



STATEMENT OF GILBERT HOOVER TO THE SENATE COMMITTEE ON
INVESTIGATIONS AND OPERATIONS REGARDING THE LIVE EVENT TICKET
INDUSTRY IN NEW YORK STATE

April 22, 2021

Hello, I am Gilbert Hoover, Vice President and General Counsel of The Shubert Organization (“Shubert”). I am pleased to participate in the New York State Senate Investigations and Government Operations Committee hearing on the live event ticket industry in New York State. In addition, both the Nederlander and Jujamcyn organizations join in my statement.

By way of background, Shubert operates seventeen Broadway theatres, making it the largest Broadway venue operator. In addition, Shubert operates Telecharge, a leading provider of ticketing services for Broadway and off-Broadway shows and other events across the country. The Nederlander and Jujamcyn organizations collectively own and operate fourteen Broadway venues.

We share the Committee’s interest in ensuring that live event ticket sales across New York State are fair and equitable to all parties, especially our patrons. The current State ticketing laws (ACAL Article 25) will sunset on July 1st of this year. For the reasons explained below, we believe the current law should be extended for another two-year period, without any further amendments.

Broadway is in the midst of enduring the longest closure in its history, due to the illness known as COVID-19 caused by the global Coronavirus pandemic. Broadway venues were amongst the first businesses to close and last to re-open in accordance with New York State mandates and applicable laws. Commencing March 13, 2020 – more than one year ago -- all Broadway venues were shuttered by Executive Order (See, Executive Order 202.1 as extended). While the Governor recently announced guidelines to allow Broadway venues to re-open at severely limited capacities (not more than 150 persons, with social distancing and stringent protocols), we are still waiting for the day when we will be welcoming our audiences under something approaching normal circumstances and full or close to full houses that are needed for our industry’s survival.

I cannot overstate the economic hardship caused by the Coronavirus pandemic on the Broadway industry and the live event ticket industry in New York State. Broadway and the live event ticketing industry in New York State are amongst the hardest hit industries in all the State, if not the nation. With virtually no revenue for over thirteen months and counting, our focus is on doing what is necessary to ensure our survival and re-start Broadway’s economic engine; an engine that is essential to the economic revival of New York City, including the re-population and revitalization of Time Square and the return of tourism to the City.¹

¹Broadway attendance in the 2018-2019 season reached 14.77 million; the season grossed \$1.83 billion. Broadway attendance for the 2018-2019 season topped those of the ten professional NYC Metro-area sports teams combined (Mets, Yankees, Rangers, Islanders, Knicks, Liberty, Giants, Jets, Devils and Nets). Broadway contributes \$14.7 billion to the economy of New York City on top of ticket sales and supports 96,900 local jobs. Source: Broadway’s Economic Contribution to New York City 2018–2019, published by The Broadway League. See also: <https://www.broadwayleague.com/research/statistics-broadway-nyc/>.

We must recognize that both live event venues and the live event ticket industry are in a time of great dislocation and upheaval. For example, the recently adopted New York State guidelines for re-opening of small and medium scale performing arts & entertainment venues (applicable to all Broadway venues with 1500 seats or less) are very impactful on venue operations, including ticketing procedures.² For example, the current guidelines place a premium on contactless ticketing and making sure you know each of the customers sitting in the venue for purposes of contact tracing.³ It is not clear whether any of these guidelines will become part of the new normal.

In addition, less than three years ago (July 1, 2018) the ticketing law was amended in significant respects (and most of the amendments did not take effect until December 28, 2018).⁴ While many of these changes appear to be beneficial for the industry and to have made an initial positive impact, I do not believe there has been sufficient time to evaluate the long-term effectiveness of these new measures.⁵ This is especially so given the fact that the live event ticketing industry has been largely shut-down for more than a year since the enactment of these measures. We should give ourselves more time to see the impact of these changes to the law.

In short, now is not the time to tinker with the New York State ticketing law. We need to focus on our recovery and the recovery of our City. While we appreciate the Committee's concern for the live event ticket industry and ensuring that tickets to live events in New York state are fairly and equitably distributed to consumers, we do not believe that changes to the current law are warranted at this time. Thank you.

²See <https://forward.ny.gov/phase-four-industries#small---medium-scale-performing-arts---entertainment> (the "Guidelines").

³The Guidelines include the following requirements as to patrons: (i) provide for primarily contactless check-in ticketing and touchless payment option for the advance purchase of tickets (Guidelines, page 15); (ii) implement mandatory health screening for patrons, prior to, or immediately upon, arrival at the venue (Guidelines, page 26); and (iii) each adult patron must provide contact information before or immediately upon arrival at the performance, including full name, date of birth, address and phone number or email for use in potential contact tracing efforts (Guidelines, page 30). To the extent practical, such patron information shall also include seat assignment at the venue for the event (*Id.*).

⁴See Laws of New York, Chapter 110 of 2018.

⁵The changes enacted included: (i) restrictions on the practice of what is known as "speculative ticketing"; (ii) prohibitions on the practice of using misleading or deceptive "white label" websites; (iii) additional disclosure requirements where a website resells tickets or serves as a platform for facilitating the resale of tickets; and (iv) additional penalties for using bots to obtain tickets and circumvent security controls put in place by online ticket sellers.