribers. Film directors work with producers to realize the vision of a script. These examples play out at the micro and macro levels.

Bolman and Deal (2003) remind us that leadership is something that is felt but not easily classified. They explain:

[Leadership]...is not a tangible thing. It exists only in relationships and in the imagination and perception of the engaged parties. Most images of leadership suggest that leaders get things done and people to do things; leaders are powerful. (337)

Bolman and Deal reiterate that people "expect leaders to persuade or inspire rather than to coerce or give orders. We also expect leaders to produce cooperative effort and to pursue goals that transcend narrow self-interest" (337).

A strong vision is solvent, collaborative, and innovative. The challenge for artists is to find a method to generate income from their craft. Here, the concept of vision emerges. Creative entrepreneurs face a series of difficult choices. What path do they take after graduating? Do they move to a new city? Do they specialize or focus on versatility? How do recent graduates build their networks? Weathersby (1999) notes:

Leadership...focuses on the creation of a common vision. It means motivating people to contribute to the vision and encouraging them to align their self-interest with that of



the organization. It means persuading, not commanding.  
(5)

Leaders articulate a vision based on shared values. They align themselves with people that care about the same things. Moreover, leaders care more about the bigger picture; they understand that their personal interests should embrace the organization's mission. This framework is different than networking. Building a network of colleagues does not account for how people connect relationally. Put another way, there is deeper value in aligning one's career path with others who share similar ideas and concepts. An emphasis on relationship-building means that purely skill-based training becomes less prescient. What matters is how educators guide students to identify their values and align themselves with others. Stricker et al. (2018) refer to this as Values-Based Network Leadership:

Values-based network leadership involves the application of skills associated with establishing, aligning, and sustaining a culture of higher purpose and calling suitable for an interconnected world. A values-based network leader advocates respect and understanding of diverse peoples and accentuates the need for cross-cultural appreciation and education. (2)

Many folks will find the job market oversaturated and challenging to infiltrate without patience. And while skill-building helps, so too does instilling a sense of higher purpose for learners in the creative industries. For example, as educators, we often tell our students they will face rejection. Yet, how much do we simulate this in our teaching practice? Grades are one thing; personal fulfillment and a sense of purpose is entirely another.

Leaders acknowledge that rejection and failures are inevitable. The difference between short-term and long-term goal-setting is that leaders persist. They recognize that one rejection is not the end of their path. Instilling a more profound sense of purpose in our students requires us to acknowledge the risks associated with an artistic career. For many who long for financial stability, building a freelance career comes with a steep learning curve. Bolman and Deal (2003) reiterate that leadership and vision are directly related:

Leaders think long-term, look outside as well as inside, and influence constituents beyond their immediate formal jurisdiction. They emphasize vision and renewal and have the political skills to cope with the changing requirements of multiple constituencies. (337-338)

Vision involves risk-taking and vulnerability. Doing right by our students' best interests means that we balance the day-to-day skill-building with a more philosophical look at vision. It is in the vision that students will persist and overcome their challenges. Educators must work collaboratively with them on this at every stage of their college career. Fostering leadership attributes might start in capstone courses, graduate programs, and curricula focusing on music business and the creative industries.

The review of leadership here aims to provide a clearer understanding of the complex factors, both personal and sociocultural, that affect how people set goals and persuade others to support their endeavors. The music and entertainment industries are people-driven sectors. And in times fraught with unemployment, lost revenues, and fear, vision becomes the crux of rebuilding what a new creative industry might look like in the next decade. When people hurt, they look to those who can see beyond the proverbial horizon and begin the vital work of starting over.

### **Shifting the Pedagogical Mindset and Focus**

In uncertain times, university educators provide crucial support for students and community members. As the creative industries likely face a difficult path of rebuilding in the coming years, the timing is right to consider how creative arts and industry programs can reconfigure their foci to include topics on sustainability, creativity, community, and vision. No doubt, universities face many financial and logistical issues in the near future. Among these obstacles include enrollment, protecting the health and safety of staff, faculty, and students, and making up for budget shortfalls. Reconfiguring pedagogy, however, cannot be limited to the transition to online learning. Educators must work to cultivate a supportive and creatively-informed environment wherever the courses meet—both online and, eventually, in the classroom. Similarly, the kinds of professional training opportunities offered must mirror the same flexible, nurturing, and relational focus that defines leadership.

## Building Roots on Inclusivity and Relationships

Prakash and Esteva (1998) argue that educators hold on to a certain faith that education serves a critical role in advancing cultures and human beings. The system of higher education needs scrutiny and organizational change across several areas. Perhaps the most crucial aspect of a healthy learning environment is a pronounced emphasis on sociocultural issues, inclusion, equality, and a climate where all stakeholders stand to enjoy learning instead of just surviving (Prakash and Esteva 1998). Prakash and Esteva embrace pluralistic education and respect for all living cultures. They want to see such efforts extend beyond lip service as they “seek limits for education and respect for different ways of living, learning, and teaching, through political controls. These reveal to us the importance of abandoning oxymorons like multicultural education” (28). Sustainability must reflect the learners in a university setting, and the physical world they inhabit.

Now, more than ever, educators must think critically about the future world graduates will have to navigate in the creative industries. The shift in pedagogical mindset to one of leadership starts first with the educator. Reflecting on the values one holds dear, educators can model creativity, sustainability, community, and vision through supportive instruction and by viewing their purpose as that of a supportive mentor to students. Remaining current on job trends is one thing; actively moving beyond one’s comfort zone is another. In the short-term, improving online pedagogy is a helpful start; educators must think critically about how to build student communities in new ways.

The competencies we inculcate in our students start with our intentions and vision. Establishing a comprehensive view of pedagogy that embraces the uncertain future is a crucial starting point. We do that by recalibrating our syllabi in less technocratic ways. We build rapport with students by offering virtual office hours and using social media platforms safely and healthily. Educators must embrace a “meeting the moment” mindset with our students.

Prakash and Esteva (1998) write that: “a growing minority of educators are recognizing the contamination and damage cast by global development and education” (25). Well-intentioned educators spread a message of hope, guiding students and stakeholders to think beyond their local communities, and to see the world from a more open perspective. Prakash and Esteva state that these efforts are helpful, but not enough. They observe:

“it is impossible to package the cultures of the other for transmission within the global classroom” (25). Put succinctly, we must make every effort possible to address the digital divide, to provide balanced curricula with student input, and to keep in mind that online delivery platforms have limitations. Speaking to those limitations, and remaining vigilant to overcome them, is imperative. When educational communities are most vulnerable, a more nuanced view of technology and its ramifications is essential.

Building communities through less formal grading structures, more flexibility, and student-driven topics, and prioritizing compassionate support for students is another place for improvement. Not that grades are not important; what matters is *connecting* with students and making sure that their health and wellness remain the priority. The health and welfare of the creative industries are incumbent on protecting the best interests of the next generation. We can do that and improve retention by working collaboratively with learners, staff, and our communities.

### Pedagogical Implications: Leadership Behaviors

“Meeting the moment” is another way of describing situational leadership. Contingency theories on leadership reiterate that such traits can be learned (Howell and Costley 2001). Howell and Costley (22) outline five behaviors that define leadership:

- *Directive*: delegation of tasks, goal setting;
- *Participative*: consulting others on key decisions, seeking varied perspectives and ideas;
- *Charismatic*: demands excellence, confident and skilled, expresses vision;
- *Reward and Punishment*: motivates others, corrects followers when necessary; and
- *Supportive*: empathy, concern, compassion for others, considers the needs of followers.

Of these five areas, at least three behaviors (Participative, Charismatic, and Supportive) support the four aspects of what I propose calling *Creative Industry Leadership*.

