CREATIVE SYNERGY: COMMERCIAL AND NONPROFIT LIVE THEATRE IN AMERICA

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Commercial and nonprofit artistic enterprises in America interact and influence each other in myriad ways, which vary considerably by artistic genre. Different art forms tend to be incorporated differently: museums and opera are primarily nonprofit; film, architecture, interior and fashion design are usually commercial undertakings; and publishing and live theater exist in both sectors. Players in these art forms tend to move between the sectors and have different experiences, pay scales, and reputations in each.

Information on how the sectors interact in different artistic genres remains somewhat anecdotal. The need to become better informed about their relationships was one of the clarion calls of *Creative America*, a report from the President's Committee on the Arts and the Humanities, and was a guiding intellectual thrust of the recent American Assembly report, *The Arts and the Public Purpose.* There has also been an increased effort to assess the impact of the independent sector on society, as well as the effects of nonprofit arts on their commercial kin. This article is an attempt to discern the interplay between commercial and nonprofit live theater in America.

Distinctions: Productions, Producers, Theaters

The distinction should be made between shows or productions (a play, musical, one person act), theater as a physical entity, and a production company. For example, Manhattan Theatre Club in New York City is a subscription-based, nonprofit production company that leases space from City Center to produce shows. It also leases other theaters when it decides keep a successful show running longer than its allotted subscription time. Many theater companies, in particular those outside of New York City, own or rent their theatrical plants and produce there. A theater owner can rent his theater to either a commercial or a nonprofit producer. A show can be produced by a nonprofit or a commercial producer, or a combination thereof.[1] Any play or musical can tour through the sectors: it can originate within a nonprofit company, tour on a commercial basis, appear in a nonprofit venue such as the Kennedy Center, and come to Broadway as a profit venture.

A producer can be an individual, a limited partnership, a joint venture, or a corporation bound by commercial contractual practices. Producers can incorporate as nonprofits or as commercial entities.

Professional live theater in America includes Broadway; Broadway-type producers in other cities; Off Broadway and Off Off Broadway; national and international bus and truck touring companies; specialized touring groups; dinner and stock theaters; and regional, children's, community, and experimental/developmental theater.

Although each of these may include both for-profit and nonprofit entities, some are almost exclusively one or the other. Broadway productions are primarily commercial. Resident theaters that belong to the League of Residential Theatres (LORT) are exclusively nonprofit producers.[2] Community and children's theater producers tend to be incorporated as nonprofit entities, whereas dinner theater producers tend to be commercial.

Furthermore, this listing excludes the numerous community-based theater groups that function as unincorporated entities, often within community centers or religious institutions.

Each sector has its own primary mission. Commercial theater is geared towards making a profit for its investors. Shows are selected with a concern for the bottom line, though not without consideration of artistic merit and entertainment value. Nonprofit producers are more mission-driven, concerned with artistic excellence and innovation.

The rise of nonprofit regional theaters around the country began in the late 1950s with the founding of the Arena Stage in Washington D.C., the Milwaukee Repertory Theatre Company, the Alley Theatre in Houston, and The Cleveland Playhouse. Enhanced by money from the Ford Foundation and the National Endowment for the Arts, the regional theatre movement blossomed. Today, hundreds of nonprofit theaters are an established part of the American landscape (Ziegler 1973). It is estimated that by 1977 half of the professional theater in the country was nonprofit, the other half commercial (Conditions and Needs of the Professional American Theatre 1981, 18). During the 1980s and early 1990s, this institutional growth leveled off, giving way to a focus on theater stabilization.

As Powell and Clemens remind us, nonprofit movements tend to arise out of competing visions, their most salient feature being not their legal status or organizational structure, but the reasons for their formation (1998, xiv). The nonprofit theater movement was fueled by the desire to move theater beyond Broadway. Its goals were to replace the unrealized subsidized national theater in America; to present classic, esoteric, and socially critical pieces in communities around the country; to broaden audiences; and to maintain responsible ticket prices.

Resident theaters provide a range of services in their respective communities, such as expansive educational programs; performances in schools, hospitals, and prisons; and programs for the elderly and disadvantaged. They sometimes have main stages and second stages, the latter often used as research and development laboratories for new works. These theaters serve as places where directors, playwrights, choreographers, and others can learn their craft and experiment. Though mission-driven, resident theaters are not adverse to producing something that may have commercial value.

