

# Cultural Transactions

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In this article I describe in broad outline the nature of the transactions that define the arts sector and relationships between the for-profit and not-for-profit parts of it. I base the article on a component of a 2000 report to the Irvine Foundation, which itself was an outgrowth of the 1998 American Assembly entitled “Deals and Ideals: For-Profit and Not-for-Profit Arts Connections.”

To ascertain whether changing circumstances in the worlds of art and culture might yield new products, new enterprise models, and new sources of capital—the objective of the Irvine Foundation study—one needs some sense of what is happening in the field. I undertook a set of fifty-two interviews of for-profit and not-for-profit cultural leaders conducted over the four-year period 1997–2000. Since completion of the interviews, Richard E. Caves, Nathaniel Ropes Professor of Political Economy at Harvard University, has published *Creative Industries* (2000), analyzing the extraordinary range of contracts between art and commerce. In this essay, I combine the results of my interviews with a number of important facts and findings contained in the Caves book, as well as additional information gathered in 2002. A list of those interviewed appears in the appendix.

It is important to note that the world has not stood still since December 2000. Changes in the economy, technology, and rules governing intellectual property continue to affect the arts sector and the transactions that describe it. For example, the bloom has come off the Internet initial public offering craze

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that permeated the first half of 2000. And as the American Assembly's 2002 report *Art, Technology, and Intellectual Property* demonstrates, this area continues to evolve as well. I have adjusted some of the conclusions derived from the earlier interviews to take into account new and current realities.

This article comprises an overview of the relationships, investors, tensions, and prospects for cultural transactions that mix art and commerce; summary discipline-specific sections (contracted from a longer piece); findings; and recommendations intended to address the public interest in cultural transactions. In this context, I define the public interest as making a greater variety of high-quality art that is more broadly accessible.

## OVERVIEW

According to Caves,

[c]reative work pursues goals just beyond its reach . . . These goals of the creative process strain against the economic resources available for the task, bringing the artist into anguished contact with the gatekeepers who select among the creative works and talents on offer. . . . Costs are sunk progressively . . . At each fabrication stage, decision rights get assigned to the party whose fungible resources are next in line for commitment. . . . While uncertainty remains high until the moment of the premiere or the unveiling, the option contract makes best use of what omens are available mid-course. (Caves 2000, 363)

Cultural transactions—both for-profit and not-for-profit—reflect this basic ecology. Whereas for-profit and nonprofit corporations are distinguished in the tax code, the acts of creating, producing, marketing, distributing, and preserving art are undertaken by people—sometimes collectively organized, sometimes not—who have to make a living.

### **The Relationships**

The arts and entertainment business depends on relationships, according to one of those interviewed. Caves cites, for example, the practice of the major studios of maintaining ongoing relations with key talent—through contracts covering a series of films or options that give them a “first look” at projects as they develop (101). Similar relationships exist in the other disciplines, at least with respect to “A-list” talent.

The relationships among those with for-profit and not-for-profit objectives are, as they have always been, everywhere and seamless. They take place both within and among for-profit and not-for-profit organizations and productions and are reflected in both formal and informal arrangements.

The people who create and manage art and culture want, at a minimum, to survive economically. They also want to be proud of what they do. Some

want, first, to be stars or moguls. But their artistic motivations vary widely—from relatively pure artistry for its own sake to relatively pure commercial enterprise for its own sake. Most in the arts sector fit somewhere in the middle of the range—whether organized in for-profit or not-for-profit corporations or acting as contractors or employees in artistic enterprises of either kind.

Not-for-profit organizations include more popular fare to increase revenues and lure audiences for the full range of their repertoires. One thinks, for example, in ballet, of Christmas performances of Tchaikovsky's *Nutcracker*; in museums, of Impressionist shows; in opera, of Puccini's *Butterfly* and Verdi's *Bohème*; in orchestras, of Beethoven's Fifth and pops concerts; and in theater, of the revivals of Broadway musicals and transfers to Broadway. For-profit organizations, for their part, on occasion, undertake work not likely to become a "hit": for example, Farrar Strauss and W.W. Norton publish poetry and first novels; Disney's Miramax uses work from the Sundance Festival; and AOL-Time Warner has Nonesuch Records and HBO history productions. Caves points out that creative workers and their gatekeepers tend to care about their products (4).

There are countless examples of explicit collaborations between for-profits and not-for-profits. Among them are the Center Theatre Group/Showtime coproduction of a series of made-for-television movies; the Discovery Channel's enhancement and use of documentaries; Web sites sponsored by established artists to help unknown artists; recording contracts for classical music and jazz; the marketing of recordings and videos of music and drama produced on a not-for-profit basis; *Sesame Street*'s collaboration with Random House and MTV; regional and off-Broadway theater collaboration with commercial producers; the mixing of commercial and not-for-profit productions by not-for-profit performing arts presenters; and museum ventures that exhibit paintings and sculptures in Las Vegas hotels and shopping malls.

Most artistic work is now created and developed on a "one-off," production-by-production basis: movies, television series, plays, recordings, and books, for example. Each of these has its own artistic mission and its own business plan—sometimes elaborately documented, sometimes internalized in the heads of the creative and business individuals involved. The exceptions are the primarily not-for-profit custodians of the performing, literary, and visual heritage, many of which also produce new work. These enterprises tend to be institutionalized, as do the primarily for-profit marketers and distributors of contemporary work.

