

COVID-19 CRISIS MANAGEMENT CHECKLIST

ENTERTAINMENT INDUSTRY BUSINESSES

Presented by



Fox Rothschild LLP
ATTORNEYS AT LAW

While they face many of the same challenges confronting companies throughout the economy, businesses in the entertainment industry are also dealing with a variety of unique obstacles arising from the COVID-19 pandemic.

When the pandemic wanes, businesses that have taken active steps to preserve cash; manage expenses; apply for federal, state or local assistance; and maintain good working relationships with their employees, customers, lenders and critical vendors will be best-positioned to survive and thrive.

The following checklist identifies issues businesses and employees in the entertainment and sports industries should consider and actions they can take now to keep costs down and plan for the future.

PRESERVE CASH

- Maximize liquidity: Conserve cash!
- Update cash flow projections
 - Prepare rolling 13-week budget – similar to cash collateral budget in bankruptcy cases

CONTROL SPENDING

- Prioritize payments
- Employee relations/costs (see below)
- Delineate fixed vs. variable expenses; evaluate overhead savings
- Supplier/vendor communication
- Supply chain review, planning

TALENT/EMPLOYEES

- Coronavirus, Aid, Relief, and Economic Security (CARES) Act – Paycheck Protection Program administered by Small Business Administration
- Families First Coronavirus Response Act (FFCRA): Employee sick and family leave
- Employment options including possibility of furlough, reduced hours, reduced pay or benefits, maintenance of health insurance, severance, etc.
- Consider profit participations to retain key employees
- Unemployment benefits
- Charitable foundations

- Guild members should contact their respective guilds to see what information and assistance may be available.
- Access to workplace
- Remote work environment
- Technology (see below)
- Communication
- What employees are essential/core – whether or not operating?
- What employees are essential when operating again?

LENDERS

- Evaluate whether to draw fully on lines of credit, depending on liquidity
- Consider availability of federal assistance under CARES Act and local assistance available to small businesses
- Review, evaluate loan payment schedules, deadlines
- Review loan documents, including financial covenants
- Have early discussions with lenders on forbearance agreements, covenant “holidays,” waivers, extensions, loan modifications

CONTINGENCY PLANNING

- Consider stay-at-home scenarios (length) – company office(s), supplier locations, customers
- Longer scenarios: spending, lender negotiations, vendors, customers
- The new normal: What will it be? Practices, regulations, consumer preferences?
- Business plan adjustments

INSURANCE

- Review insurance policies
 - Consider availability of business interruption insurance, event cancellation insurance, civil authority insurance and exclusions
- Preserve coverage by paying premiums when due and being aware of renewal deadlines

VENDORS, SUPPLIERS AND OTHER TRADE CREDITORS

- Evaluate key/critical relationships
- Analyze *force majeure*, Material Adverse Change (MAC) and Material Adverse Event (MAE) clauses in production and distribution agreements, IP licenses, talent agreements, to determine enforceability and ability of counterparty to rescind, modify, withhold performance, etc.
- Payment terms – hold discussions
- Pending purchase orders – Can you cancel any?
- Vendors in distress

CUSTOMERS

- Communication: transparency, responsiveness, commitment, put priority on health and safety
- Customers in distress
- Public relations/image, brand preservation

TAXES

- Importance of staying current
- Research extended return filing deadlines
- Directors and officers, personal liability for unpaid employee withholdings and state wage acts for earned but unpaid compensation

FACILITIES MAINTENANCE AND ACCESS

- Compliance with federal, state and local COVID-19 restrictions
- Focus on customer and employee health and safety
- Clearly communicate policies on access, visitation
- Approach with vendors, deliveries

COMMUNITY ENGAGEMENT

- Corporate citizenship
- Social investment – long-term financial benefits
- Possible employee involvement – but health and safety first

TECHNOLOGY

- Support for working in remote environment
- Evaluate, plan for “new normal” post-crisis
- Evaluate, interact with existing and potential new tech support vendors
- Budgeting

COMPETITION

- Peer/competitor review, monitoring
- Internal analysis of strengths, weaknesses, opportunities and threats (SWOT)

BANKRUPTCY PLANNING

- Expanded fiduciary obligations owed to creditors to preserve assets when company is insolvent
- Benefits of Chapter 11
 - Automatic stay enjoins collection efforts and litigation
 - Reorganization vs. orderly liquidation
 - Management control
 - Ability to operate in ordinary course of business
 - Maintaining going concern value pending sale
- Availability of Subchapter V for smaller businesses under Small Business Bankruptcy Act of 2019, with expanded debt caps implemented under CARES Act
- Advice from professionals: big factors -- expense, planning

POST-CRISIS PLANNING

- Transition to operating
- Lessons learned
 - going forward operations
 - future impact on planning
- Business Plan – rethinking, adjustment

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