

CLIENT ALERT

B2B Relations in the Events Industry in Europe and the COVID-19 Pandemic: the Stakeholders' View - Part 2

May 19, 2020

We started this series of alerts by sharing our view on the legal consequences of COVID-19 on B2B relations in the events industry. Our [series of alerts](#) set the scene. But of course, law is not applied in a vacuum, and for our next alerts we are reaching out to different stakeholders from the events industry, asking them five key questions and inviting them to share their practical business perspectives.

Second in our series is Tom Bilsen, Operations Director at Stageco Belgium. Stageco is one of the most prominent staging companies in the world. The company develops concert stages for festivals like Tomorrowland, and for the international tours of artists like Beyoncé, but also structures and staging systems for major outdoor and indoor sports and other events, such as the X Games. The Stageco Group currently has nine offices worldwide, including its headquarters in Belgium, and local offices in Germany, Austria, France, the Netherlands and the U.S. Mr. Bilsen oversees the group's engineering, planning, budgeting and internal technical and commercial support. We asked him to share his views on how COVID-19 has and will impact B2B relations in the events industry, and, in particular, in Belgium.



Tom Bilsen

The challenges posed by COVID-19 are unprecedented in business terms. But any company that has been in business for some time must have experienced other crises. What do you think is an important legal lesson that can be drawn from the past?

Fundamental, not only from a legal point of view, but also in general, is that all parties involved must have mutual respect. In our industry it does not matter if you are a global player like us, a client with deep or shallow pockets, or a local supplier. Lack of respect undermines good relations, and in an industry like ours, an event can, by definition, only be successful if there is excellent collaboration between the multiple parties. People are all too likely to take account only of their own short term interest. They forget that every crisis has not only a beginning, but also an end. When the end comes, it is better to have your bridges intact rather than burnt.

Respect should also govern pre-crisis commitments. Just like in times of other crises, we're already seeing companies invoking COVID-19 as an excuse not to pay for work carried out long ago. That work was budgeted for long before the COVID-19 crisis. If it was executed properly, it should be paid for promptly.

It is also important to identify common ground with other victims of the crisis and coordinate your efforts. A group defending its common goals vis-à-vis external parties (such as clients, the government, insurance, etc.) will almost always achieve more and better results than an individual. Even if that individual is a global player like Stageco. Lawyers can play an important role here behind the scenes, but we prefer not to ‘put them on stage’ unless it is unavoidable.

Everyone is gradually aware that after the lockdown it will not be business as usual. The government is trying to respond to this by announcing numerous support measures and new regulations, temporary or otherwise. If you could amend the existing regulations on one point today, what would that be?

My view is that nobody in our industry knows what the true, long-term impact will be of this crisis. So giving deadlines or expiration dates to certain measures does not seem the best way forward. I would review the measures and have them cover the period that the companies in question effectively need to get them out of the COVID-19 woods. For instance, an events company could be awarded governmental aid until it is generating at least 80% of its average revenue of the past three years. Taking such a customized, rather than an all or nothing, approach would in my view not be more costly for the government, since financially healthy companies would not need this support, or would only need it during a very short period of time. Weaker stakeholders would be able to benefit somewhat longer from this much needed help.

If you would allow me to change something else as well, then I would put in place a fiscal carry back rule allowing income tax on last year’s profits to be reduced by the losses of this year. That would really be ‘music to my ears.’

What do you expect from your commercial and legal partners in anticipation of a normalization of the market in the short or medium term?

I am forced to repeat myself here: there must be mutual respect regarding agreements that have been made, in particular, where events have been postponed and not cancelled. I understand that the current situation may be perceived as an opportunity to renegotiate. The event industry is, however, so interconnected that a large-scale renegotiating of agreements will have a trickle-down or even snowball effect. Such would not be in the interests of any stakeholder, knowing that the majority of them made their recent investments at current (and not lower) prices.

Obviously, no matter what the final cost may be, we all need to get paid and paid on time. Service providers should not be expected to pre-finance the projects of their clients, and, similarly, service providers should not expect their suppliers, staff, etc. to be their bank. I am aware that precisely for that reason maximum payment terms for money owed to SMEs have recently been adopted under Belgian law. I do not see why it would be inappropriate for larger companies also to benefit from similar rules and thus reduce the risk of not getting paid.

When talking about risk management, a first reflex is often: insurance. It may be assumed that it will not be easy to get COVID-19 related risks insured. How do you nonetheless try to limit COVID-19 related risks as much as possible?

Stage-building companies are probably the odd one out here, in the sense that we – literally – do not have to deal with the crowd. We construct prior to the event and we dismantle once the event is over. Obviously, we have taken certain measures to ensure social distancing during construction etc., but these risks are fairly limited and manageable.

The true COVID-19 related risk for us is financial. Our financial investment, and therefore risk, for every project has always been enormous. In times like these, the risk increases with every day that we still await payment. That is why for future projects we will insist even more that project financing payments should be made at the same rate as we spend money on the executing of the project. Having to wait until the very end of the project before we receive a single payment (and in the meantime hoping that the client will have the means to pay) has become too much of a risk. Therefore, it is possible that in the future we will see more language concerning bank guarantees, preferential payment terms, etc. in our contracts.

Virtual or hybrid events, new sponsorship techniques, performance on screen rather than live, augmented and virtual reality... Many see the COVID-19 crisis as a catalyst for innovation. Does this also apply to you? If so, should this innovation be a common good for the whole sector (e.g., through free licenses) or a means for each stakeholder to stay ahead of the competition (e.g., by enforcing exclusive rights)?

Our mission is to create and build safe, solid, but also innovative, temporary structures for all types of events. So innovation has always been key for us, and it allows us to stay ahead of our competition. We will continue to rely on innovation, and, if we need to speed up in this regard to remain a leader in times of COVID-19, then I am certain that is what we will do.

When it comes to sharing the results of our innovative efforts, I would be the last person to deny that times are tough for the entire industry. So my first response would be that all those concerned should make it easier for each other by sharing any knowledge or experience that can boost the sector. I am, however, realistic. The number and type of projects likely to take place soon is small compared to what the market would normally see. So, even if competition remains on friendly terms, there will still be plenty of it. And probably even more, tougher, competition than in normal circumstances. With increased competition and tighter margins, I do not see why anyone who has the opportunity should not create a competitive advantage on the basis of exclusive rights, like company secrets or patents. Such as I also don't see why consequently a license could not be granted, as long as it makes good business sense and is good for business.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Jan-Diederik Lindemans

Partner – Brussels

Phone: +32.2.282.1832

Email: jlindemans@crowell.com

Jo Vanwittenbergh

Business Manager – Brussels

Phone: +32.2.214.2871

Email: jvanwittenbergh@crowell.com