According to one producer of largely commercial works, every theatrical project is a "start-up." Caves suggests that nobody knows whether a creative product will be successful financially (3). Some would add that nobody knows whether a creative product will be successful artistically. It is also true that,

even when “successful,” few arts activities produce actual profits (or in not-for-profit terms, surpluses). But, when they do, the profits (or surpluses) can be spectacular. There are very few, if any, arts sector entrepreneurs—for-profit or not-for-profit—that don’t know this and so balance their efforts for survival.

One of the specific problems of arts sector entrepreneurs lies in the fact that artistic productions must generally be financed up-front, before they realize any revenues from audiences and customers. One not-for-profit theater artistic director and one for-profit movie executive explicitly emphasized this issue. Caves sees the dilemma in terms of disproportionate fixed costs adding to the risks of initial investors, whether in time or money (364). I would add the problem of cash flow. As Caves says, “The problem is not that arts organizations incur fixed costs, but the size of these costs relative to the public’s willingness to pay” (253).

The result, as Caves points out, is the use of options contracts in which successive investments build on earlier ones, with the value to later investors being the prospects from that point on, and the value to the earlier investors being the prospect of not losing the investment already made (15). Because artists are often the first investors, they tend to get short shrift. This pattern can also lead to massive business failures, because earlier investments are often not contracted as risks to the subsequent investors.

### **The Investors**

Most artistic productions lose money. The investors in commercial performing arts productions are, for the most part, sophisticated, rich people who are prepared to lose lunch money—in the hundreds of thousands of dollars—to be involved. This is not very different, I would suggest, from the larger donors to not-for-profit arts organizations who want a good museum or orchestra in their town and to be associated with it. Celebrity is important in both commercial and not-for-profit venues. Associations with it can be converted in the public eye to associations with “the best.”

Some say philanthropy and investment are becoming similar in that both now increasingly want returns. Although the tax laws take very different approaches, many not-for-profits are stretching the intent of these laws, or forming for-profit, arms-length partners to become involved in for-profit work. This takes time and energy away from their not-for-profit work. On the other hand, although these transactions only occasionally result in real profits, they can reduce the amount of necessary fundraising and increase the visibility of not-for-profit work.

The entertainment industry appears to be organized in ways that reduce book profits. There are fees for every conceivable kind of service but little in the way of net profit. It is not at all clear how one can translate this way of

doing business into attractive investment opportunities, except for the rich individuals who desire personal contact with celebrated artists or the artistic process. An interviewee involved in not-for-profit theater suggested that one would need to provide that excitement to attract investors to any fund or endowment established for the not-for-profit arts.

On the other hand, an investment banker interviewed says that the investments of the conglomerates that control the for-profit cultural companies are such a small percentage of their overall business that modest returns will not affect their stock prices. Productions may well be cost leaders, which fill the distribution pipelines on which the real profits are made.

### **The Tensions**

Tensions affect the relationships among the for-profit and the not-for-profit arts. Although a spectrum exists, the primary mission of a for-profit enterprise is profit, and the primary mission of a not-for-profit is art. Yet in either, different actors can be motivated differently in different projects. Individual artists can act as one-person not-for-profit organizations—churning out art for art's sake with scarce regard for the incomes they receive. In this regard, they may differ substantially from the managers of the enterprises for which they work. On the other hand, at any given point, an artist may be trying primarily to make money or primarily to achieve high artistic quality. Most of the interviews that I conducted, in one way or another, underscored these conclusions.

Interviewees suggested that recording companies rarely put real effort into marketing and distributing classical and jazz recordings (the infrequent exceptions being special event CDs such as *The Three Tenors*); that commercial radio tends to confine itself to news and “hits;” that public radio is reducing its arts programming in favor of less-expensive and higher-rated news and talk shows; that the not-for-profit Sundance Film Festival may have become too much a venue for the testing of films for Miramax; that the for-profit Fox Searchlight art house production company has difficulty justifying itself (producing a smaller percentage of hits than its big budget parent); that PBS abandoned *American Playhouse* when it tried to address more controversial themes (even while retaining reasonable audience ratings); that not-for-profit theaters lack leverage and are taken advantage of in transferring popular productions to commercial venues; that not-for-profit presses feel locked out of mainstream distribution; and that museums, as well as theaters, are becoming too commercial.

Caves suggests that the largely commercial gate-keeping function denies many willing artists the opportunity for commercial exposure and overemphasizes stars, often the primary source of the gatekeeper's revenues and profits (20). Artists are often unable to precommit their aesthetic choices, frus-

trating many managers and funders. As Caves notes, “the inner and individualistic aspect of creative production mixes badly with the orderly, rule-driven routines of the large, bureaucratic firm” (16). And even within the universe of creation, there is a tension between the “serious” and the “commercial” training of an artist—between serious aesthetic problem solving and solutions to an employer’s or audience’s wishes.

The prevalence of options contracts also creates tensions. As Caves notes, multiyear options provide little downside protection for artists (64). Although, for example, a recording company might be obligated to issue the artist’s next album, it is not obligated to promote it (often the more expensive part of the transaction). In filmmaking, Caves suggests that editing contracts will give the film’s director “first cut” but allow the producer to override the director’s choices (108). He notes that A List talents can trade money for control, but that lower ranked and underemployed talent are not in that position (128). More often than not, they will be told “Take it or leave it,” and they end up taking it to try to advance up the ladder to the A List.

In sum, tensions between art and commerce are inherent in all cultural transactions. It is not just a question of for-profit or not-for-profit organization, but of the primary motivations of the people involved in a particular project.