Howell and Costley’s (2001) analysis of leadership combines Participative (Community), Charismatic (Vision), and Supportive (Sustainability) behaviors into a cohesive model. Though not comprehensive in scope, these areas do share commonalities with the concept of Creative

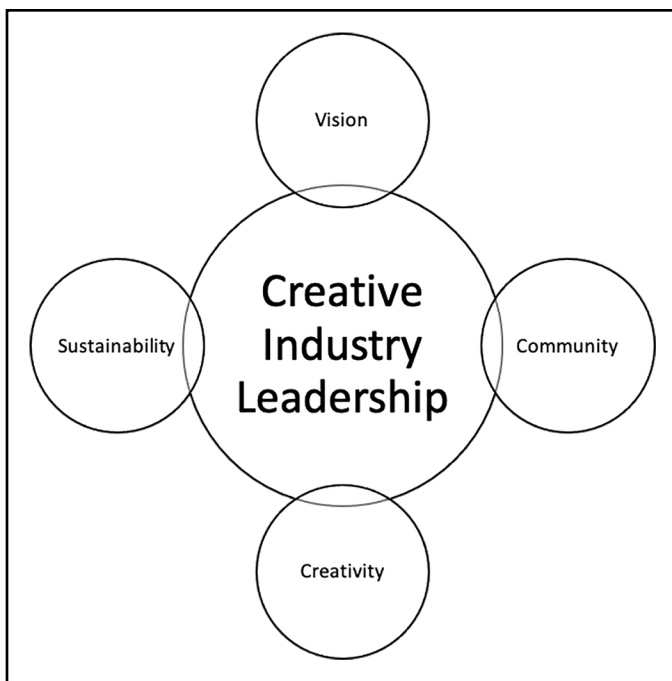


Figure 1. Creative Industry Leadership Theory.

Industry Leadership outlined in Figure 1. The creative industries require artists to build sustainable communities—both for long-term success and emotional and logistical support. Howell and Costley’s Directive and Reward/Punishment models do apply to the creative industries. Nonetheless, these traits must be taken with some openness, as the situational and interpersonal dynamics consistent with large organizations do not always match those of freelancers in the gig economy.

Infusing leadership skills in students requires that educators understand and build those same competencies in their teaching and research practice. Much like the creative industries, where acquiring knowledge happens formally and informally, it makes sense to reframe professional development in a less hierarchal fashion. Jan Robertson (2008) argues that coaching is the most effective way to build partnerships and mentoring relationships among stakeholders. She defines coaching as:

[A] special, sometimes reciprocal, relationship between (at least) two people who work together to set profession-

al goals *and* achieve them. The terms depict a learning relationship, where participants are open to new learning, engage together as professionals equally committed to facilitating each other's leadership learning development and wellbeing (both cognitive and affective), and gain a greater understanding of professionalism and the work of professionals. (4)

The time is right to rethink how teaching and learning happen in both the creative arts sector and higher education. The benefit of Robertson's Coaching Leadership model is that it removes the barriers between master and apprentice. Here, both entities (organizations and people) from the creative industries and higher education work cooperatively. They learn from each other, hold each other accountable, and establish a vision for the future. Understandably, there is a risk in assuming that both sides are ready to professionalize their growth process.

Professionalization need not be relegated to a job occupation status. It need not be limited to how much money one earns in a year. The Creative Industry Leadership theory proposed here advocates for a communally shared concept of what professional practice is in the present. The teaching and learning to happen in the coming years require new modes of creativity, building communities, thinking sustainably, and establishing a vision. The next few years may be turbulent for artists, musicians, entertainers, and yes, higher education representatives. Priorities include pooling resources, working strategically, and supporting one another at the personal and organizational levels.

Professional development is one way to cultivate communities dedicated to compassionate and supportive mentoring and coaching. Teachers need support, particularly those working in creative industries with an uncertain future. Providing access to research facilities, online databases, funding opportunities, job training, and resume building are other options. Other possibilities include free or low-cost access to software licenses; this is especially helpful for those persons needing access to technology.

Another benefit of the Creative Industry Leadership theory is that it recognizes knowledge and aims to *share* that expertise for the common good. This equates to building communities of thinkers and doers aimed at steadying the course of an uncertain future. Much like strategic investing, the goal is to develop a steady growth plan. Sometimes building a scenario

like this requires stripping away old ideas and ways of training people. In actuality, we know little about what will happen to the arts and entertainment sectors in the next several years. What we have is an opportunity to reframe how training and teaching and learning happen in higher education. Universities may consider providing free access to tutorials, videos, and research materials for those working in the creative industries.

Providing access to materials need not be confined to job development. Furnishing access to health and wellness materials is equally important. Mentoring and coaching cannot happen with a “dry well”. For the creative industries to thrive, especially in higher education, institutions must not monopolize access to helpful information. Along with access, providing support not only for current faculty and students, but for community partners, is equally beneficial. When institutions adopt a “help others” mantra, they do right by the communities they serve.

## Conclusion

As this article has expressed, leadership is not always clear; it is not still tangible. People know when they believe in something; when motivated to “meet the moment,” they often far exceed their expectations. By adjusting our aims to build leaders, instead of specialists, two critical things become more clear. First, as educators, we inculcate a longer-term focus for our students. We help them, and they help us become current on industry matters, and we coach each other in a supportive, communal, and artistic way. If technology is the crux of our initial communication, we work together to make that process more inclusive and welcoming.

The crux of Creative Industry Leadership theory is that it favors a strength-in-numbers model. People inspire each other when their common interests and goals intersect. Moreover, communities inspire creativity and sustainability when its stakeholders feel supported and valued. As the creative industries face unprecedented challenges, the pathway to future success is opaque at best. Thus, Creative Industry Leadership recognizes that vision-making requires building consensus among stakeholders. Those working in the creative industries need supportive coaching and mentoring; leadership is a learnable skill. Knowledge and practical application of leadership concepts requires a long-term commitment. Steady and continuous cultivation of resilience, compassion, and goal-setting yields sustainable growth.

The second thing that becomes apparent is that higher education and the creative industries must surrender to win. If our previous manner of training could use improvement, then we now do right by our students and the sectors we value so much. As Thorley's (2020) research reminds us, failure in the creative industries is common, even expected. In higher education, we can use the dramatic shift in daily activities to make room for reflection and a changing of course. While not a failure per se, leaders take stock of their successes and *learn* the most from their setbacks. In using the term "we," I include myself among those committed to taking part. May we build healthier communities and partnerships among stakeholders in the creative industries.



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## Reviews

**Randall J. Stephens.** *The Devil's Music: How Christians Inspired, Condemned, and Embraced Rock 'n' Roll.* Cambridge, Massachusetts: Harvard University Press, 2018. [www.hup.harvard.edu](http://www.hup.harvard.edu)

<https://doi.org/10.25101/20.6>

The historical contours of Randall Stephens's latest book will be familiar to most interested readers. As its subtitle suggests, the history of rock music parallels a messianic hero's journey narrative. Rock emerged from the unlikely womb of early twentieth-century Pentecostalism to be at first reviled by mid-century mainline Christians and ultimately accepted as a key component of the faith in the new millennium. This review will survey the book's treatment of each of these three historical periods, offer some suggestions for other material the book might have considered, and will conclude with some thoughts on how this book can inform future research.

Anyone who has viewed a documentary on the lives of Little Richard, Elvis, Johnny Cash, or Jerry Lee Lewis will be generally familiar with the origins of rock's driving beat and lyrical sensibilities in the raucous, tongue-talking services of turn-of-the-century Pentecostal churches. *The Devil's Music* will fill in many interesting details regarding these four specific artists, as well as some coverage of intriguing Pentecostal figures such as Sister Rosetta Tharpe, Daddy Grace, and Father Divine. Yet, a more in-depth examination of early Pentecostal Church music at the beginning of the book would have amplified its contribution as a work of history. Key events such as the 1906 Azusa Street Revival in Los Angeles and the subsequent interracial revivals in the American South are mentioned, as are the difficulties in delineating key terms such as Pentecostal, charismatic, evangelical, and fundamentalist. But beginning Chapter 1 in the 1950s creates an inherent obstacle to fully treating the "inspired" phase of the subtitle and forces the narrative to constantly switch chronology to cover material that might have been best treated up front.

