



BRIEF INTERMISSION: A PREVIEW OF THE THEATER BUSINESS AFTER COVID-19

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In the recent days of “shelter in place,” many have found comfort in watching films. Escapism can be an effective tool to distract us, for at least a moment, from worrying about today’s uncertainty. However, businesses in the entertainment industry, especially in film exhibition, are experiencing an unprecedented disruption in their ability to earn revenue. But, for those who can weather the current storm, there is great opportunity. This article will detail how recent events have affected theatrical exhibitors, provide legal aspects exhibitors should consider as they try to keep all of the plates spinning during this unpredictable time and detail opportunities for those who are up to the challenge of evolving with the industry.

COVID-19 Provides Temporary Obstacles for Exhibitors.

Recent events have wreaked havoc on movie theaters. As one of the first of many dominos to fall in the United States, MGM announced it was shifting the release date for *No Time to Die* — the next installment of the James Bond franchise — to late 2020. The 007 film announcement was quickly followed by the delay of *F9*, the ninth film in the blockbuster *Fast & Furious* franchise. As concerns grew in the U.S., cinemas proactively took precautionary measures such as enhancing cleaning measures and selling a limited number of tickets to screenings to encourage safe spacing between patrons. However, once federal, state and local government representatives recommended that only a small number of people should congregate in the same place at one time, theaters made the painful but responsible decision to close their doors to patrons for the immediate future.

As theaters took these measures, the major studios modified rollout plans as well. For example, only two weeks after Pixar released its tent-pole film, *Onward*, in theaters, it decided to stream the film on the Disney+ app before completing its full theatrical window. Universal Studios, on the other hand, quickly decided to make several films that were currently screening in theaters digitally available on demand at the same time. This decision harkens back to Mark Cuban's attempt to use the "day and date" release strategy in the mid-2000s, where a film is released both in theaters and on demand on the same day. If the "day and date" strategy becomes more prevalent, it could be detrimental to the exhibitor business model. Such a shift would undermine one of the forces driving audiences to theaters: viewing films that, otherwise, the audience would not be able to see for three months.

Universal then went a step further. The studio originally planned to release the animated sequel, *Trolls World Tour*, in theaters on April 10. Instead of moving its theatrical release date to later in 2020, Universal decided it would skip a theatrical release altogether by making the film digitally available and on-demand at home.[1] So far, Universal is the only major studio that has made this type of decision. At present, it looks like theatrical exhibitors should have sufficient content from other studios in the pipeline when the pandemic ends and theaters re-open.

Legal Issues Exhibitors Should Consider Right Now

At this time, exhibitors are juggling countless legal and business-related issues every day. Before losing hope, exhibitors affected by COVID-19 should breathe, take a step back and consider several issues before moving forward so they can take full advantage of the law and avoid unforced errors:

- If you are keeping the kitchen open for takeout or delivery, review orders from counties, states and the federal government to ensure compliance.
- Reach out to landlords for your theaters to see if a mutually-beneficial arrangement can be reached for the upcoming months while theaters will be making minimal, if any, revenue.
- Before making any [changes with regard to the status or compensation of your current employees](#), make sure you do so responsibly and in compliance with the law.
- If your company has insurance coverage, find out whether [your policy covers the current pandemic](#).
- Look at your contracts and determine whether any [force majeure clauses](#) provide relief. This applies to all contracts, including those relating to [construction](#).
- Determine whether your business can benefit from the new [CARES Act](#).
- If needed, talk to lenders about whether [workouts or modifications](#) make sense to avoid a default.
- While it isn't a legal issue, reputation management is still important. The way you treat employees and vendors in the industry right now can affect your brand for years to come.

- As attorneys have learned from our temporary transition to working from home, over-communication is important when you cannot meet face-to-face.
- As painful as it is to use the “B-word,” it may be helpful to understand the option to restructure under bankruptcy law as a last resort.

Finding Opportunity During and After the Pandemic

As of the time of this article, large portions of the American population are sheltering in place, meaning millions of people are sitting in their homes, never more than a few feet away from devices that can play media — their cellphones, televisions, tablets and computers. Companies focusing on digital distribution of content have the opportunity to capture market share during this quarantine period. The digital distributors will also continue to push against traditional Hollywood release windows, hoping to shorten or even eliminate certain release windows. While digital distributors are providing content to what is literally a captive audience, theatrical exhibitors find themselves temporarily on the sidelines. What does this mean for the future of film exhibition?

Exhibitors, including both global theater chains and independent cinemas, have the opportunity to rethink how they can further build their brand and protect their bottom line. There are various decisions to consider when moving forward and each exhibitor must take the risks it feels best align with its overall strategy. Each exhibitor has the opportunity to ask itself whether it should:

- Go outside the four walls of its theaters and develop its online presence by providing streaming services online, as [AMC has already done](#).
- Aim its sights on younger consumers with disposable income by providing more than just projecting a movie on the screen. This can be done by giving particular focus to enhancing experiential aspects of a movie theater, such as: creating outdoor dining or bars; providing additional activities at the venue; and continuing the trend of increasing comfort, convenience and high-quality dining options. Technological developments may plateau in the future, but a substantial portion of the market will always desire the communal experience of events like attending the theater.
- Take a step toward vertical integration by developing a distribution or production arm.
- Take steps to maintain or increase loyalty with its current patrons by running promotions—on social media or elsewhere — while theaters are temporarily closed.
- Focus more on building a portion of its business plan on specialty screenings with cult-like followings, such as concert films and niche programming.
- Re-evaluate ways to make its business more efficient and profitable once physical theaters are “open for business” again.
- Expand (as counterintuitive as that sounds). For exhibitors who survive and advance beyond this phase and are also financially equipped, there will be tremendous opportunity to take over real estate

previously used by other theaters that either go under or cannot maintain their leases. What's more, there's a good chance the exhibitor will obtain favorable terms once a landlord is saddled with tens of thousands of square feet of vacant space.

The considerations are endless, but exhibitors should be strategic in determining how to maintain (or re-gain) market share when this pandemic ends. Theaters have survived threats ranging from the television to the VHS tape to the internet. The most nimble and best prepared exhibitors will survive this brief moment in time and may even become stronger if they take advantage of the opportunities ahead.

[1] NBCUniversal publicly stated that *Trolls World Tour* would be available in both theaters and on demand on the same day. However, it appears that theaters will not yet be re-opened at that time. If you have questions or would like to discuss further, please contact [Brent Turman](#).

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