### **The Prospects**

Virtually all of those interviewed felt relationships between the for-profit and not-for-profit arts would continue. Although tensions exist, they have more to do with relative leverage and shares of the pie than with issues of principle. For-profits need new talent and material for the proliferating outlets for cultural product, for their own benefit and to deny such talent and material to their competitors. The for-profits are also increasingly looking for synergy among cultural products—books, CDs, movies, television series, theme parks—to optimize returns on successful products and offset losses or marginal returns on most products. Not-for-profits need the visibility, reach, revenues, and capital that can be achieved through the commercial world.

The interviews yielded no concrete recommendations for new collaborations beyond the transactions that already take place on a “one-off” basis. For-profits say they find talent and technology when they need it, although some of those interviewed also say that they would like to provide additional assistance to artists, particularly in their formative stages, to establish relationships with those who might become stars. Not-for-profit associations talk of developing policies to govern for-profit/not-for-profit collaboration, whereas most not-for-profit organizations make ad hoc judgments deal by deal. Strategic planning for mutually beneficial collaboration appears to be absent on both sides.

The for-profit companies say that, until an artist or not-for-profit arts orga-

nization becomes recognized—i.e., develops a commercially exploitable brand—it is difficult for that artist or organization to be commercially marketed and secure reasonable compensation for the work. This is no different than start-up individuals and entities generally. Once you are successful, you have greater access to capital and the media and lower rates of interest on debt. Also, your trademark and “good will” become more valuable. It is important to note, however, that the best not-for-profit arts organizations have very important assets, including brands, that should be marketable and of financial value.

Many economists and most in commercial arts organizations say the marketplace works. Particular artists may suffer, but broadly *good* artists don't suffer. It is suggested that commercialism provides for a great diversity of art and keeps costs down. Enforcement of antitrust laws can deal with whatever problems of monopoly that may arise. A number of those interviewed think that the distinctions between commercial and not-for-profit arts enterprises will diminish in all fields. For example, some not-for-profit theater people say—disapprovingly—that all theater is commercial now. These same people believe that, rather than more for-profit/not-for-profit collaboration, more philanthropy is needed to help the very best not-for-profits.

Commercial entities, at least in the performing arts, say that there is no lack of money available for commercial projects they deem of quality. On the other hand, others in the commercial world say that there are major institutional constraints to their doing a variety of good work. Even some of those who say the market works suggest, for example, that Broadway must change its Blockbuster mentality and produce serious plays, which they think audiences in fact want. A number of those interviewed suggested that the Internet may provide opportunities for fruitful for-profit/not-for-profit collaboration.

## THE DISCIPLINES

### **Music, Recording, and Radio**

According to two interviewees, 80–90 percent of musicians' incomes currently comes from live, not recorded, performances. On the recording side, some interviewees said that the new Internet music technologies should allow recording artists to take greater control of their own careers. A commercial recording executive associated with high-quality work said that the record companies do not need any curatorial, financial, or marketing help in identifying, recording, promoting and distributing recordings of new talent. There is no music of any value that fails to be recorded, he says. On the other hand, an independent music producer said that the traditional recording companies are good at marketing established, mainstream musicians to broad

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audiences, but do not do as well in marketing artists of less-broad appeal to niche audiences.

The music recording industry is in general not doing well. Caves points out that roughly 80 percent of albums and 85 percent of single records released fail to cover their costs, the “stiff ratio” (61). And even the most popular recordings now face the competition of the Internet where, notwithstanding the *Napster* case, copyright protection of normal streams of revenue has become less assured. The degree to which the Internet in fact hurts or helps copyright holders and artists remains to be determined. One thing is sure—the digital revolution has permanently altered the landscape of the music recording business.

### *Pop Music*

The record companies will still be there to market mainstream pop artists to broad audiences—on radio, in concerts, through CD sales, and on the Internet. On the other hand, low-cost, independent recording studios and equipment, individual artist Web sites, and independent and local promotion and marketing help pop artists today to develop themselves to the point where they will be of interest to the recording companies or successful on their own. Current pop music recording company economics favors only stars and platinum albums (selling a million or more copies in the U.S. market alone).

### *Classical Music and Jazz*

Classical music and jazz have greater difficulties than pop music, and recording contracts generally do not help much. It is rare for classical recordings to achieve sales of more than 5,000–10,000 units worldwide. Classical production costs are, on average, more than twice those for pop music. And jazz recordings rarely achieve sales of more than 50,000 worldwide. Record companies do little to promote sales of either classical or jazz music. On the other hand, most symphony orchestras have live pops series that do more than anything else to sustain their regular seasons, and the most established orchestras also market the brands of their celebrity conductors or music directors.

### *Radio*

Commercial radio is today largely confined to pop segments aimed at specific audiences—country, hard and soft rock, and easy listening, for example. National Public Radio (NPR) brings classical, jazz and folk music to 15 million people a week but is now de-emphasizing its arts programming to save money. Many in the music industry feel there is a problem with radio.



## **Motion Pictures and Television**

A major film studio executive says the motion picture and television industries have enormous appetites for product. Television markets are already sliced and diced into smaller and smaller segments, and digital television will expand the need for programming. There simply won't be enough programming to fill all the time slots in all the channels. These trends, it is said, provide new markets for documentaries and short films—to the point that cable providers, such as TCI, are investing in documentary production and the Discovery Network. In addition, commercial distributors, such as Adam Films, are buying short films for the Internet.

On the other hand, an investment banker (specialized in entertainment industry financing) said that, except for television productions, entertainment industry investments are generally poor ones, with return on investment for films averaging 50 cents on the dollar. Because the costs are lower and networks can pull programming off the air if it doesn't attract audiences, television production is different. A former commercial network executive said, however, that 90 percent of the investment in television programming is lost. Nevertheless, the investment banker sees the overall picture for television as positive.