It is quite possible that the decision was intentional to begin with Elvis et al. so as not to belabor a non-academic audience with too many historical details before getting to the juicy bits about the original lyrics of "Tutti Frutti" or the scandalous sex appeal of early stars. If the end result

of that decision is that this book reaches a wider audience beyond academia than it was worth the trade-off. Stephens is an excellent writer and this book makes important historical contributions despite some weakness in the early twentieth century. Particularly well-written is Chapter 2's investigation into the relationship between rock, religion, and race. Stephens's command of the literature on racism and the American struggle for civil rights is especially strong. Throughout the book he offers keen, concise insight into how race relations have intersected with both popular music and Christian faith, which serve to make the American Church's early condemnation of rock music all the more baseless and anachronistic today. Chapter 3's look at the Beatles, centering on John Lennon's infamous "more popular than Jesus" remark in 1966, continues the "condemnation" phase of inquiry.

Chapter 4 examines so-called "Jesus rock" and signals the beginning of the Christian "embrace" of rock music. Though this remarriage was not without objections, as Chapter 5's examination of the fundamentalist reaction shows, it seems inevitable that a musical style birthed in the Church would return like the prodigal son. Stephens's historical documentation of Christians condemning rock is thorough and collects a vast amount of literature and original research into a well-composed narrative. His documentation of the Christian embrace of rock goes further still and signifies the book's most important contributions. From the theological innovations of Reinhold Niebuhr to the theoretical musings of Marshall McLuhan to the prophetic lyricizing of Bob Dylan, *The Devil's Music* connects deft historical investigation with acute cultural observations to produce something of real value. To treat just one example of the book's interdisciplinary potential, examining the connection between Jerry Falwell's Moral Majority and the rise of evangelical political power through the lens of popular music history is something that might inform the work of contemporary political scientists and journalistic coverage of American politics.

Despite these strengths, it is important to note some material that is not included in the book. That only Harvey Cox's early work emphasizing the secularization of American society is mentioned, while his *Fire From Heaven* is not, seems like a miss. Even more useful would have been engagement with the work of the don of Pentecostal Studies, the late Vinson Synan, whose prolific output could have helped shore up the aforementioned weakness in the inspiration phase of rock's history. While the book does a great job of holding white American Christians accountable

for their racism, in doing so it draws primarily from source material that exemplifies their perspective. Even though Stephens rightly criticizes their views, without presenting more material on what was going on simultaneously in minority churches in America and the U.K., as well as in the global church, the overall effect may unintentionally reify the dominant Anglo point-of-view. Another surprising omission is any mention of “Awesome God” songwriter Rich Mullins. Perhaps Mullins was not considered a rock artist (though Amy Grant receives significant attention), and if so, that might point to another difficulty the book sidesteps. Whatever the *Billboard* chart categories might suggest, clear genre definitions have always been difficult to nail down in American popular music. While the book does cover all that is essentially “rock,” less attention is paid to rock’s connection with country & western music than to its folk and rhythm & blues influences.

The book’s epilogue begins with Bono and carries all the way up to Trump’s 2016 election. A wide array of Christian popular music phenomena is treated in this passage, and the author could hardly be expected to cover everything that has happened in the last thirty years in a dozen pages. Rather than as omissions, I submit the following as suggestions for future research. Lonnie Frisbee’s influence on the Calvary Chapel movement does receive brief mention in the book, but his significant impact on the Vineyard movement does not. More work on the Vineyard’s acoustic-rock worship stylings is warranted, including its influence on the Toronto Blessing, the Brownsville (Florida) Revival, and on MorningStar Music out of Charlotte, North Carolina in the 1990s; and eventually on Bethel Music and Jesus Culture out of Northern California in the 2000s. The musical sensibilities of the International House of Prayer (IHOP) movement draw heavily from Vineyard worship as well. James Ryle’s influential 1990 teaching on the “Sons of Thunder” explicitly incorporates the music of the Beatles into an evangelistic vision of the Church’s future. Christian teachers such as Ray Hughes, Don Potter, and Dave Markee all have extensive personal experience in the popular music industry and have made significant contributions to the Church’s embrace of popular music styles. Southern California Pastor Shawn Bolz has championed the efforts of forerunners like Pat Boone and has advocated for Christian influence to go beyond popular music into the wider entertainment industry. Finally, alongside the book’s notice of acts like P.O.D., Suffjan Stevens, Pedro the Lion, and Over the Rhine, artists such as Flyleaf, Paper Tongues,

Johnnyswim, John Mark McMillan, Andy Squyres, and Josh Garrels have been quite innovative, not only with their fusions of faith and music that defy genre categorization, but also with developing business models in an evolving music industry that increasingly emphasizes direct relationship between artist and audience. For future research on any of these topics *The Devil's Music* will be required, and enjoyable, reading.

Jason Lee Guthrie

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**Charles White. *The Life and Times of Little Richard: the Quasar of Rock*. New York: Da Capo Press, 1984. [www.omnibuspess.com](http://www.omnibuspess.com)**

**Tina Andrews. *Awop Bop Aloo Mop: Little Richard: A Life of Sex, Drugs, Rock & Roll...and Religion*. New York, The Malibu Press, 2020. [www.themalibupress.com](http://www.themalibupress.com)**

<https://doi.org/10.25101/20.7>

## Remembering Little Richard: A Review of the First and Most Recent Biographies

The death of Little Richard in May of 2020 provided an opportunity to review and remember his life and career. Up until his decline in health there was only one authorized biography about the self-proclaimed Architect of Rock and Roll, which was written by Charles White and first released in 1984 as *The Quasar of Rock*. (Subsequent abridged editions were released in 1994 and 2003 with only scant and cursory updates in the preface section, and variations of the title, physical size of each edition, and pictures.)

White's biography is the standard for information about Little Richard. Other authors, writing about Richard's life and career prior to 1984, often use White as a source. From this source the world not only learned about Richard's career path, but also his personal struggles between the spiritual and carnal—often in blushing detail!

The book release helped propel a comeback of sorts for Little Richard. He was still preaching and again playing rock and roll. He would soon be featured in a *60 Minutes* television segment, endure a highly publicized car accident, be among the first class inducted into the Rock and Roll Hall of Fame, appear on film and television, and contribute to the occasional soundtrack.

White's approach seems to have been to let Little Richard talk in a stream of consciousness and then provide context to the comments. Most chapters begin with White explaining what has transpired from the previous chapter and what events are about to unfold in the next. In addition, White also provided commentary within the chapters to keep the accounts coherent and chronological.

During the time of White's initial writing, many of the key contributors to Richard's life were still living. He includes quotes from a variety of individuals including Richard's mother Leva Mae (to whom the book is

dedicated), and siblings Charles, Peggie, Marquette, and Robert, producer Bumps Blackwell, Specialty Records owner Art Rupe, former band members Henry Nash, Chuck Connors, H.B. Barnum, Eddie Fletcher, and Bill House, former girlfriend Lee Angel, ex-wife Ernestine Campbell, and well known musicians and performers such as Bobby Byrd, Quincy Jones, Mahalia Jackson, Paul McCartney, Billy Preston, Mick Jagger, and Johnny Otis.

The book follows Richard from his childhood in Macon, Georgia to the time of the book's 1984 release. We read of his treatment at home, his early forays into performing, his process of contacting and recording for Specialty Records, and his sudden return to the church. Also recounted during this time are his more adventurous dalliances. Yes, there are a few salacious and graphic descriptions of Richard's interactions and proclivities with others. Modesty prevents me from providing details. Suffice it to say, these accounts—though brief and few in number—leave little to the imagination.