University theaters are integral to the nonprofit community, though they are usually part of theater education programs and tend to relate more to one another than to the larger nonprofit theater world. Some, however, such as the Yale Repertory Theater and the American Repertory Theatre in Cambridge, Massachusetts, have become known for their seminal leaders and quality presentations, which have on occasion moved to Broadway.

Nonprofit performing arts centers, such as the Kennedy Center in Washington, D.C., and Lincoln Center in New York, are also important to the theater landscape. Such arts centers have sprung up around the country in the last few decades. They can be found in major urban centers such as Los Angeles, Palm Beach, Ft. Lauderdale, Costa Mesa, Cleveland, St. Paul, and Denver. Some have come into being as part of economic development programs in their respective communities. They all present live theater. Some generate their own productions; most act as presenting organizations for both commercial and nonprofit producers (Rothstein 1998).**3**

Tracking Intersectoral Relations

Interactions between the commercial and nonprofit sectors in American theater are widespread, yet quantitative and qualitative data that pertain to intersectoral relations are not readily available. The theater community has not maintained data from this vantage point, as its preoccupations do not relate directly to this query.

Service organizations are concerned primarily with ticket sales, governance, employment, alternative income sources, audience attendance and demographics. They report on their membership organizations, not on the entire theater universe. Unions primarily maintain trend studies on pay scales and benefits. Data on commercial productions (excluding ticket sales) are often proprietary and unavailable to outsiders. Furthermore, data are often outdated and can suffer from different collection procedures, making comparisons between art forms as well as trend studies difficult.

The 1992 Census of Service Industries shows national revenues for commercial and nonprofit live theater at over $2 billion--commercial theater accounting for $1.3 billion, and nonprofits for $749 million (see Table 1 on page 6). The census data are updated every five years. Because theater has done well during the last five years, 1997 figures, once released, will be higher, which is indicated by the League of American Theatres and Producers' figures.

The League is a 400-member organization that tracks Broadway shows nationally. It reported that the 1997-98 Broadway season saw revenues of about $1.3 billion, $721 million of which came from touring productions and $558 million from New York City ticket sales (League of American Theatres and Producers, Inc. 1998). According to the League, Broadway receipts alone in 1997-98 were as high as the census data revenues for all commercial theatre activity in 1992. Data for the 1991-92 time period from both the League and census show a certain consistency. The League reported the 1991-92 season having receipts of $796 million ($293 from Broadway and $503 from the road). The 1992 census data reported $650,789,000 from Broadway producers and road shows (commercial and nonprofit combined) --slightly less than the League figures, which would be higher because they include Canadian producers. When the 1997 census data are released, we can expect a substantial growth in the overall receipts/revenues for live theater in the United States.

Theatre Communications Group, the primary service organization for nonprofit theaters, determined that revenues for the 1997 season among 197 of its membership theaters were $565 million *(American Theatre* 1998). The 1992 census data on a universe of 1,268 nonprofit theaters showed revenues of $749 million.

The origination of plays or musicals in either a commercial or nonprofit venue has recently been tracked by the President's Committee on the Arts for the 1975-76 through 1995-96 seasons (Wachtel 1996), and by Bain and Company, Inc., a Boston research group commissioned by the Broadway Initiative Working Group (1997). Each show playing around the country in commercial and nonprofit venues has a travel history, yet information on its stops has not been formally maintained, though its movements are often known to theater insiders, and to its producers.

Theater union members work in both sectors. Approximately seventeen separate unions are connected to professional theater in New York alone, and local unions around the country add to the matrix.4 Contracts (wages, benefits, rules) vary, in the main, according to the size of the theater.[5] Producers pay most artistic personnel and sometimes share marketing and advertising costs with theater owners. Theater owners pay stagehands, house managers, ushers, theater box office employees, and usually musicians. Union members work between the sectors, yet we know little about the amount of employment or the proportion of earnings derived from work in commercial versus nonprofit companies, nor do we have qualitative data on why different theater workers move between the sectors. 6

Even without hard data on the interrelations between the two sectors, the synergy between American commercial and nonprofit live theater is evident: the extraordinary amount of cross-fertilization between the sectors is one of the trademarks of live theater in America.

Theatrical Synergy

Plays and musicals produced on Broadway provide a large portion of the material for the seasons of nonprofit theaters The League of New York Theatres and Producers estimated that 70 to 80 percent of the plays and musicals presented by nonprofit theaters around the country have had a Broadway run (Conditions and Needs of the Professional American Theatre 1981,39).