### *Motion Pictures*

A not-for-profit film program director indicated that most filmmakers want to make feature-length, narrative films for initial theatrical release. A glut of such films is currently produced and distributed, she says. The vast majority of these lose money, do not stay in theaters long, and have no post-theater afterlife.

According to a film and television school dean, no network of angels exists, as in theater, for feature films. A producer with experience in both the for-profit and not-for-profit worlds says he has no idea why people invest in movies or theater, even though on occasion the returns can be spectacular. The mentality, he suggested, is to achieve the next hit and/or build on an existing hit. He added that only a handful of corporations are willing to explore something new. Disney leaves its "art film" producer/distributor, Miramax, largely alone; this approach differs from that of most major studio art film houses.

A for-profit/not-for-profit producer noted that the major studio art house production companies have difficulty justifying their existence. They were established when less competition existed in the field. The art house companies have smaller percentages of hits than their big-budget parents, making them less attractive financially. The fact that these companies generate Academy Awards is not significant, according to one producer, although the studios do value their role in bringing on new talent with potential for stardom.

Not-for-profit organizations associated with film (e.g., the Sundance Institute, the American Film Institute, and the University of Southern California) use their not-for-profit assets (including their brands) to generate additional revenues, either directly or through for-profit affiliates. Sundance does this through its cable channel and catalogue. The American Film Institute (AFI) does this through its CBS television specials on movies and stars and through the sale of short films it owns to companies that develop audiovisual content for the Internet, such as Adam Film. USC also sells short films to Adam Film. The Internet's current need for short films will benefit documentaries, which to date have had little or no market. But this need may be short-lived. Once broad bandwidth becomes generally available and there is greater convergence between the Internet and television, even the Internet market could revert to feature films ("the movies"), according to one not-for-profit interviewee. Others disagree and express doubt that the Internet will ever be a place for feature films.

Caves confirms what a number of interviewees said about the elusiveness of net profits to producers and other talent whose compensation includes a profit share (114). When positive net profits threaten to appear, the distributor can establish reserves against the costs of promoting the film subsequently in other venues, and interest becomes payable on those reserves. According to Caves, the definition of "net profits" in a film contract might run thirty pages. He suggests, on the other hand, that film directors see a major creative advantage in the splintered financing of films (115). This means that no one investor is in a position to hold the director to artistic choices that maximize commercial value while limiting self-expression.

### *Television*

Television differs from feature films for theatrical release. Although financial success in the ratings of the initial airings of programs on television equates with financial success in paid attendance in the initial week or so of theatrical release, television has a much greater need for additional content – seven days a week, twenty-four hours a day. It is a critical after-market for old movies (along with DVD/VHS rentals, the most important source of studio revenues), and successful series can go on forever. These series require a continuous output over time by teams of writer-producers.

A former commercial network executive said that commercial television does not sell programming or commercials, but rather "pairs of eyeballs." The quality of the eyeballs (e.g., affluent young people) determines advertising rates and revenues. All television programming is demographically tested to this end. It was initially thought that public television and later cable would open up television to a wide variety of diverse fare. That may have been the

case initially, but over time the rating game forced public television to move to the middle ground of more popular fare, even for niche audiences.

A public television station manager said that the stations today act as content aggregators and providers, and less and less as distributors. A producing public television station (a small minority of all such stations) produces content that can be aired through a variety of media or sold directly. PBS stations use the Internet as a research and marketing tool and in pursuit of their educational missions (e.g., reaching kids in school). Some public television stations have used their assets (high quality and subscribers in medium six figures) to launch retail businesses selling high-end products, based on data acquired through their broadcast businesses.

Television production and distribution deals depend on individual negotiating situations. But the norm is to relate shares in the “back-end” of a show proportionally to shares in “front-end” production and entrepreneurial/overhead costs. A public television station executive observed that a ninety-minute drama can cost on the order of \$1.5 million. Sometimes the station’s brand, or its delivery of a star for scale, will be part of its investment (instead of cash).

The former Childrens Television Workshop (CTW) has used its *Sesame Street* brand to establish for-profit enterprises. CTW’s first venture of this kind involved Random House in the production and sale of *Sesame Street*-related books. In 1998, CTW joined MTV Networks in co-investing (fifty-fifty) in another for-profit corporation to put *Sesame Street* programming on what was to become Nickelodeon’s Noggin Channel. Many would agree that the *Sesame Street* brand might not be replicable, even in children’s markets. On the other hand, the *Sesame Street* for-profit corporation model may be replicable. Manhattan Theatre Club and others are beginning to use the model in connection with the commercial transfer of plays (see below).

### **Theater and Music Theater**

Caves observes that Broadway plays are unprofitable overall, although a very few produce spectacular returns, 300–500 percent (119). He notes a 76 percent flop rate for musicals and an 80 percent flop rate for straight plays (120). The flop rate, according to Caves, has remained fairly constant over the years. The Broadway scene has been increasingly dominated by blockbuster musicals that resemble blockbuster movies in production values and tour throughout the country. At the same time, the growth in regional and off-Broadway (largely not-for-profit theater) has allowed a greater variety of theater to be produced with lower fixed costs throughout the country.

Theater Communications Group (TCG) indicated that there are currently 1,000–1,200 not-for-profit theaters around the country, but only 10 percent of these have annual budgets in excess of \$5 million, and two-thirds have annu-

al budgets of less than \$1 million. TCG has observed an increase of commercial transfers from the not-for-profit theater in recent years, but these transfers still remain a small proportion of total work. TCG said that commercial transfers help not-for-profits by providing revenues and recognition, reducing the fundraising necessary for a production, and in a few cases, providing a surplus that can subsidize a theater's not-for-profit work.