Singled out, these accounts might seem sensationalistic, and yet, they are part of Richard's narrative. They provide a sharp contrast to Richard's decision to leave show business and return to the church. Read enough about Richard and a pattern of impetuous and extreme actions presents itself. Abruptly quitting at the ever-rising peak of his burgeoning career is the first major example of this. White relays the process of Richards' repentance, including how Brother Wilbur Gulley and Joe Lutcher were the catalyst in refocusing Richard's faith. As "all in" as Richard was to be famous, he now channeled that energy for the Lord. To that end, he enrolled in Oakwood College to study theology, and further demonstrated his commitment by marrying a girl he met from his denomination.

However, being an evangelist wasn't as lucrative as being a rock and roll performer and by the mid-1960s he was eventually lured back into secular performing. Richard and White provide commentary of rebuilding a career through the 1960s and 1970s. As shared by Richard, there were bouts with drugs and alcohol, bad business deals, and another return to the church. With the advent of the 1980s, Richard began to find balance in this life. He was again preaching, and curiously, the chapter entitled *From Rock 'n' Roll To The Rock Of Ages*, is a transcribed sermon delivered by Richard. He insisted that it be included in the book. It almost seems novel to do so, but then, in juxtaposition with the mention of his carnal relationships it provides another example of the extremes in his life.

Throughout the book Richard freely shares his experiences. However, for all the information presented in this book, and the insight that can be gleaned, it's curious what was left out.

For example, there is no mention of Richard's adopted son, Danny. Adoption is a significant event in anyone's life, famous or not, and including this would have shown another side of Richard. In addition, there are no details about Richard's introduction to and escalation of drug and alcohol abuse. Overcoming these vices was a major turning point in his life, and specific information could have been a source of encouragement for those with similar struggles.

Also not included is detailed reference or bibliography information, nor endnotes—only an index. Because his sources are not cited there are few ways to discern when and where a quote was obtained. At the end of the book, in the Acknowledgements section, White lists a number of people "...in the US who helped me so readily." He also acknowledges "...all the artists who both recently and over the past years have given me their time in interviews."

As a result of using only existing interviews, there was no probing, no follow-up questions, and only transitional commentary by White. The book has informative and revealing accounts but—other than Richard's desire to return to the church—little personal subtext to understand the motivation, thought processes, and feelings of Richard Penniman.

Omissions aside, there is a generous amount of pictures which include early photographs of Richard as well as of his family and other significant people in his life. The pictures are different among the three editions. Also included are thorough lists of Richard's recording sessions, as well as a much appreciated discography and filmography.

It's too bad White and his publisher did not keep this book updated. If they made the time and effort to twice re-release virtually the same book, why not include newer material? No doubt there was more to tell since 1984.

A more comprehensive and recent biography was released toward the end of 2019 by Tina Andrews. She has penned other books, as well as the screenplay for the 1998 Frankie Lymon bio-pic, *Why Do Fools Fall in Love*. Andrews covers the arc of Richard's life and career from his childhood to the fall of 2019.

At 298 pages, a good portion of information and quotes prior to 1984 come from White's biography. Information past 1984 is quoted from a variety of existing sources such as news articles, other biographies, maga-

zines, interviews, YouTube, etc. What is not included is primary research. In other words, Andrews did not personally conduct interviews. This could be viewed as missed opportunities. During the time this book was being written, Little Richard was still living. In addition, at the writing of this review an internet search revealed that Specialty Records founder Art Rupe is still living (born in 1917), as is former girlfriend Lee Angel. Furthermore, with so many siblings and former bandmates still with us, it would have been enlightening to hear their recollections, as well as updates regarding their lives. Then there is Little Richard's adopted son, Danny. His inclusion would have been significant.

The book presents a coherent timeline of Richard's life and career. The decades of the 1950s and 1960s are covered in the most detail with subsequent periods reflecting less innovation. As might be expected, there are many pages dedicated to his struggle between the sacred and the secular. Unlike White's book, Andrews' book is thoroughly sourced. Her sources and endnotes include an impressive variety of publications. She also includes an informative discography of albums, singles, and release year, a filmography, and index.

However, for all the positives of the book, it is bogged down by the editing and proofing. Perhaps there was a rush to make the book available due to Richard's declining health and eventual death, which makes sense from a marketing standpoint. Even so, the amount of editing and proofing slips reflects on the end product. A few of the more obvious examples include several disproportioned pictures, run on sentences, numerous sentences starting with a conjunction, inclusion in the narrative with first person comments, and the absence of, or incorrect, punctuation.

Then there are comments like this one on page 24: "In an interview... in 2017, Little Richard reiterated his belief that homosexuality was 'unnatural'". The next paragraph begins, "But a year later, he was back on stage strutting his stuff, shakin' his a\*\* singing *Tutti Frutti*, a song originating as a testament to homosexuality." I seriously doubt "a year later," at the age of 85, Little Richard was shaking anything. He was bound to a wheelchair and could not walk without assistance.

This conflicting statement is found on page 130: "...Richard...released three Gospel songs in 1960 including, *Joy, Joy, Joy, He Got What He Wanted, He's Not Just a Soldier*, and *Crying in the Chapel*." Unless I'm missing something, I count four songs, not three.

As a guitar player, this typo on page 177 was glaring: "Richard...needed to change his band's sound a bit to fit the new sound in Rock mu-

sic—the use of rhythm and base guitars...” It’s not “b-a-s-e” guitar, it’s “b-a-s-s”! Bootsie Collins, Jaco Pastorius, Charles Glenn and Victor Wooten are all *b-a-s-s* players.

Looking past the typos and grammatical errors, there is information that completes Richard’s story since White’s release in 1984. Either book is recommended to learn more about Little Richard’s life and career. All of White’s versions provide the same stories, quotes, and in some cases, more information than you might want to know! Andrews quotes liberally from White’s book, but for Richard’s timeline after 1984 she uses many other enlightening sources.

Both books will confirm the public image of Little Richard the performer. While reading, you might even laugh as much as you shake your head in disbelief. However, even though “behind the scenes” and personal stories are relayed, there is less information that will reveal the person of Richard Wayne Penniman. Wouldn’t you just like to know what he was thinking? Was he “Little Richard” at home away from an audience? Some might think he was crazy, but I’m guessing he was crazy like a fox! It seems much of his life was spent finding a resolution between his secular occupation and his spiritual vocation. Related, I’ve read that it’s not how you start, but how you finish. Perhaps he finally has his answer.

Mark Crawford

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A number of music industry related books came out during the coronavirus pandemic, which made it a curious coincidence since music was one of the most affected cultural sectors. As we lived through Covid-19, I reviewed and reflected upon two books written for independent artists when the music market was in full swing.

**Emily White. *How to Build a Sustainable Music Career and Collect all Revenue Streams*. Beverly Farms, Massachusetts: 9GiantSteps-Books, 2020. [www.9giantstepsbooks.com](http://www.9giantstepsbooks.com)**

<https://doi.org/10.25101/20.8>

There is currently a plethora of how-to books on the music business. The latest addition to the literature focuses on how independent artists can sustain a professional career by maximizing their resources and finding avenues to generate more revenue. According to a Future of Music Coalition survey conducted in 2017, there are forty-five artist revenue streams for those who write and perform songs. *How to Build a Sustainable Music Career and Collect all Revenue Streams* covers many of these streams by prioritizing certain ones.

The book opens with an informative interview the author did with artist Zoë Keating, which includes pointers on how an independent professional artist earns a living from music. In some ways, the foreword reflects the content of the book in a nutshell from marketing tools to business affairs, synchronization, and touring. Keating's response to the definition of an artist's traditional team is particularly insightful here.