Many Broadway productions, however, originate in nonprofit theatres, which often are considered the research and development arm of the American theatre. Until the 1960s, Broadway was the originator of over 60 percent of the new plays and musicals (Bain and Company 1997). A down cycle in the industry from the late 1960s to the 1970s caused Broadway producers to shop for new properties in the nonprofit arena to try out potential commercial properties in the nonprofit regional system -- a pattern that has continued to this day. The transfer of *The Great White Hope* from the Arena Stage, where it was developed, to a successful Broadway run in 1969 was a bellwether in the cross-fertilization between the for-profit and nonprofit theater communities (though Arena Stage was not a financial beneficiary).

Table 1: Statistics for Organizations Self-Designated As Producers of Live Theatrical Productions

	Taxable Organizations		Tax-exempt Organizations		
Expenses Revenue	**No. in business Total at the end of 1992**		**Receipts No. in business at the end of 1992**		
Residential Producers	**8**	**21,735**	**131**	**252,747**	**259,048**
Stock Producers	**20**	**20,993**	**66**	**45,748**	**40,421**
Broadway Producers and Road Shows	**79**	**597,889**	**16**	**52,900**	**55,866**
Off-Broadway Producers	**17**	**18,769**	**64**	**46,061**	**47,331**
Off-Off Broadway Producers	**13**	**20,775**	**68**	**19,056**	**18,866**
Children's Theatres	**31**	**31,393**	**139**	**45,436**	**45,385**
Dinner Theatres	**29**	**25,260**	**8**	**1,232**	**1,251**
Community Theatres	**14**	**4,534**	**328**	**74,738**	**75,498**
Other Theatrical Presenters	**137**	**86,622**	**102**	**45,556**	**47,136**
All Other Producers	**652**	**505,072**	**346**	**165,887**	**166.390**
Total	**1000**	**1,333,042**	**1268**	**749,361**	**757,192**

Source: 1992 Census of Service Industries, Census Bureau, United States Government Publications. * Sums given are in the millions. * Data is based on theatrical producers quarterly payroll reports.

Examples of commercial shows that have evolved in nonprofit theaters abound. The Seattle Repertory developed Wendy Wasserstein's *The Heidi Chronicles* and *The Sisters Rosensweig,* Neil Simon's *London Suite,* and Lanford Wilson's *Redwood Curtain.* All had commercial runs later in New York. *Big River* was developed at the American Repertory Theatre in Cambridge and at the La Jolla Playhouse in San Diego. *Rent* evolved in The New York Theatre Workshop and *Bring in 'da Noise, Bring* in *'da Funk* at The Public Theatre in New York. Today, nonprofit companies both within and outside New York, including University theater groups, contribute significantly as incubators of new works. *Creative America* reported that between the 1975-76 and 1995-96 seasons, 44 percent of new plays produced on Broadway have originated in the nonprofit sector (1997,4). Since the 1980s, Broadway has declined even further as the generator of new productions. (Rosenberg and Harburg 1993;Bain and Company 1997). New works are increasingly emanating from regional theaters, as well as from abroad, in particular from London, Ireland and Canada.

The quality of these nonprofit start-ups is seen in the professional accolades accorded them. Starting with *The Great White Hope,* 20 of the last 25 Pulitzer Prize-winning plays, 60 percent of the winners of Tony awards for Best Play, and 30 percent of the winners for best musical originated at regional theaters *(American Theatre* 1996, 6).

The sectors share not only productions but also scripts and tapes, personnel, scenery, costumes and facilities. Theater workers -- directors, actors, writers, set designers and others -- move between the sectors, depending on the availability of work, ability to do desired productions, and salary scales. Nonprofits provide opportunities to do works that may not be viable commercially or that have a more limited or segmented audience appeal, while Broadway's pay scales and prestige are higher.

Codifying Co-Ventures

When commercial producers and nonprofits join forces, arrangements tend to take distinct forms, such as the following:

1. A nonprofit can arrange a self-financed transfer for one of its own productions. For example, the New York Shakespeare Festival's Public Theatre acquired funds (via loans from board members and a theater owner) to enable it to finance the transfer of *A Chorus Line* to Broadway. The profits accrued to the Public Theatre.
2. A nonprofit can license a production developed in its theater. Given good reviews, commercial producers may become interested and license the production from the nonprofit entity, which then participates in a royalty pool and profit sharing, receiving a negotiated percentage of revenues, profits (should there be any), and subsidiary rights (merchandise, film rights, CDs, and so forth).