Commercial producers (Shubert, Jujamcyn) view transfers from not-for-profit theaters as occasionally important to bringing new work to commercial venues (including Broadway). But the commercial theater executives interviewed do not want not-for-profits to devote themselves to Broadway. They say that not-for-profit theaters should continue to pursue their basic mission of providing new work or productions that enrich American theater generally. This allows the not-for-profits to stick to their basic artistic mission and the for-profits to choose fare that might be commercially successful. On the other hand, this philosophy favors the for-profits financially—preventing competition in the commercial world. Some not-for-profit theaters have responded by creating for-profit subsidiaries (e.g., Manhattan Theatre Club).

A large majority of the theater artists and managers interviewed thought that commercial transfers can be good things if they involve plays that are part of the regular season and lend themselves to commercial production. The plus of a commercial production is that work goes on, perhaps with improved production values and improved artist compensation, for at least some additional revenues. The minus lies in giving up control and perhaps diluting the not-for-profit theater's mission.

None of the theaters involved in my interviews produces more than an average of one play per year that is commercially transferred. Very few of those productions make money after recoupment of costs. In the case of the Center Theatre Group in Los Angeles, only *Children of a Lesser God* and a touring production of *Phantom of the Opera* made money. In the case of Lincoln Center Theatre, neither *Carousel* nor *Parade* recouped investment. The Manhattan Theatre Club has been more successful. In ten years, eight plays went on to commercial venues. Five of the six that went to off-Broadway commercial theaters recouped their investments, and one of the two that went to Broadway did so. One-third of the Old Globe's commercial transfers, mostly musicals, have produced revenues that exceeded recoupment. Of twenty-seven Goodman productions that were commercially transferred over twenty-seven years, only five actually produced surpluses. On the other hand, these commercial productions all reduce seasonal operating deficits. *New York Times* coverage and playing in New York were also noted as important pluses.

Some not-for-profit theaters have, however, had bad experiences with these kinds of projects. More than one not-for-profit theater manager said

that commercial producers often fail to live up to their written agreements. Some suggested that not-for-profit theaters need greater leverage in dealing with commercial partners and that a pool of money available to not-for-profits would be very helpful in this regard. It is also noted that, in a relatively small industry, theater managers are reluctant to disclose problems to their peers, whether from fear of embarrassment or from fear of retribution from other investors.

### **Presenting the Performing Arts**

All of the organizations interviewed—Arizona State University Public Events (ASU), Brooklyn Academy of Music (BAM), Houston Society of the Performing Arts (SPA), Woodruff Art Center, and the UCLA Performing Arts (UCLA)—intermix commercial and not-for-profit fare of one sort or another. All try to use any surplus from for-profit presentations to subsidize not-for-profit work and commission new work. All but BAM work directly or indirectly with commercial touring entities such as SFX to bring in Broadway shows, pop music stars, and the like. BAM is the only one of these presenters to incorporate a movie series as a part of its work, but it also without question puts on less purely commercial work than the others.

All of these presenters—excepting BAM—say that their audiences do not really distinguish between high art and pop culture; they go to a variety of cultural events. Each of these presenters provides different series to appeal to different tastes. Interestingly, ASU, which is as committed as anyone to new experimental work, also has the broadest ambit; it produces monster truck pulls along with cultural events. All of the organizations interviewed have an eclectic feel. UCLA mixes jazz and Laurie Andersen, classical music and Stevie Wonder. ASU mixes *Kamehameha: A Hawaiian Epic* with Hal Holbrook as Mark Twain and Gregory Hines's tap dance. On the other hand, one of the presenters interviewed says many young people participate in classical art forms because they are symbols of "having made it"—like cigars and martinis.

One of the presenters interviewed suggested that (a) arts institutions band together on preferred credit card sponsorships and (b) work with a for-profit entity to develop a "world box office" Web site, to provide worldwide information on cultural events (including festivals) for travelers. Another presenter wants to establish alliances with his city's Chamber of Commerce and Convention and Visitors Bureau to promote his city as a cultural center. He wants to package all of his city's good arts organizations, big and small, to establish a unique cultural brand that would be both believable and marketable. Another regional presenter said that, in his city, he has had only limited success with this approach.

## **Literature and Publishing**

Caves notes that, according to a Doubleday president, commercial publishers accept only three or four of the ten thousand “over the transom” submissions they receive each year (53). The ratio for novels is one in fifteen thousand. Once accepted, however, the standard contract for a trade book offers the author 10 percent of the book’s retail price and splits the gross profit 58/42 between publisher and author (56). Advances are deducted from this split. Caves says that the standard contract enjoys widespread use and that its relative generosity to authors stems from “a collective interest in keeping enough artists in the game to ensure ample candidates for random success . . .” (57). Caves cites a survey indicating that authors typically take the first contract offered to them, and 60 percent repeat with the same publisher by default (58).

Caves notes that commercial publishers, in their efforts to strike it rich through celebrity best sellers, have their own kind of large-scale flops. For example, President Clinton’s *Between Hope and History* saw 70 percent of copies shipped to bookstores returned unsold (142). Similarly, Ballantine’s \$3.5 million advance for Johnnie Cochrane’s *Journey to Justice* (on the O. J. Simpson trial) resulted in 300,000 of 650,000 copies being returned. Caves, drawing from a 1997 *New Yorker* article by Ken Auletta, describes multimillion dollar annual losses from advances: \$35 million for Random House, \$50–80 million for Simon & Schuster (144). He suggests that large advances (primarily for celebrity books) and large first printings go together. The marginal costs of additional books printed is small, the advance cannot be recouped without significant sales, and an initial run that dominates booksellers’ shelves has advertising value.