From the get go, the author makes it clear that her book looks at the "modern music industry—and by modern I mean the time since music evolved from physical to digital." The book is meant for those who are about to launch their art and business. It contains personal anecdotes and examples of the author's fifteen-plus year career. Even before she gets to the music business basics like recording, production, or publishing decisions, she starts with building a marketing foundation, clearly a sign of the times in which we live. From email newsletters to raking up social media metrics, offering pre-order album campaigns to crowdsourcing it's hard to think of an artist today who does not have these foundations. The author's message: the earlier you start building these, the better for the artist's career.

Many of the points raised in the first chapters have been covered in other books. Where this book starts picking up pace, and it is indeed very timely, is with chapter four, where the author goes into recording songs digitally on the cheap. This section includes the latest tools and gadgets for recording software and interfaces, headphones, mics, and other details pertaining to mixing and mastering. The next chapter is on music publishing and continues this trend, explaining the difference between various options in publishing, admin, and co-pub deals. She also talks about platforms like Songtrust, TuneCore, and CD Baby, all founded in the new millennium. This chapter also covers how to land a synch, which has become an increasingly important revenue stream for recording artists and songwriters in the past decade.

The author circles back to marketing in chapter seven. Suffice it to say she dedicates a large chunk to this topic in her book. Highlights from this chapter include newer ways of engagement like pinning, podcasting, metadata tagging, and platforms, which are reflective of the changing paradigm including Patreon, NoiseTrade, Stagelt, and others.

The book collects all revenue streams at-a-glance with a checklist in chapter ten. Here the author describes a seven-step method to put together an Excel list and log in all major streams covered in the book. It also includes bonus revenue streams like VIP packages, music lessons, speaking engagements, and YouTube royalties. The last chapter brings it full circle as she talks about the artist team. When is an attorney, personal manager, agent, or business manager needed? Or are they needed? The answer to this question can change over time. With the first edition of this book, the author is giving the answer as of 2020.

A final note: because the book was published right before the spread of COVID-19, it does not cover or mention the massive disruption the pandemic caused. It is evident, if a second edition is published, that the author can expand on some chapters to include what to do when touring stops. Regardless, the book is recommended for any instructor teaching introductory courses like the basic structure of the music business and artist management.

**Phil Simpson. *The Booking Agent's Book of Secrets for Touring Musicians*. Independently published, 2020. [www.touringartiststoolkit.com](http://www.touringartiststoolkit.com)**

<https://doi.org/10.25101/20.9>

This self-published book feels more like a manual that incorporates practical information for musicians who would like to get to the next level in their careers through regional touring. Written by a U.K.-based talent agent, these nuggets of wisdom will ring true for U.S.-based artists and others around the world. At an easily digestible eighty-seven pages, artists can start applying immediately some of the points the author highlights in his book. It will also serve well as additional reading that instructors who teach classes on the live and touring industry can assign to students.

The book is divided into two parts: In Part I, the reader is introduced to the fundamentals of how booking agents work, including what services they do and do not provide. How to get an agent or whether one is needed are overly simplified in this part without going into the history of how the agency system came about, but the author does prioritize “what the fit feels like” and “whether you click as people” over agent title and name. Agents used to be the last cog in the wheel on the artist team after management, record, and publishing deals were in place, but with the increasing vitality of touring in the twenty-first century, agents have become one of the first people on the team. Here, the author lays out his four-point plan to get an agent. This chapter, too, could use some expansion and more detail as the author makes some very good points, including benchmarks artists need to hit in order to gain visibility, for example, number of tickets sold, minimum number of social media followers, likes, etc.

It is in Part II, however, where the author digs deep into the workings of a booking agent. He starts with networking and setting up booking systems for tracking and follow-ups. There are also tasks he assigns to those who want to start the work immediately, including the ability to download an examples pack. A brief overview of the role of venues, promoters, and festivals is succeeded with various exemplary strategies. This, for me, is the highlight of the book as it gets into the mind of a booking agent and explores how to set up the appropriate type of tour for a developing artist. Modules like album release and the consideration of touring in spring vs. winter are presented, as well as choosing venue sizes, career-building vs. money-making shows, and how to craft an effective email pitch to buyers.



The way the author walks the reader through, dividing one calendar year into four quarters, Q1, Q2, Q3, Q4, and then filling each with single drops, album releases, show dates, etc., lends itself to be an excellent, hands-on assignment for students on the mechanics of building tours. Part II also includes details on deal structures and how to promote upcoming tours.

*The Booking Agent's Book of Secrets for Touring Musicians* packs many useful tips into its pages. Considering the number of music business books dedicated to the live and touring segment, of which there are not many, this is a welcome addition, especially because it is written from the perspective of an agent. Though the touring market took a big hit with COVID-19 globally, when artists get back on the road, this will be a useful book for those who want to build their touring career.

Mehmet Dede

**MEHMET DEDE** is a music presenter, tour producer, and educator. Since 2005, he has produced and booked hundreds of concerts nationwide including collaborations with Lincoln Center, Central Park SummerStage in New York, and the Kennedy Center in Washington, D.C. He currently serves as Director of Programming at Drom, a 300 people-capacity club in downtown Manhattan and is the curator of the New York Gypsy Festival.



Previously Dede has worked on concerts with Jamiroquai, Amy Winehouse, The Roots, Jill Scott, and Mark Ronson at concert promoter Giant Step. He serves as Assistant Professor of Music Industry at The Hartt School of the University of Hartford. He regularly conducts workshops for artists and managers abroad. Dede has been profiled in *The Wall Street Journal*, *PollStar*, and *Forbes*. He holds an M.A. in Music Business from New York University.

**Cyrus Bozorgmehr. *Once Upon a Time in Shaolin*, Flatiron Books, 2017. [www.flatironbooks.com](http://www.flatironbooks.com)**

<https://doi.org/10.25101/20.10>

Over the last twenty years, one of the most challenging issues we've faced as educators in the entertainment industry involves the question of how to teach innovation in the classroom. Considering the amount of change we've witnessed in the music and entertainment industry since the advent of Napster, we can often be left with classroom conversations that recommend students "think outside of the box" and "just be creative." Tragically, such platitudes are not the concrete learning outcomes that we aspire to provide in higher education.

With technical and business developments emerging almost hourly, we educators are left to teach to a moving target. What was a sound business practice or distribution platform one day can be ineffective or tone deaf the next. Adding to the complexity of the issue, when searching for case studies and other materials to share with students to help model creative thinking and strategy development, too often industry trades and other resources focus on the resulting outcomes of such business experiments and new technologies, rather than highlighting the internal deliberation and process it likely took to manifest.

In short, if innovation is truly ninety percent perspiration and only ten percent inspiration, as the adage suggests, teachers are often left bereft of appropriate stories and anecdotes to illuminate how one works through the fits and starts inherent in most creative and professional ventures. Our libraries and resource centers offer shelves filled with tomes dedicated to record label histories and textbooks on marketing truisms (many of which are now ineffective), but we're still lacking in resources covering many of the bigger cultural and technological disruptions of the modern era. Until now.

Cyrus Bozorgmehr's, *Once Upon a Time in Shaolin: The Untold Story of Wu-Tang Clan's Million-Dollar Secret Album, the Devaluation of Music, and America's New Public Enemy No. 1*, is an incredible first-hand account of one the most controversial album release strategies in history: the Wu-Tang Clan's decision to release a single copy of their LP *Once Upon a Time in Shaolin*. While not shy with colorful metaphors, the book *Once Upon a Time in Shaolin* is thick with insight, empathy, and resilience.

cy—the big picture lessons that, ultimately, we hope all of our graduates hold most dear.

An engaging read, the book spans the period between 1997 and 2018 and unpacks many of the trends and issues facing musicians in today's industry. What starts as an off-handed comment between friends on a tour stop in Egypt, "Someday, we need to do something together that lasts through the ages," becomes a global news story, a furious debate on the future of recorded music, and an album that sold for \$2 million to a now convicted felon.