3. A nonprofit can have the rights to a production it cannot afford to develop itself. Enhancement money is sometimes forthcoming from commercial producers. *On The Town* was shown by the New York Public Theater at the Delacorte Theatre in summer 1997 with commercial enhancement money from four producers with an eye to a Broadway run. After seeing the piece, the producers decided to drop the project. The Public produced and financed it alone.

4. A commercial producer can approach a nonprofit with a property. If the nonprofit theater agrees to stage the work, it acts as a laboratory. For example, commercial producers optioned *Rent* from Jonathan Larson which was developed at the New York Theatre Workshop.

5. A nonprofit entity may co-produce a show by forming a for-profit subsidiary. For-profit subsidiaries are common in the nonprofit world, yet they are rare in live theater. Manhattan Theatre Club formed a commercial subsidiary to transfer *A Small Family Business* for a Broadway run. Revenues gleaned from co-producing seem to be problematic for the Internal Revenue Service. Once a nonprofit producer relinquishes or shares artistic control of a product, its mission and thus its tax-exempt earnings can come under question. In an instance such as this, the nonprofit theater pays an unrelated business income tax (UBIT) on the revenues.

This is only a rough outline; each joint venture is distinctive, based on artistic and economic considerations and on the personalities of the parties involved. Hybrids and exceptions are not uncommon. For example, Lincoln Center usually does its own producing, but it makes exceptions. It originated David Mamet's *Speed-the-Plow* on Broadway. Cameron MacIntosh gave enhancement money to the Center to show *Carousel* which had been revived at the Royal National Theatre in London. Lincoln Center now has a passive participation in *Carousel's* commercial tour. Some commercial transfers, such as Manhattan Theatre Club's *Love! Valor! Compassion!* have been financed by non-recourse, short-term loans from theater owners in return for the production being housed at their theaters. Manhattan Theatre Club is also the recipient of a Lila Wallace Foundation grant of almost $1 million, about half of which is earmarked for commercial transfers. All profits go back into the fund.

Costs and Risk

The impetus for this extraordinary intersectoral activity comes from well-known financial and artistic considerations that continue to plague American theater. Investing in live theater has always been risky and has become increasingly so. Despite the facts that the audience for live theater has grown in absolute numbers; that American musicals are still a big box office draw; and that domestic and international touring income has increased, investing in live theater is not for the faint-hearted.

The “cost disease” identified by William J. Baumol and William G. Bowen in their 1966 publication *Performing Arts: The Economic Dilemma* still applies. Bain and Company reported that Broadway's annual growth over the last three decades has been a meager 2 percent and that audience attendance has remained flat. The cost of producing a live commercial performance has grown between 350 and 400 percent, and operating costs have increased by 100 percent. Yet revenues from ticket sales have grown only 80 percent (1997). Rocco Landesman of Jujamcyn Theaters has commented that ticket prices would have to be $150 to keep pace with costs (Blumental 1997). Cost increases are particularly steep for advertising, union benefits, administrative charges imposed by theater owners, and the technical demands of big musicals. In addition, producers have instituted up-front fees and office expenses.

Because of escalating costs, the time required to recover an investment has also lengthened. For example, in 1965 a typical play in a thousand-seat theater running at 85 percent capacity recouped its investment after 15 weeks. In 1995, given the same circumstances, that play would require thirty weeks to break even (Grimes, “Broadway...,” 1997).

Historically, however, the success/failure rate of musicals and straight plays has remained about constant. Using various criteria, the *New York Times*, *Variety* and *Billboard* found that between 1925 and 1935 the ratio of successes to flops on Broadway was about 25 percent to 75 percent. The numbers haven't changed much: between the 1950s and the 1990s about 22 percent of all Broadway productions recouped their investments (Bain and Company 1997). Musicals remain a better investment than plays; they are the box office heavyweight, accounting for about 80 percent of Broadway revenues and over 80 percent of touring revenues (Blumenthal 1997).

Producers can no longer rely exclusively on a show's Broadway run to pay back their investments. Income streams have diversified. Shows make money from touring, ancillary income streams such as film, video, merchandising, soundtracks and foreign markets. Since 1989, revenues from touring have surpassed revenues from Broadway runs (Vogel 1998, 285). Good reviews and a solid audience turnout on Broadway set the stage for the future success of a show.

The Urge to Merge

Growing costs are fostering new alliances. The live theater community is experiencing new players. The small investors who used to sign up for $5000-10,000 limited partnership are becoming increasingly obsolete.