A not-for-profit publisher interviewed believes that the principal problems for small, not-for-profit publishers involve marketing and distribution. Consortium is a distributor that specializes in small presses, but the marketing responsibility remains with the small press. The chain bookstores increasingly work through wholesalers to avoid having to make individual orders with each press.

A commercial publisher interviewed wondered whether there may be too many publishers today and describes the commercial publishing business as a balancing act. She looks at the profit and loss for each book, but best sellers allow one to take risks that one might not otherwise take. Big commercial publishers normally deal only with literary books by relatively well-known authors. All publishers concentrate on the demographics of their niche markets (to which most books play). Publishers that are subsidiaries of media conglomerates use an integrated approach to cultural products. In the best of all worlds, a book follows this path: a relatively successful hardcover, fol-

lowed by a successful paperback, followed by a movie, followed by a paperback with movie art. Some have suggested that audio and electronic books would lead to more, not fewer, sales of the print versions.

Although commercial publishers are aware of new writing talent, new authors may need to work through a formative stage before they are ready for a commercial publisher. The commercial publisher interviewed suggests there is a need to invest in university English and journalism departments to this end. Although the commercial publishers might not themselves make a contribution to such an effort, an individual editor or publisher might be personally so inclined.

### **Visual Arts, Galleries, and Museums**

Most—maybe all—artists try to make a living from, and sell, their art. A for-profit gallery owner said that most serious artists do for-profit ventures, to buy time for what they consider their real art. A not-for-profit executive suggested that many artists transport their aesthetic into commercial areas. He mentioned, for example, an artist who has formed a tile company. Many artists secure academic positions to assure steady income. The not-for-profit executive said that he worries about further intersections between art and commerce and fears that there may be too many already.

#### *The Art Itself*

Caves says that contracts between artists and dealers resemble joint ventures more than principal-agent relationships (38–39). The goal is for the artist's work to become widely known and respected, so that collectors and museums will follow the artist's development and pay high prices to possess his or her work. The purpose of artist-dealer contracts is to provide both parties incentives to achieve that goal—the dealer through promotion, and the artist through producing work of a character and at a pace that matches the number of potential purchasers. Because of all the uncertainties involved, the contracts tend to be informal and based on best efforts.

The standard arrangement allots 30–50 percent of gross revenues to the dealer and 50–70 percent to the artist (Caves 2000, 41). The focus on gross revenues provides an incentive for the dealer to skimp on costs. On the other hand, many dealers are committed to art as such. Caves believes that this factor makes for a denser population of galleries than would be the case if they were run by pure profit-seekers (44). It also makes for a substantial turnover in contemporary galleries; 75 percent are estimated to survive no more than five years (45). Success with stylistic bandwagons accounts for much of the upper end of gallery successes, but not all (50). It needs to be noted that deal-

ers in recognized art from the past play a different game; values in this case are more known, even though they will fluctuate.

Interviewees from both for-profit and not-for-profit areas thought that there might be merit in an investment pool for artists to buy time, with a return on investment (share of proceeds) if and when the artist sells his or her work. This is the Creative Capital concept, but, according to a commenter on this article, Creative Capital has become largely a grant making institution. It is noteworthy that, although advances in recording and movies are commonplace, they do not normally include artist compensation (except for well-known artists). Advances from publishers are commonplace for writers. Interviewees noted the efficacy of micro investments in economic development. Artists today make money, for example, from postcards and posters, and a great deal of for-profit/not-for-profit crossover exists in video, performance art, and photography.

Interviews also noted that there are numerous instances of for-profit/not-for-profit collaboration in the visual arts. Christie's supports exhibitions of the work of emerging artists (but not auctions of their work because of the New York City sales tax). At least one not-for-profit visual arts gallery has explored with the Metropolitan Museum's bookstore (a for-profit) the possibility of a shared bookstore in some part of New York and perhaps in other cities as well.

### *Internet*

Both for-profit and not-for-profit visual art institutions use the Internet extensively. The American Association of Art Dealers (the more established commercial art dealers) has a Web site that links to individual member gallery sites (providing for both auctions and individual sales). Most major museums have extensive sites, as do many individual artists. Ed Schlossberg (artist and banker) has been involved with Bill Gates's Corbis project, which now has 1.6 million images on line—for sale in commercial applications. Sotheby's has invested \$40 million in its site on Amazon.com to sell objects for less than \$1,000.

Many artists now use the Internet to market their art. Many also create graphic design for Internet companies. On the other hand, some think Internet resolution is not yet good enough to display art appropriately. Artists need catalogue-quality resolution. Nonetheless, a number of excellent museum sites exist, and the Drawing Center is in the process of developing an interactive site for artists and potential customers.

### *Museums and Galleries*

On the not-for-profit institutional side, there is a spectrum of activities that have revenue enhancing or commercial results. Virtually all museums use headline shows to attract visitors, admissions, and ancillary receipts. Most



have shops and restaurants, and some lend parts of their collections to commercial venues (hotels and shopping malls) to increase audiences and revenues. This last area of activity has been controversial.