The book opens reviewing much of what had transpired in the music industry throughout the early 2000s. File sharing, plummeting CD sales, the advent of iTunes, and other trends had upended traditional business models. Taking an artist-based perspective early on, the author places artists and record making in a perilous position:

Recorded music was increasingly viewed as worthless, and getting heard was more difficult than ever as the ease of production and digital distribution created a new enemy—saturation.

Importantly, Bozorgmehr also offers insight into another complicated topic for many students in creative fields—how to develop one's own career path within the industry, by paralleling the industry analysis along with the upbringing of Dutch native, Tarik Azzougarh. Coming of age in the early 1990s, Azzougarh was enthralled with American hip-hop and began collaborating on rap demos and experimenting with drum machines with friends in high school. A few years later when the Wu-Tang Clan performed in Amsterdam in 1997, Azzougarh was one of the few people to perform on the stage when members of the Clan hosted a live freestyle rap session. Leaving a brief but impactful impression on the group, we see the young aspiring rapper spending the next several years traveling back and forth between New York City and his home in Holland trying to reconnect with the Wu-Tang Clan. In many ways, his journey perfectly personifies the stories of resolve that we often aim to share with our students. The author even describes a scene wherein Mr. Azzougarh is so determined to meet with the band that he waits outside a nail salon for several hours because he knows that the proprietor is related to a member of the Clan.

Ultimately, Azzougarh is successful in reconnecting with the Wu-Tang Clan and on the strength of his demos is signed to one of their in-house record labels (the group had various imprints with both EMI and SME throughout the 1990s). Thankfully, his progression isn't one that follows straight to personal success. His first post-signing recording sessions don't yield any commercially viable songs. Now performing under the pseudonym "Cilvaringz," Azzougarh begins to experience the waves of self-doubt that can afflict many younger artists. Worried that he might later be dropped from the label, Cilvaringz volunteers to help book an upcoming tour for RZA, hoping to demonstrate that "he was offering more than just rhymes—he was proving himself multi-faceted and capable across a broader spectrum"—a valuable trait for any aspiring young creative.

As chance would have it, RZA takes Cilvaringz on as a tour manager on this and several subsequent trips. Serendipitously, while reinforcing his value to the organization, Azzougarh also had the unique opportunity to spend an inordinate amount of time traveling and recording with RZA, dramatically improving his own prowess in the studio and in beat production.

Over the ensuing years, as Cilvaringz continued work on his debut album, both he and RZA felt that the songs were taking a new direction, one that could involve other members of the larger Wu-Tang Clan. The RZA, sensing a potential in the early tracks, decided to give the young producer a unique level of freedom suggesting:

Forget albums, end goals, release dates, and finished products...Just make music, bring in all the Clan, all the most talented Wu affiliates, and let's see where it goes. Who knows if it will ever come to anything, but if this is what your heart is telling you to do, go do it. And keep me in the loop.

Over the next five years, readers watch as what was supposed to be Cilvaringz's own album morph into a double LP featuring almost all of the living members of the entire Wu-Tang Clan. As the songs took shape, so did the planning for how to release such a project. Many of the Wu-Tang Clan members had left the group to pursue independent solo projects, including RZA who had focused much of his time on acting and other cre-

ative outlets. With all members involved, the album took on additional importance as a reunion of sorts.

The author credits Cilvaringz's upbringing, as a fan, and described the recordings as, "a voyage back through the original chambers, interpreted by a producer for whom that sound had proved life changing... It was a last hurrah for a seminal sound, and the record felt more like an artifact than a new album." However, as the internal excitement grew over the creation of the record, the extensive timeline involved in the production only increased concern regarding its likely commercial success. Now six years in the making, Bozorgmehr explained that, "the downward spiral of sales, appreciation, and value had grown exponentially quicker, and... both Cilvaringz and RZA grew increasingly disillusioned by the album's potential fate."

Considering that "even the greatest albums of any given year tended to gravitate toward the realms of amnesia within weeks or months" the group, along with Cyrus Bozorgmehr now acting as an advisor, collectively wondered, "what could they do to set it apart, to make it special?" These pressures serve to highlight why the group ultimately decided to go with a single-copy strategy. In subtle and not so subtle ways, the book percolates with such hints and foreshadowing further reminding us that innovative and groundbreaking strategies can start from the humble beginnings of wanting to solve relatively simple problems.

During a break in recording, Azzougarh visited an art biennial in Marrakech, Morocco. Walking around the city and watching collectors pay huge sums for massive installations, Cilvaringz was struck by the way singularity and scale had come to define much of the fine art world. After being connected with the industry consultant, and the author of this book, the duo with the help of RZA, toyed with the idea of only making a single copy of the, as then, still uncompleted record. The team sensed that if they were going to borrow this singular approach from the fine art world, much of their release strategy should mirror that environment, one vastly different from the often underground or alternative nature of hip-hop releases. Describing their approach, Bozorgmehr explains, "it would have to utilize the formal framework of the art world to make a statement and be sold by an art auction house. And it had to be special on every level; you couldn't just hand over a plastic CD cover. Everything had to be lavish perfection without falling into the bling trap."

Following this perspective, the group enlisted a local artisan to craft a platinum bound book to house the finished album, and the rest of the book chronicles the ultimate sale of the record as the trio negotiates with auction houses (Sotheby's, Christie's and Paddle8 all play a role), host listening sessions at both Harvard and MoMA PS1, navigate a ravenous press (*Forbes* gets the first exclusive), and mollify acrimonious fans. Bottom line, this is an exciting read that unfolds like no other album release ever chronicled.

One of the aspects I found so compelling about the project is that the principals clearly don't assume that their single-copy approach would become a new de facto model for future artists to emulate. Instead, they hoped the project would spark debate about an environment of artistic production that they felt had become untenable:

This wasn't a solution, who knew if it was a viable business model, but it would undeniably trigger arguments and soul-searching in equal measure—both among the people who made the album and the people who wanted to hear it. It wasn't an answer. It was a question.

Helpfully, the group's considerations are not profiled in isolation. Throughout the book, the author shares keen observations that he and the Clan took from Nipsey Hussle, and his \$100 mixtape experiment, along with a variety of band-to-brand corporate sponsorships such as Jay-Z's tie-in with Samsung in 2013. Taken together, the partners mirror another critical life skill for all music industry students—pay attention to those around you, then incorporate those ideas that might work best in your own circumstances. Single copy releases certainly won't work for everyone and this particular scarcity strategy hasn't been attempted since. Still, throughout the book, the author deftly illuminates the creative decision-making processes he observed further empowering others to do the same in their environments.

As they read through the tale of Cilvaringz and Clan founder The RZA working the album through its myriad logistical issues, readers are offered an intimate glimpse inside not only the logistic conceits involved in bringing a unique project to fruition, but also the inside negotiations and politicking among parties that are often needed when building a coalition for a project of this magnitude. Cyrus Bozorgmehr is a very vivid and

descriptive writer in this, his first long-form work. The author does a very good job of setting the scene and helping to amplify the greater moods and themes which permeated the time and contributed to the album's development. I was almost drawn in early on in the Prologue when Bozorgmehr explains, "There's nowhere on this earth quite like Marrakech. Cast from the sands of a thousand years, her pockmarked battlements sigh cheerfully through the ravages of time." Readers know they are in for an engaging ride. As such, I think it would be difficult to find another work (or example with the entertainment industry) that incorporates any, if not all, of the following in a single read:

Take a kid with a dream. A legendary hip-hop group. A cultural crisis that saw social and technological changes reshape the economics and the experience of music. Six years of secret recordings. A casing worthy of a king. A single artifact...An iconoclastic auction house. The world's foremost museum of modern art. A bidding war. Endless crises of conscience. An angry bob. A furious beef. A sale. A villain of Lex Luthor-like proportions. Bill Murray. The FBI. The Internet gone \*\*\*\*ing wild.