- *BIG* was financed in part by F.A.O. Schwartz. Hallmark presented the revival of *The Sound of Music.*
- Ford Motor Company helped finance the renovation of the Apollo and Lyric Theaters on Broadway, renamed the Ford Center for the Performing Arts. Continental Airlines has become the "official" airline for Broadway. Will they be tomorrow's investors?
- Alexander Cohen and Max Cooper, two independent producers, entered into partnership with Duncan Weldon, one of London[1]s most prolific producers, to bring straight plays to North America. This arrangement provides Cohen and Cooper first option for the twenty or so plays Weldon puts on at the Chichester Festival, where he is the director, as well as first options for works produced by his company, Triumph Productions. Costs in London are less expensive, making it a natural place for a "pre-Broadway tour" (Grimes, "On Stage...," 1997).
- The revised version of *The Scarlet Pimpernel* was financed by Cablevision, which owns Madison Square Garden and Radio City Entertainment, along with one of *Pimpernel's* original investors, financier Theodore J. Forstmann.
- Dodger Productions, a leading Broadway company, and Endemol Entertainment of Amsterdam, one of Europe's largest producers merged in 1997. Joop Van Ende, the founder of Endemol, recently spun off and took control of the live entertainment division of Dodge/Endemol.

One of the most striking occurrences on Broadway has been the entrée of the large entertainment companies. The urge to merge was spurred by changes in the regulatory law earlier in this decade, changes which now allow for vertical integration of entertainment businesses. The last decade has witnessed hosts of mergers between previously independent segments of the entertainment industry that have, to date, resulted in seven behemoths: Time Warner, Disney, Sony, Seagrams, Bertelsmann, Viacom, and New's Corp. Each has divisions that include TV production, film production, music, publishing, broadcast, cable and satellite TV, the Internet, theme parks and shops (Duncan 1998). Their entrance into live theater has been met with ambivalence.

As Frank Rich noted, "But the biggest, most humbling mistake I discovered -- and I feel only slightly defensive about it, since everyone else in or around the theater made it, too -- was my utter failure to anticipate the single most important change on Broadway in decades:

the arrival of Disney as a redevelopment force, which led in turn to the happy revival of 42nd Street and the entire Times Square neighborhood but, less happily, to the impending corporatization of the American theater, on Broadway and beyond." (Rich 1998).

Live theater, once viewed as a fringe art by the entertainment companies is now seen as a potential asset to their mix. Live theater contributes annual revenues of only 2 billion to the giant 270 billion dollar entertainment industry (Duncan 1998). However, given its ability to originate creative product, develop it relatively inexpensively, and provide another source of national and international entertainment, it may be a promising addition. Global markets beckon. Just as the road revenues for Broadway shows surpassed Broadway, the demand for entertainment abroad is now growing faster than the demand within the States. Live theater is part of that demand. The entertainment giants are increasingly positioning themselves to tap into these emerging markets. In a world hungry for entertainment, they are rushing to explore and exploit every opportunity.

Venturing into "traditional" live theater -- serious plays and musicals --is a logical extension for entertainment companies. Many already produce live events, such as sports and rock concerts and what has been called "pseudo-theater" such as *Riverdance, Stomp, A Christmas Carol.* In many ways the entertainment giants are better situated to produce than are the traditional nonprofits and independent producers that have dominated Broadway. They bring rational business practices, capital, and integrated services to the less rational, inefficient, cash starved, high risk business of live theater. Entertainment companies have access to capital; national and international means of distributing live theater (many own theaters and presenting venues); experience in marketing, including market research, and advertising (which can sometimes override bad critical reviews as was the case with *Footloose, The Scarlet Pimpernel and Jekyl and Hyde);* and they own or are affiliated with companies integral to the production and distribution of theater such as video companies, television and cable stations, publishing and music companies.

The Disney Company and Livent of Canada were the two most visible public companies to enter the live theater scene. Livent filed for bankruptcy protection in November 1998, six months after being purchase by Hollywood mogul Michael Ovitz. Livent's future is unclear. Disney, however, remains a strong presence with its highly successful productions of *Beauty and the Beast* and *The Lion King.*

Less visible was the entrée of the public company SFX Entertainment which last year aligned Pace Theatricals, then the leading producer of road shows, which merged with Jujamcyn Theaters in 1997 (Marks 1997: Variety 20-24 August, 1998). SFX now controls over half of the national touring market and owns numerous theaters, including 31 of the country’s 37 amphitheaters. SFX is experienced in producing and staging a wide range of live entertainment, including rock concerts, monster-truck rallies and demolition derbies.

