



ALERTS

Impact Of The Coronavirus On Organizations' Meetings And Events

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As the public continues to receive news, updates, witness accounts, videos and other information regarding the coronavirus (or COVID-19), conferences and trade shows around the world are being affected. Many organizations are considering whether and how to address the potential impact of the coronavirus on their upcoming meetings and events.

Meeting professionals should consider closely examining their organization's contracts, insurance and communications for upcoming meetings and events. This will provide the organization's leadership with the information it needs to make informed decisions regarding those meetings and events and to communicate appropriately with its vendors, attendees and stakeholders if restrictions need to be placed on a meeting or event or if it needs to be postponed or cancelled.

Contracts

With any meeting or event, there are myriad contracts in place for hotels, convention centers, decorators, audio-visual companies and destination management companies, just to name a few. Meeting professionals should review those contracts and determine whether there is any contract provision – typically a force majeure, or unforeseeable occurrence, provision – that may excuse the group's performance based on the coronavirus.

As with any force majeure provision, the burden of proof will be on the party (group, facility or vendor) that elects to enforce its rights under the provision. That means that the cancelling party (or the party that seeks to perform but in a reduced manner) must show: 1) that the coronavirus falls within the list of unforeseen items specified in the force majeure

RELATED PEOPLE



Barbara F. Dunn

Partner
Chicago

P 312-214-4837
F 312-759-5646
barbara.dunn@btlaw.com



Paula Cozzi Goedert

Partner
Chicago, Washington, D.C.

P 312-214-5660
F 312-759-5646
paula.goedert@btlaw.com

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provision (such as acts of God, weather, fire, etc.) or can be captured within a catchall statement at the end of the list such as or any other cause beyond the parties' control" and 2) if it does, that the coronavirus impacted performance in such a way as required in the provision (such as impossible, illegal, commercially impracticable).

If the group can prove both elements, it can take the position that its performance of the contract is excused and that no cancellation fee is due. Every contract and every circumstance is different, so there are no "general rules" when it comes to whether a force majeure provision in a contract will excuse the group's performance. Meeting professionals should consider addressing the applicability of force majeure with its business and legal teams.

Many force majeure provisions may permit the group to partially perform the contract rather than cancelling the contract. This partial performance would mean that the group would have its meeting, but because of the force majeure event, it would have fewer attendees. In that case, the force majeure provision can provide that the hotel or vendor will reduce or eliminate any fees that the group would incur as the result of reduced attendance, such as room block and food and beverage attrition fees. Even when the provision does not include this language, groups can still ask hotels or vendors to reduce or to waive such fees. Essentially, from a customer relations standpoint, the argument is that "some business is better than no business."

Bottom line, meeting professionals should evaluate whether the contracts in place address this issue and whether their standard language will protect them in circumstances of a disease outbreak, as well as similar unforeseen circumstances.

Insurance

Meeting professionals also should consider reviewing their event cancellation insurance policies. Unfortunately, many organizations do not purchase insurance coverage for their meetings and events, citing that the policies are too expensive or not worth the investment. Event cancellation insurance is essentially a type of business interruption insurance, which can minimize the financial impact of an organization having to cancel, postpone or curtail a meeting due to a covered event (including weather, destruction of meeting facility, or cancellation of a principal speaker). The policy also provides protection for losses sustained from having reduced attendance at a meeting due to a covered event. So depending on whether the circumstances affecting the meeting are covered under the policy, the coverage protects the bottom-line revenue earned from the meeting, as well as any related expenses.

As with any insurance policy, it's important to review what items are covered by a policy as well as what items are excluded. Often, in event cancellation insurance policies, infectious or communicable diseases are excluded from coverage. If meeting professionals want to have coverage for infectious or communicable diseases, they should ask the carrier for an endorsement to cover such items and, if approved, the group will be required to pay an additional premium for such coverage.

Insurance policies and endorsements should be reviewed carefully by the group's insurance broker, legal counsel and business team to confirm what is or is not covered. Many infectious or communicable disease

endorsements also carry their own exclusions (such as avian flu) and such exclusions are not eligible for coverage even with an endorsement. For meeting professionals considering purchasing event cancellation insurance for upcoming meetings, they will likely find that any coverage for infectious or communicable diseases may now include an exclusion for the coronavirus.

Communication

As part of this review process, meeting professionals should consider examining their communications to meeting attendees, exhibitors and other stakeholders, as well as to hotels and other meeting vendors. If the group has upcoming meetings and has received inquiries as to whether the meeting will continue in light of the coronavirus, the group should have an appropriate statement ready in response, which should be reviewed by the group's leadership and legal counsel prior to distribution. All further statements should be consistent with the group's initial statement, unless circumstances change and the group and its legal counsel determine otherwise.

Communication with hotels and other vendors is equally as important. If the group has concerns about how the coronavirus may impact an upcoming meeting or event, it is critical for the group to communicate those concerns with the hotel. While the group may not be excused from performance or reduced performance (under the contract's force majeure provision), it can still work with the hotel to maximize attendance and to minimize any impact associated with concerns over the coronavirus.

While the world's best scientists and medical professionals are working to manage and to treat the coronavirus, meeting professionals can do their part to ensure that their organization is fully prepared to address the impact of the virus on its contracts, insurance and communications – and its meeting and event attendees.

To obtain more information, please contact the Barnes & Thornburg attorney with whom you work, or Barbara Dunn at 312-214-4837 or barbara.dunn@btlaw.com, or Paula Goedert at 312-214-5660 or paula.goedert@btlaw.com.

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