All in all, no, this book will not directly teach your students how to be innovative. That said, in only 272 fast-reading pages, *Once Upon a Time in Shaolin* does provide an incredibly vivid first-hand account of a dramatic attempt by a major artist to reassess the value proposition around creative output in today's music business. Maybe more importantly, readers will come to see that innovation isn't magical per se and a quality that only some other more qualified young professionals might possess instead of themselves. Here we learn that what is later called innovation is often first derided by the public and filled with immeasurable logistical challenges and almost crippling self-doubt.

Despite the endorsement of this text, there is one major caveat that any educator should consider when discussing this book: harsh language. Written as an insider's conversational play-by-play while engaging with artists, music fans, and others in the general public, expletives and frank cultural assessments course through the read. However, while this must be acknowledged and disclosed when proposing such a book to a younger audience, I hasten to say that the language, as shared, likely adds an element

of authenticity to the text and more often than not, increases engagement with the material. Still, this is a significant issue that should be considered with any resource utilized in an academic setting.

Overall, *Once Upon a Time in Shaolin* is utterly captivating. The story of this album release is one of the most significant artist-driven experiments in modern memory. I would highly recommend this book for any educator teaching within a music and entertainment industry program. Even if used exclusively by an instructor, and only as supporting information providing background to classroom lectures, the internal debates, market analyses, and scenario contingencies illustrated throughout are incredibly valuable. Taken together, they help debunk the harmful ideas and mischaracterizations around creativity and innovation that some of our students unfortunately hold. Ultimately, the story told is of an unlikely success drawn from a disparate cast working through an impossibly difficult situation. Taken at a distance, this is exactly the future we hope to inspire for our young learners as they will face quite the same on their own paths. Innovation is not an endowed gift that only a few possess. Instead, it is the result of diligence, curiosity, and often, happy accident.

Scott LeGere

Over the past twenty years, Scott LeGere has played key roles in the ownership and operation of audio recording facilities, independent record labels, media schools, and commercial music production companies. During this time, he has engineered Grammy-nominated albums, produced critically acclaimed independent projects, lectured nationally at conferences and events, and foolishly hauled both Yamaha CP-70s and Hammond B3s (concurrently) to gigs. In 2010, he co-founded NoWare Media, a composition-focused sound agency, and has helped produce





Clio, Emmy, and Cannes Lion award-winning commercial spots for clients such as Target, Walmart, The Minnesota Wild, PepsiCo, Bauer Hockey, BluDot, and others. More recently, LeGere has concentrated much of his efforts into higher education, teaching at a variety of Minnesota colleges and universities. He is currently an Assistant Professor of Music Industry at Minnesota State University Mankato.

**Stan Renard and Robert Willey. *Introduction to the Music Industry: Southwestern Edition*. Dubuque, Iowa: Kendall Hunt Publishing Company, 2019. [www.kendallhunt.com](http://www.kendallhunt.com)**

<https://doi.org/10.25101/20.11>

Navigating the music industry can be challenging for the seasoned as well as the novice music industry professional. *Introduction to the Music Industry: Southwestern Edition* gives the music industry student and professional an overview of vital terminology, history, and essential industry practices. Authors Renard and Willey combine their years as classically trained musicians, educators, and industry professionals to write a practical music industry primer that can serve as a foundational textbook for the music business classroom. However, any music industry professional would benefit from having this book on the shelf as a reference and guide in the ever-changing landscape of the music industry.

Renard and Willey collaborated on the e-textbook to fill the gap in dated music industry classroom materials in a rapidly changing field. It is written with the teacher and student in mind, giving a framework for lessons and projects for an introductory music business course. Each of the book's ten chapters begins with a breakdown of the chapter contents giving the reader a brief topical overview and outline of the main topics covered. It is written for the high school or early college-aged students to grasp the content and material quickly. The text is introductory and summarizes the music business, making it an ideal tool for the beginning music business class. After each chapter, Renard and Willey give a review and explain why the information matters to the music industry. Each chapter holds a vocabulary review along with recommended projects and assignments to reinforce industry practices for the student. The vocabulary review in each

chapter lays out the foundational terminology of industry-related material that beginning music students need.

The strength of the e-textbook is in the progressively organized fashion of essential music industry information it covers. However, each chapter could stand alone as a lesson or a segment for classroom instruction. Starting with a historical summary of the music business that includes visualizations of the changes in the music industry with useful graphs and diagrams (chapter one), Renard and Willey share stories of their experiences in the music industry. Under the subheading, “Factors Causing a Drop in Live Music,” Willey discusses his “Law of Music and Entertainment,” which is “music + alcohol = money.” Willey transparently relates a personal story that can help someone just starting in the industry understand that it is best to go into any music job with eyes wide open.

The second chapter outlines the artist’s team and begins the discussion on the business-related aspects of dealing with managers and attorneys. This chapter gives practical advice for the music business student with projects that encourage the student to begin making contacts with artists, managers, and lawyers. Chapters three and four address traditional and digital marketing focusing on the importance of branding along with useful tips and recommendations for piloting digital media resources. Chapters five through seven look at songwriting, copyright, recording, and publishing from the industry perspective and discuss how to protect intellectual property. However, probably the most significant sections of the book are the chapters on live performance and the music industry today (chapters 8 and 9), which address the importance of an entrepreneurial mindset for the industry professional. Although the majority of the book is relevant to the music industry overall, the last chapter (chapter 10) focuses on the music industry in the southwestern part of the United States (Texas, Oklahoma, and New Mexico), and is attributed to Renard. Renard’s position as a music business professor and researcher in Texas gives him firsthand insight into the regional demographics and data as it relates to the music business in this part of the U.S.

*Introduction to the Music Industry: Southwestern Edition* is useful for designing lessons and assignments for students and gives additional instructional and industry-related resources for more in-depth learning. Renard and Willey meet their intended purpose of the e-textbook, as stated in the preface. Available in e-print or hardcopy on request, the book is informative and contributes to the ongoing development of the music

industry. Whether you are an instructor, student, or industry professional, this e-textbook deserves space in your digital library.

Warren G. Mize

**WARREN G. MIZE** is the Director of The Patterson Center for Performing Arts in East Central Independent School District, San Antonio, Texas. He has earned a B.A. in Music Theory and Composition, an M.A. in Theology, and is currently a Doctoral student at Northcentral University. His research focuses on leadership development of secondary music teachers and directors. He is the recipient of the Give-A-Note and Country Music Association Foundations' Music Education Innovator Award for his design and implementation of a two-year high



school music business and industry course that serves as a curricular model for high schools across the nation. He was awarded the Leroy Smith Jackie Christenson Award for Educator Excellence. As a conference panelist and speaker, Mize advocates music education that reflects present-day trends and prepares students to succeed in the job market. Additionally, he leads performance ensemble tours at world-class venues across the globe, including Carnegie Hall, Sydney Opera House, and Vienna Musikverein. He is an accomplished pianist and conductor and holds memberships with MEIEA, the Texas Music Administrators Conference, and other state and national music education associations.

**Paul Saintilan, Editor. *Musicians & Addiction: Research and Recovery Stories*. Erskineville, NSW: Music Australia, 2020. [musicaustralia.org.au](http://musicaustralia.org.au)**

<https://doi.org/10.25101/20.12>

The book begins with a thorough and relevant review of key research literature. Topics such as childhood trauma and mental health; performance anxiety; creativity and imagination; social, cultural and workplace pressures; and fame and celebrity are covered. This was necessarily a multidisciplinary project. The subsequent primary and secondary data is then positioned in a sophisticated relationship to existing research in these multiple fields. This enabled editor Saintilan and the various contributors to delve deep in their attempts to contribute to our understanding of the pressures, vulnerabilities, and underlying causes of addiction and related issues of mental ill-health among musicians.