All three newcomers have availed themselves of the nonprofit/commercial synergy as a cost-effective means of developing projects. Disney developed the musical *Elaborate Lives: The Legend of Aida* with the Alliance Theater in Atlanta, Georgia (Wolf 1998). This is Disney’s first development project from bottom to top; *Beauty and the Beast* and *The Lion King* were stage adaptations of animated films, though each were developed in regional nonprofits.7 Livent partnered with Lincoln Center to produce the musical *Parade,* which featured a young composer/lyricist team (Brodesser 1998; Lyman 1998). SFX/Pace developed the musical *Civil War* at the Alley Theater in Houston, Texas.

Although these innovative business arrangements are a response to the bottom line, product still drives live theater. The quest for product is ubiquitous in the entertainment industry. The large companies spend huge sums supporting creative teams and people - “imagineers” as Disney refers to them. American producers trawl the English-speaking world in search of material. Live theater is a creator’s medium where individual talent is held in high regard and nurtured. Theater people are appalled by the film industry’s model of creation by committee.

Historically, film companies have looked to theater for product. Recently, Robert de Niro’s TriBeCa Productions signed a film contract with the Atlantic Theater Company in New York City for the rights to the Tony award winning play, *The Beauty Queen of Leenane*. Douglas Carter Beane of the Drama Department, a new nonprofit theater company in New York City, sold his adaptation of *As Bees in Honey Drown* to Universal Pictures. Now film companies are inking development deals with young innovative nonprofit theater groups in exchange for the first rights to a play that might translate into a feature film. For example, The Drama Department signed a deal with New Line and Fine Line Cinema in which the studio provides $25,000 for the Drama Department’s next four productions and the playwrights get first crack at writing the adaptations. The Atlantic Theater signed a first look deal with Robert de Niro’s TriBeCa Productions. Miramax has a similar arrangement with the Lookingglass Theater Company in Chicago.

High costs and high risks make the creative development process an essential link in producing artistically and financially successful theater and film. As Jude Kelly, artistic director of the West Yorkshire Playhouse in England commented on the musical *Martin Guerre,* which received unenthusiastic reviews when first shown, “... when artists are internationally successful... they still need opportunities to go back to the laboratory in some kind of nurturing situation. This process is about Claude-Michel and Alain’s need to keep searching for the *Martin Guerre* they really want” (Wolf 1998).

An Extended Family

Despite controversies, theater people view themselves as part of an interdependent industry. This was evidenced by the First American Congress of Theatre, convened by the theater community in 1974 to discuss problems that beset the industry at that time. The Broadway Alliance and now the Broadway Initiative are attempting to bring diverse, often conflicting players to the table to cooperate in projects that will aid the larger New York City theater community, and American theater in general.[8]

Commercial producers remain connected to nonprofit centers specifically because nonprofits are cost effective and committed to revising and revitalizing the classics, and to experimenting and developing new shows and talent. Individuals connected to commercial theater sit on nonprofit boards and give charitable contributions to nonprofit theater groups.

Commercial involvement benefits nonprofit theaters in a number of ways. Not only does it make it possible to mount a show that might otherwise not be affordable, but a successful run and/or commercial transfer enhances the reputation of the nonprofit theater and the artistic personnel involved. The playwright Terrence McNally is aligned with Manhattan Theatre Club, which has produced many of his plays, some commercially. This bond was essential in enhancing his reputation. He was employed by Livent to revise the Doctorow book *Ragtime* for its musical production and to work on Livent's production of *Pal Joey.* He has recently been commissioned by the San Francisco Opera to write the lyrics for an operatic version of *Dead Man Walking,* to be produced in their 2000-01 season (Wolf 1998; “ ‘Deadman Walking’...,” 1998).

It may beg the question to ask whether the risks in commercial producing may be greater than those for a nonprofit company. Commercial producers on occasion complain that nonprofit organizations unjustly benefit m comparison to the risks they take. Commercial producers have no fallback if a production bombs. The ashes are a business loss for investors. However, there are modest successes, and the possibility of investing in a musical that may run forever, making its investor very happy and very rich. While the success/failure ratio for Broadway investing remains low, seasoned producers beat the odds with successes about 50 to 60 percent of the time (Rosenberg and Harburg 1993, 16).

By contrast, a nonprofit company with a varied season is highly cushioned if one production fails to attract the desired box office receipts. Other shows in the season may offset the loss, and the subscription base and other revenue sources provide up-front operating moneys to continue the season. In fact, many nonprofit theaters do not expect their more experimental, esoteric or classical offerings to be popular. They consider presenting such offerings essential to their artistic mission.

