

# International risk team



## Contingency market Coronavirus briefing – event cancellation

On 11 March 2020, the World Health Organisation declared the current COVID-19 outbreak to be a worldwide pandemic. For the vast majority of people, this label may make little practical difference; the WHO designation does not trigger any automatic or mandatory global reaction, and the decision as to the steps to be taken in response to the outbreak remain in the hands of national governments. As can be seen from a daily review of the national and international press, the steps being taken by governments across the globe differ markedly. Reactions range from complete lockdown to a form of “business as usual”, as administrations struggle to balance the need to protect their citizens against the impact on health and public services, and the economy.

For some, however, the label given to the outbreak may be important. The outbreak has led to an unprecedented level of cancellations of high-profile sporting and entertainment events, and disruption is likely to continue as more countries adopt “social distancing” in an attempt to combat the spread. Even in these early stages of the pandemic, the degree to which those cancelled events are protected by Event Cancellation insurance is coming under scrutiny. The reason for cancellation, and the official designation of the outbreak, is equally likely to come under the spotlight.

Event Cancellation insurance works on a broad basis, covering all reasons for cancellation, postponement or rescheduling which are outside the

control of the Insured, unless specifically excluded from cover. However, communicable diseases are one of the causes found in the list of general exclusions, meaning that protection will only be available for losses arising from the pandemic if the Insured specifically purchased additional cover for this cause. Until the recent outbreak, policyholders purchasing Event Cancellation insurance were more likely to have been worried about the effect of extreme weather conditions than a global pandemic. Industry reports suggest that only those organising very large events were likely to purchase this additional cover.

The position for many policyholders may therefore be straightforward, if potentially devastating. Some organisers,



such as those responsible for the popular South by South West music festival in Austin, Texas, have been open about the fact that they did not purchase cover for communicable diseases. Others may be less likely to accept this as the end of the matter. Given the potential impact on an uninsured event organiser, Insurers can expect the precise words of the exclusion(s), and the cause of any cancellation, to be dissected at some length by a policyholder's coverage counsel keen to support a claim.

Where the exclusion is all-encompassing, this may well be a short debate. Conversely, the position could be more complicated where the exclusion is qualified; for example, some exclusions carve cover back in where the communicable disease directly affected the venue or key participants, or where the relevant government specifically ordered the event to close (although many policies also have a separate exclusion for losses arising from government action, which could very well lead to tension).

As at the date of this article, the UK government has not issued instructions directing a reduction in the number of people who may gather in one place although reports suggest that such a direction is imminent. Official medical advice appears to be that attending a live open air fixture is likely to present a smaller risk than alternative gatherings indoors in a confined space, such as a pub. The Premier League and English Football League have unilaterally elected to suspend competition until 3 April, at the earliest, but this has not been undertaken in compliance with any government edict. Other organisers of events, big or small, within the UK with a form of "qualified" communicable disease exclusion may well now be keen for the government to embark on the next phase of its more stringent social distancing measures, as they may consider this to strengthen the chance of the claim falling within their cover.

This demonstrates the extent to which the very different approaches taken by governments across the world could have a tangible effect on policy coverage; contrast Italy's lockdown with the current advice from the UK government regarding public gatherings. Even if potential attendees within the UK take a different view, disinclination to attend – for any reason – is generally not a circumstance leading to cover under an Event Cancellation policy.

The difficulty faced by both event organisers and Insurers is that Event Cancellation insurance, more perhaps than any other head of cover, is affected by human behaviour and emotions. Reluctance to attend an event, whether because of a recent terrorist attack in the area or concern about the spread of coronavirus, is wholly understandable. Even without government directives, many organisers may see cancellation as the prudent option. These are however unrelated to the question of whether the policy purchased provides cover for the specific circumstances that have arisen, but Insurers may need to handle discussions carefully in order to avoid negative commentary on their position.

The issues arising from cancellation of one-off events, even those as large as the Tokyo Olympics (although at present these are scheduled to continue), are likely to be familiar to the Event Cancellation market. Different considerations may arise where the affected event is part of a series. The Australian Grand Prix, the opening race of the season, was called off at the last-minute following a positive COVID-19 test, the withdrawal of McLaren team from the race and subsequent pressure from the remainder of the teams. The Chinese Grand Prix, although scheduled for later in the season, was postponed following the start of the outbreak in China, and the Bahrain and Vietnam races have now been cancelled. Although the end of the outbreak may be some way off, questions may arise as to the impact of the early cancellations on the remainder of the season. There may be a difference between Formula 1, where all teams compete in each race and so there is a level playing field even in the event of a short season, and football fixtures in which there may be insufficient time for all sides to play all necessary matches in order to generate balanced results. Knock-on cancellations where the point of the fixtures may have been frustrated is unlikely to attract cover under Event Cancellation policies.

As with the pandemic itself, the position regarding cover for cancellation of affected events is uncertain. Although the percentage of policyholders qualifying for cover may be small, the numbers involved are likely to be large, and claims may be hard fought even where Insurers do not consider them to fall within the scope of cover. For Insurers, the impact of the pandemic is likely to continue long after the outbreak itself is over.



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