The project design is innovative and effective and Saintilan successfully identifies relevant constraints. However, one question that Saintilan has left as an area for future research concerns how much of the problem of addiction stems from preconditions versus it stemming from the characteristics of various workplaces within the music industries—albeit this question is no doubt fiendishly difficult to answer and perhaps beyond the scope of any singular study.

Importantly, the book challenges some prevailing—and problematic—myths among musicians relating to sobriety, addiction, and artistically creative processes. Saintilan argues convincingly that the sophisticated assistance provided to athletes, with regard to energy recovery being as important as energy expenditure, diet, and sleep, could be drawn upon to better advise and help manage musicians' wellbeing.

One area however that I thought could have been further developed concerns the field of positive psychology and the way in which this field flips the question from what causes mental ill-health to the question of what causes musicians to be in good mental health. Engaging more with this field of literature, including the work of Martin Seligman and his PERMA (Positive Emotion, Engagement, Relationships, Meaning, and Achievement—with some contemporary positive psychologists adding “Health” to the end of this acronym so that it becomes PERMAH) and the work of positive psychologist Mihaly Csikszentmihalyi, would have broadened the discussion of preventative measures that can be taken by

musicians. Meditation is a key focus of the book in this regard and while meditation is clearly useful here, the question of whether musicians would attend broader emotional resilience training sessions *before* they become unwell seems to be important here too.

Ultimately though this is a poignant, timely, and important book that makes a significant contribution to our understanding of the problem of addiction in the music industries. It successfully unravels numerous myths relating to addiction, creativity, and inspiration and while it is gut-wrenchingly sad at times, ultimately its message is one of hope; it provides concrete examples of musicians who have recovered from addiction and who now lead healthy lives. I anticipate that this book will have a significant impact on music education curricula and it will prove to be very useful for advocacy purposes.

Guy Morrow

**GUY MORROW** is a Senior Lecturer in Arts and Cultural Management and is the Director of the Master of Arts and Cultural Management at the University of Melbourne. Dr. Morrow is a specialist in artist management, with a particular focus on agile management practices within the fields of music, dance, and film. His most recent book is *Designing the Music Business: Design Culture, Music Video and Virtual Reality* (Springer 2020) and his current contract research project looks at the impact of Australian Recording Industry Association (ARIA) Charts, New Zealand (NZ) Charts, and Regional Spotify Charts on consumer purchasing behavior in the Australian live music industry. He also published a book entitled *Artist Management: Agility in the Creative and Cultural Industries* in 2018 (Routledge).



**Paul Myers and S.W. Lauden. *Go All The Way: A Literary Appreciation of Power Pop*. Los Angeles: Rare Bird Books, 2019. [rare-birdbooks.com](http://rare-birdbooks.com)**

<https://doi.org/10.25101/20.13>

Power pop, as a genre descriptor, has been applied to a wide array of performers, songs, styles, and sounds over the prior five decades. What today may be deemed by some as classic rock, pop punk, indie, Britpop, or new wave, might have once been labeled with the power pop tag. The variance of rock artists huddled under the power pop umbrella is both impressive and, at times, debatable.

Commensurate with such an impressive variety are the contributions compiled within *Go All The Way: A Literary Appreciation of Power Pop*. What this book doesn't seem to offer is detailed clarity as to exactly where power pop's boundaries lie. Instead, it submits—via the perspectives of over two-dozen chapter authors—a collection of ideas, research, stories, and experiences, woven together with the thread of the power pop subgenre, in a largely chronological fashion (which, thankfully, makes such a grouping of individual voices a more linear affair than it could have been). The sonic demarcation of power pop's characteristics is still left in the ears of the reader to decide.

Maybe that's because power pop is a subgenre with borders that have morphed and mutated throughout the years. Some commonalities reveal themselves over the course of the chapters, namely rock songs with catchy melodies, guitar-bass-drums (and sometimes keys) instrumentation, vocal harmonies, straightforward song arrangements, and perhaps a distaste of jamming too heavily, staying out of metal or harder punk territory. Another is the juxtaposition of the sometimes defeated, heartbroken lyrics against the tuneful consonance of the chord structure (read Justin Fielding's account on making a power pop documentary for a more concise definition).

As *Go All The Way*'s assortment of chapters reveal, the power pop tag itself has had its glory days of hit-making, arena sing-alongs (see Cheap Trick, The Knack, The Romantics, and more recently, Fountains of Wayne or Weezer—though only 57.5% of its 1994 self-titled album qualifies, as calculated in a song-by-song analysis by Daniel Brummel). But the subgenre has also had many periods of hardship in the music industry, in which being relegated to this classification could almost immediately result in a lack of success. Just ask all the one-hit (and even more zero-hit)

wonders that hailed from the power pop camps of the 1970s, 80s, and 90s. Many of these artists—mentioned throughout the book—penned some of the most hook-laden rock refrains imaginable, and yet, just couldn't hitch a ride on the power pop cachet train to popularity.

The book launches into subgenre definitions almost immediately, laying the groundwork with a May 1967 quote from The Who's Pete Townshend using the term to describe what his band plays. There are acutely personal stories shared as well, and references to the British Invasion and Beach Boys as progenitors of the power pop subgenre are frequent, with the Beatles as the most commonly noted artist of the early era.

Also common are the reminders of artists who carried the power pop flag to various degrees of popularity throughout the 70s, namely Badfinger, Big Star, Raspberries (whose hit song is the title of this book) and Pezband (cited as one of the earliest artists to incorporate the power pop tag in its marketing). Fortunately, *Go All The Way* doesn't dwell in the subgenre's 1970s apex much longer than it needs to, but rather recognizes that power pop continued its journey through subsequent eras, into present day. As the timeline unfolds, chapters are allocated to more recent artists, including the incredibly prolific Guided by Voices, the aforementioned Fountains of Wayne, plus the late, great Tommy Keene and Scott Miller (the latter of Game Theory). The 80s and 90s power poppers are also covered via dedicated sections for artists such as XTC, Sloan, and Jellyfish, plus some more recent discussion on pop punk, power pop's decidedly edgier relative. Other highlights include a chapter on power pop drummers and an entry regarding KISS's connections to the subgenre, with a particular nod to its *Unmasked* album.

The book also doesn't concentrate on power pop being an exclusive boys club. A few chapters are devoted to female-fronted outfits such as Blondie and Liz Phair's self-titled pop-angled album. There's also an entry by John M. Borack delving into the women who helped shape and popularize the power pop sound, including the Bangles, Nikki and the Corvettes, the Go-Go's, and the Shivvers.

There is, however, an open opportunity in this otherwise wide-ranging gathering. Nirvana, one of the most popular and perhaps game-changing rock bands of the past few decades, was only lightly touched upon in *Go All The Way*'s pages. While far better known as an alternative rock or grunge act, frontman Kurt Cobain's handwritten lists of bands in his *Journals* included The Beatles, XTC, The Knack, and The Smithereens



(another group that—despite hits and regular MTV rotation—only had a few mentions in *Go All The Way*). And, Cobain’s more melodic, straightforward compositions like “About A Girl,” “Drain You,” “In Bloom,” and “Been a Son” could’ve all been argued to land somewhere near the power pop perimeter.

For those seeking to unearth more information on this subdivision of rock, *Go All The Way* makes for a fine, if not intriguing exploratory read. It stays fairly focused and is largely enlightening. Note that the use of language varies, with some swearing in certain places (this is a book about rock music, after all). A suggestion is to have access to an online music streaming platform while reading—being able to search and listen to the artists, albums, and songs discussed throughout the pages makes for an even more engaging experience. And hopefully, after the chapters are digested and all the stories have been told, the reader will be left with a more vivid understanding of what power pop really is.

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