The Theatre Communications Group study of 197 of its member theaters reported that 67% of its theaters met or exceeded expenses, while 30% reported negative net assets. Larger, more established resident theaters are more fiscally sound than smaller theaters *(American Theatre* 1998). All are subject to ever shifting economic cycles, and most do not have endowments that could buffer them in difficult financial times.

Artistic directors of nonprofit theaters increasingly blend financial concerns with artistic goals. The torch is being passed from the old guard to a younger generation of artistic regional directors. Necessity will force them to become savvy about marketing and better at hustling for money. Co-producing, particularly among regional theaters, has become more common. Producing shows that may transfer to Broadway and bring funds into the coffers may become increasingly attractive.

Some commercial producers do not have problems raising the necessary money to develop a show and never use nonprofit resources. Some nonprofit producers reach out for partnerships, whereas others do not. Some interested in co-producing are inexperienced in dealing with commercial producers, and deals fall apart over a trifle.

Keeping It Legal

The activity between the sectors can jeopardize the 5O1(c)(3) status of the nonprofit entities. Issues at the federal, state and local levels affecting nonprofit organizations in other areas, such as health and education, may have a spillover effect on live theater. Discussions on the legal, practical and ethical considerations of joint ventures are common within the theatrical community.

As the nonprofit sector of our society grows, becoming more sophisticated and interactive with the commercial sector, scrutiny of the benefits that accrue to 501(c)(3) entities will increase and may affect the theater community.[9] No significant red flags have been raised to date. This is probably because live theater in America is a small industry in which only a handful of individuals make money, no interest groups are lobbying that they are being unfairly hurt, and few situations have pushed acceptable legal limits between the sectors.

Concluding Thoughts

Within the theater community there are vociferous proponents of maintaining fairly separate sectors in order to keep the purity of the nonprofit mission. Others, however, insist that joining forces is essential in maintaining a fiscally sound, widely attended, creative live theater community in America. Robert Brustein has expressed concern about what he sees as the co-optation of the regional theatre mission: “It is one thing to move an occasional show to a commercial theatre in hope of reaching larger audiences, or even bringing additional income to sorely under financed theatres.... It is quite another to design a season in the expectation that a large percentage of offerings will be successful transfers.” (1991, 215). Producer Alexander Cohen has commented “What keeps the theater alive is this marriage!” (1997). Like all marriages, the alliance needs oversight. Past Director of TCG, John Sullivan, is more sanguine; he would like to see “greater clarity and connection between the sectors” (1997).

The growing concern over the possible co-optation of live theater by corporate America remains another ongoing conversation. Many theater persons fear of a loss of independence, a loss of the individual creative voice for creation by committee, and the vulgarization of product. Frank Rich commented “The real question about a theater overrun by cartoon characters and scripted by marketers is what, over the long haul, will be its quality of life?” (Rich 1998)

The entertainment companies have brought capital and business acumen to the industry. If their seeds sprout greenery, this will be just the beginning of a corporate presence in live theater. How this presence would change the complexion of the theater world is unclear. Of course, there is always the slim chance that the live theater community will get its house in order and become less dependent on unwanted outsiders who threaten its independence and integrity. The producer Roger Berlind commented, “I think we really need to address the fundamental cost structure in a way that incorporates unions and guilds and makes everybody realize this is a golden age that's turning rotten.” (Pogrebin 1998).

Clearly, the many ways in which nonprofit and commercial theater interface to create and mount productions and share personnel and materials enhance the richness of the American theater. While on the surface their missions may seem disparate, both desire to create works of artistic merit that may become a part of the permanent repertoire, and to be financially compensated for their efforts. At this historical juncture, nonprofit and commercial theaters have complemented each other to advance American theater. This synergy, in all likelihood, will continue and should keep the sectors firmly wedded in the foreseeable future.

NOTES

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1. Investors for a production come from a variety of sources -- theatre owners, individuals (often called angels), a corporation, film studio, the play's director, leading performers.

2. About 67 theaters are members of the League of Resident Theatres. They include some of the largest, most respected theaters in the country such as the Alley Theatre (Houston, TX), Arena Stage (Washington, D.C.), The Cincinnati Playhouse in The Park (OH), The Goodman Theatre (Chicago, IL), The Guthrie Theatre (Minneapolis, MN), La Jolla Playhouse (CA), Lincoln Center Theatre (NYC), Roundabout Theatre Co. (NYC), Seattle Repertory Co. (WA), Yale Repertory Company (New Haven, CT).