A representative of the American Association of Museums (AAM) says that museums need to be entrepreneurial. Yet, notwithstanding an increase in museum entrepreneurial activities, the museums' percentages of earned income are down since 1996 (AAM 2000). On the other hand, a commercial gallery owner interviewed deplored what he calls the commercialization of museums. Some not-for-profit museum directors also worry about this, particularly in connection with the lending out of objects from the permanent collection to institutions other than other museums.

### FINDINGS

The admittedly cursory survey undertaken in the interviews and readings associated with this article allow me to outline some broad findings.

- The arts sector—not-for-profit as well as for-profit—is replete with entrepreneurs trying to survive, and maybe, just maybe, make a killing. But the economics of the arts sector rarely produce profits as such. That is not to say that people don't make a living. Most with talent do, at least marginally, and a few do so spectacularly. But “investors,” like major donors, tend to invest/give for love, glamour and/or social standing, with only a small chance of winning the jackpot. It is also true that many not-for-profit arts managers, particularly in theater, view their commercial ventures as ways of reducing operating losses or supplementing revenues, rather than making profits as such.
- The interaction between the for-profit and not-for-profit arts is everywhere and seamless. Only the tax code and corporate structures would make it appear otherwise. Both for-profit and not-for-profit organizations mix art and commerce. At any time, the artists and managers in either kind of organization have mixed objectives. Even cutting-edge artists think of who their customers might be. And, the intermediary promoters, marketers, and distributors—most of whom are for-profit—pursue at different points different combinations of art and commercial appeal.
- One needs to distinguish between arts products and arts services. Investment in arts products is, for the most part, a gamble. No one really knows what is going to produce a return. On the other hand, investments in arts services might well be calculated using the normal methodologies of business plans. Arts services include all manner of things: for example, museum bookstores, performing arts ticket sales, visual arts sites on the Internet, recording studios, post production houses, and marketing services.

- On the arts product side, there probably is enough money, at least for those products, for-profit or not-for-profit, that are currently in fashion—that is to say part of the expectations, as well as the aesthetics, of predictable audiences. The case is much less clear for arts products not currently in fashion. But helping here is undoubtedly principally a task for philanthropy.
- The arts service side is different. There appear to be a number of areas in which the marketplace may not work adequately. In virtually all the interviews, marketing and distribution issues arose. Even though niches need to be defined and exploited, economies of scale are important, as is entry knowledge of “the system.” Although the Internet and new, cheaper digital technologies increase access, they also increase the clutter in front of consumers. How to get above the clutter, at least for niche audiences, is not trivial. But there is a measurable return on investment for those who are able to do so.
- There may be some areas in the arts and culture in which traditional philanthropy, venture philanthropy, concessionary investment, and/or traditional investment might be inventively combined to produce a sum greater than the parts. My own prejudices include marketing and distribution (including brand development and exploitation), middle fare for middle audiences (not necessarily in fashion), and community efforts.

## RECOMMENDATIONS

A number of crosscutting recommendations might help move the marketplace of cultural transactions more in the direction of the public interest. The objective should be a universe in which more “deals with ideals” might come to pass.

- *Research.* There are many gaps in data and analysis in the interviews I have conducted and in Richard Caves’s *Creative Industries*. To understand the creative industries and the opportunities for investment and disinvestment, one must have a sense of the marketplace (commercial and philanthropic) and its trends. There is a need to develop an arts and culture data series that regularly collects across disciplines comparable data that reflect industry health and growth. The factors that need ongoing measurement include the categories of creation and production; employment numbers and terms (for contractors and as well as employees) including their education and training; marketing and distribution; audiences; and sources of investment (commercial and philanthropic) and earned income. There is a need to develop case studies and descriptions of best and worst practices in accordance with defined criteria.

- *Forums.* Few regular, neutral forums exist where those with primarily commercial motivation can come together with those of primarily artistic or educational motivation to discuss intersecting interests (whether in harmony or in conflict). There is a need for such gatherings on specific topics, with the possibility of follow-up, to discuss trends; best and worst practices; new opportunities and problems; sources of financing (commercial and philanthropic); and government policies, programs, and regulations that affect the creative industries.
- *Education and Training.* Artists and managers lack adequate education and training in (a) the ways in which art and commerce are intertwined in the motivations and structures of creative individuals and organizations, (b) the nature of the transactions involved, and (c) the policies, laws, and regulations that provide the framework for these transactions. There is a need to review the curricula and requirements of higher education programs that produce the human resources (artistic and administrative) of the creative industries, to develop improved courses and continuing education.
- *Development of New Talent.* Interviewees in both the for-profit and not-for-profit parts of the arts sector mentioned the need to identify and nurture new talent. Both parts seek future stars and supporting players. For-profits and not-for-profits need to consider working cooperatively toward an improved and more transparent system to nurture emerging talent in arenas that include different mixes of art and commerce. There is also a need to consider an improved system that can objectively assess individual prospects for an artistic career and provide counseling about alternatives (including work within the creative industries).
- *Niche Marketing and Distribution.* The techniques of niche marketing and distribution are both well known and a mystery. Commercial distributors have probably perfected marketing and distribution to well-off eighteen- to thirty-year-olds. But there does not, as yet, appear to be any substantial analysis of what aspects of the arts and the means of experiencing them appeal to which communities or age cohorts. There is a need to analyze, and develop improved understanding of, niche marketing and distribution as well as the strategies and techniques to implement them.
- *Working Capital.* Most creative products have a high proportion of up-front fixed costs in relation to variable costs. This leads to an option contract system in which the first investors—more often than not artists—are forced, unless A List, to bargain away future rights to secure additional financing for future phases of the project. The result is similar for smaller cultural organizations. There is a need for a revolving fund (or funds) to provide low interest, working capital that would help creative individuals and organizations mount creative projects and provide them with leverage in their negotiations with marketing and distributing organizations. Such a

fund would probably need to be supplied philanthropically. But, to be a continuing force, it would have to break even and probably restrict itself to loans with high prospects of repayment.