3. Nonprofit producers are legally designated as a 501(c)(3), and adhere to both federal, state, and local guidelines for tax exempt organizations. They hire artistic and managerial employees and are board governed. They generate b6th earned and unearned revenue streams (foundation grants, individual contributions, public moneys); are exempt from federal income tax; are exempt from property taxes though, in certain local and state jurisdictions, pay a negotiated tax for services (fire, water, etc.) in lieu of property taxes. Their status grants them special dispensations such as reduced postal rates, and donor contributions are tax deductible.

A tax-exempt organization is allowed to engage in commercial transactions. These activities can qualify as tax-exempt activities if they are deemed by the IRS to further the not-for-profit organization’s mission. If not, the organization must pay an unrelated business income tax (UBIT) on its earnings.

A nonprofit entity can also establish a separate commercial subsidiary whose profits are not tax-exempt. Most of the income that accrues to the organization from the commercial subsidiary, such as interest, rent, royalties (but not dividends), must be included as gross income when computing the exempt organization’s UBIT--even if the activities of the commercial subsidiary are not regularly carried on as a business or trade.

4. Some of the more important unions and guilds connected to live theater are the Society of Stage Directors and Choreographers, Association of Theatrical Producers and Managers, the Stage Hands Union, International Alliance of Theatrical Stage Employees and Motion Picture Machine Operators, Screen Actors' Guild Association of Theatrical Press Agents and Managers, United Scenic Artists, American Federation of Musicians, American Federation of Television and Radio Artists, the Dramatists Guild, and Actors Equity Association. There are also unions that govern ushers, theater house managers, maintenance crews, ticket sellers and myriad other jobs involved in creating a live production.

5. Actor's Equity Association, the national union for actors, singers, dancers and stage managers, has sliding salary and benefit rates. Workshop Contracts and Showcase Code contracts are primarily for works in development and require no, or minimal, salary and benefits. Salary, pension and benefits start with Mini Contracts, which apply to theaters with ninety-nine seats or less. An Off Broadway contract is for theaters with 100 to 499 seats. LORT Contracts apply to all theaters that are members of the League of Resident Theatres--about sixty-seven large regional nonprofit organizations. Production Contracts apply usually to Broadway houses of one thousand seats and upward, to large national and international touring companies, and large performing arts centers such as the Kennedy Center.

To complicate matters, different parts of the country have special Equity contracts. There are also distinct contracts for stock and dinner theaters, residential music theaters, juvenile theaters, and others. Equity contracts remain negotiable depending on special circumstances. For example, *Mule Bone,* produced at Lincoln Center, went to the Cort Theatre on Broadway on a LORT, rather than a Production, contract to reduce costs. It had forty-seven separate contracts with Actors' Equity, which would have made it financially prohibitive. Actors' Equity made concessions because the run was limited.

6. Maintaining a focus on the interactions between the sectors in live theater limits a larger and more important picture --- the cross-fertilization that occurs between theater, film and television productions and personnel in both the commercial and exempt arenas. While we know it is prolific, and grasp some of its obvious causes, the frequency and subtle explanations of cross-fertilization remain to be told. For example, live theater is for writers (playwrights own their material; movie companies own their scripts, which tend to be collaborative efforts that are constantly being rewritten). Playwright John Patrick Shanley, who moves successfully between Hollywood and theater, has noted a key distinction, "In a film, there is no real interchange with the audience. There is editing, but no rewriting" (Wachtel, 1996, 6).

7. Disney is creating package deals for producers whereby, for example, they must produce at least five of seven multimillion-dollar musicals that Disney is planning over the next decade. Such deals are common in film; however, they are unheard of in theatre ("B'way rules rewritten..." 1997-1998).

8. The Broadway Alliance was established in 1991 as a means of reducing the investment costs of transferring plays to Broadway. The unions made a 25 percent commission in salary and manpower for select theatres, and producers agreed to cap production costs and ticket prices. The Broadway Initiative is an industry wide effort to raise $10 million in three to five years, under S01(c)(3), that will produce a self-renewing revenue stream to redress some of the chronic problems that beset theatre. The Initiative has obtained approval to sell the air rights of theaters in the Broadway district to developers. A percentage of each sale will be used to maintain the theaters.

9. Congress is considering giving greater federal deductions to nonprofit entities that deal with "needy" causes versus education and cultural activities. Determining what activities fall into the category of unrelated business income is an on-going challenge. Certain states are reconsidering whether charities should pay state taxes. A few states have questioned whether cultural organizations should be granted charitable status.

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