*Key words: arts funding, new economy, cultural investment, music, television, theater, film, philanthropy*

## REFERENCES

- American Assembly. 1998. *Deals and ideals: For-profit and not-for-profit arts connections*. <[www.americanassembly.org/programs/theartsPP\\_fr.htm](http://www.americanassembly.org/programs/theartsPP_fr.htm)>.
- . 2002. *Art, technology, and intellectual property*. <[www.americanassembly.org/ac/atip\\_na\\_fr.htm](http://www.americanassembly.org/ac/atip_na_fr.htm)>.
- American Association of Museums (AAM). 2000. *1999 AAM survey of museum financial information*. (February).
- Caves, Richard. 2000. *Creative industries: Contracts between art and commerce*. Cambridge, Mass.: Harvard University Press.

## APPENDIX

### LIST OF INTERVIEWS

The titles listed reflect those at the time of interview.

#### **General**

- Dan Adler, head, New Media Creative Artists Agency (22 March 2000)
- Tyler Cowen, author and professor, George Mason University (24 March 2000)
- Hillard Elkins, theater/TV producer and manager talent; Principal Elkins Entertainment (5 April 2000)

#### **Music, Recording, and Radio**

- Georgia Bergman, music producer (23 March 2000)
- Rob Gibson, executive director, Jazz at Lincoln Center (4 April 2000)
- Murray Horwitz, vice president cultural programming, National Public Radio (21 March 2000)
- Bob Hurwitz, president, Nonesuch Records (7 April 2000)
- Bill Ivey, director, Country Music Foundation (27 September 2000)
- David May, pop band leader, manager, Warner Brothers Records (27 April 2000)
- Donald S. Passman, author, *All You Need to Know About The Music Business* (1997 ed.)
- Jim Ed Norman, president, Warner Brothers Records, Nashville (25 September 2000)
- Mike Reid, country music songwriter and performer (26 September 1997)

#### **Motion Pictures and Television**

- John Agoglia, former president, NBC Enterprises (10 February 1998)
- Ken Brecher, executive director, Sundance Institute (4 April 2000)
- Elizabeth Daley, dean, School of Cinema & Television, University of Southern California (20 March 2000)
- Nicholas DeMartino, director strategic planning, American Film Institute (22 March 2000)
- Jon Fitzgerald, director, American Film Institute Festival (27 March 2000)
- Mel Harris, COO, Sony Entertainment (11 February 1998)
- Al Jerome, general manager, KCET (29 March 2000)
- Gary Knell, president, Childrens Television Workshop (24 March 2000)
- Lindsay Law, independent producer (30 March 2000)
- Laura Martin, director, Credit Suisse/First Boston (10 February 1998)
- Bill Mechanic, chairman and CEO, Fox Film Entertainment (13 February 1998)
- Michelle Satter, film program director, Sundance Institute (6 April 2000)

Dean Silvers, movie producer and entertainment lawyer (6 April 2000)

**Theater and Music Theater**

Jessica Andrews, executive director, Arizona Theatre Company (22 March 2000)  
Jed Bernstein, president, League of American Theaters and Producers (4 April 2000)  
Ben Cameron, executive director, Theater Communications Group (7 April 2000)  
Gordon Davidson, artistic director, Center Theatre Group (28 March 2000)  
Bernard Gersten, executive director, Lincoln Center Theatre (21 March 2000)  
Barry Grove, executive director, Manhattan Theatre Club (24 March 2000)  
Tom Hall, executive director, Old Globe Theatre (31 March 2000)  
Rocco Landesmann, Broadway producer, Jujamcyn (11 April 2000)  
Rob Marx, Samuels Foundation (28 March 2000)  
Gerald Schoenfeld, Broadway producer, Schubert (29 March 2000)  
Roche Schulfer, Executive Director Goodman Theatre (28 March 2000)

**Presenting the Performing Arts**

Michael Blachly, director, Performing Arts UCLA (4 April 2000)  
Karen Hopkins, executive director, Brooklyn Academy of Music (23 March 2000)  
Colleen Jennings-Roggensack, executive director, Arizona State University Public Events  
(6 April 2000)  
Toby Mattox, executive director, Houston Society for the Performing Arts (6 April 2000)  
Shelton Stanfill, executive director, Woodruff Center Atlanta (28 March 2000)

**Pre and Postdisciplinary Work (Folk and Experimental Art)**

Joe Wilson, executive director, Council for the Traditional Arts (29 March 2000)  
Jed Wheeler, producer new and experimental work (24 March 2000)

**Literature and Publishing**

Judy Doyle, co-publisher, Curbstone Press (6 April 2000)  
Jane Friedman, president and CEO, HarperCollins (13 October 1998)

**Visual Arts Galleries, and Museums**

Edward Able, president, American Association of Museums (12 October 2000)  
Richard Feigen, gallery owner, collector, and author (22 October 1998)  
Ron Feldman, gallery owner (23 March 2000)  
Fred Fisher, director, Hillwood Museum and Gardens (12 October 2000)  
Jay Gates, director, The Phillips Collection (12 October 2000)  
George Negroponte, painter and co-chair, Drawing Center (29 March 2000)  
Ian Peck, chairman, Fineartlease.com (12 October 2000)  
Jim Wood, director, Art Institute of Chicago (12 October 2000)