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SPECIFICITIES OF CONCERT CANCELLATION INSURANCE

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ABSTRACT

Music industry generates revenue through various mediums and communication channels, with concerts being another profitable way to sell music and entertainment. Planning, organizing and holding concerts requires adequate time, contacts, necessary contracts, permits and consents, thus determining costs types and amount incurred by the promoter in case of concert cancellation. This paper analyzes the features of this insurance as a means of economic protection for concert promoters against the financial loss in case of concert cancellation and the risk of performers absence or non-appearance. Special focus is on who can be the insured, what the insured compensation embraces and which risks remain uncovered. This type of insurance belongs to financial loss insurances in the field of non-life insurance. At the end, it was concluded its specifics lie in the way of concerts organization, the performers' personal nature and their inherent risks.

KEYWORDS

concert, cancellation, insurance, risks, expenses

INTRODUCTION

When processing this topic, one should determine the definition and content of the principal concepts such as "music", "concert" and "festival". **Music** is generally defined as the art of combining vocal performance and instrument sounds in some form or emotional expression incoming with appropriate melody, harmony, and rhythm (Epperson, 2023; Etymoline, n/a; The American Heritage Dictionary of the English Language, 2022). Moreover, it has always served for entertainment and social connection, and more recently for the psychotherapy of some mental states and diseases (Talwar, Crawford, Maratos, Nur, McDermott, Procter, 2006).

Word "music" is believed to derive from the medieval English *musike*, Old French *musique*, and Latin *musica* meaning a pleasant succession of sounds or combinations of sounds (Etymoline, n/a). **The concert** is a direct and simultaneous musical and vocal performance before the audience. The concert can be performed by a soloist or an ensemble like orchestra, choir or musical group – a band. Concerts can be outdoor (stadium, park, meadow, etc.) or indoor (sports hall, theater, cafe or club). **A festival** is an independent, occasional event celebrating part of a community's religion or culture. From religious commemorations, fostering local traditions to events celebrating a good harvest, festivals served for social bonding and adaptation (Davies, 2021).

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Furthermore, a **music festival** is a one-year musical event with a numerous concerts, which takes place over two or more days, on one or more stages, with one or more musical genres, outdoors or indoors. A music festival can serve various purposes, such as fostering the fame of a composer (eg. "Mokranjčevi dani"), promoting local artists and their creativity and presenting foreign art music programs (e.g. BEMUS and NOMUS), achieving social responsibility and social change (eg. EXIT) or exulting the ideas and beliefs of a social movement (hippies) (eg. Glastonbury) etc. The purpose of holding many music festivals in the beginning has disappeared over the years to be replaced today by entertainment and profit.

A contemporary music festival model was created in the beginning of the 60s of the 20th century to grow and develop into a highly profitable business today (Davies, 2021). However, one should have in mind the purpose of each music festival differs depending on the sponsor. Generally, music festivals sponsored by the public sector and non-profit organizations are more focused on tourism promotion, local community cohesion and public interest, and if the sponsors are business companies, the concerts are primarily profit-oriented (Davies, Gouthro, Matthews, Richards, 2023). An increase in the number of music festivals over the years and the economic growth that boosted well-being, contributed to the increase in the number of tourist trips (Gligorijević, Kostadinović, 2023).

According to one Serbian promoter, today music concerts generate money and enable a relatively quick turnover (Galić, 2022). However, concert promoter financial involvement in engaging foreign entertainer is not enviable. It is commonly the promoter pays a certain advance to the agency representing foreign musical entertainer, takes other organizational steps before the concert, and sustain various goods suppliers and service providers cost. The promoter must do the above in uncertainty about the realization of the future concert, tickets price and sale and, finally, the possibility of making a profit after overheads. In case concert cancellation, promoter suffers significant loss for the previously mentioned reasons. Consequently, insuring the costs incurred in advance concerning a concert is one of the effective solutions for financial protection of concert promoters.

SUBJECT OF INSURANCE

Financial loss insurance is a non-life insurance branch which, among others, covers expenses incurred during the organization of sports and music events, conference planning, exhibitions and fairs that did not take place. The subject of insurance is the compensation of the ascertained net loss if any expressly stated or described insured musical performance or event is canceled, abandoned, postponed, interrupted or relocated beyond the insured will. Insurance coverage is provided against concert cancellation due to certain risks occurrence, including the absence or non-appearance of musical performers at the venue.

Cancellation means the inability to proceed with any or all of the insured performance or event prior to commencement. Abandonment means the inability to complete any or all of the insured performance or event once commenced. Postponement occurs if postponement to another time of any part or all of the performance or event is unavoidable. Interruption arises when the insured becomes unable to perform any part or all of the performance or event after its repeated attempt after commencement. Relocation occurs in case of an unavoidable transfer of the insured performance or event to another venue (Non-Appearance and Cancellation Policy, 1997).

Concert cancellation insurance

Some public concert event attracting attention and for which a large crowd gathers at the venue may find itself in a cancelling situation. In such case, insurers provide insurance against a certain set of named risks. These can be: fire, rain, storm, flood and other natural calamities that make it impossible to access and stay at the venue, including these risks inflicting damage to things and property for holding the concert (stage, stands, tents, sound system, lighting, cranes, etc.) However, one should have in mind the insurance of the value of the things used for the concert must be taken out separately for standard fire risks are covered only as a trigger in concert cancellation expenses insurance.

However, these may not be the only risks for concert cancellation. Immaterial if it is an outdoor or indoor concert, the policyholder can agree additional concert cancellation cover against a national holiday or mourning day declared after an extraordinary event (eg. the Belgrade concert of the "Rolling Stones" in 2003 was canceled because the death of the then Prime Minister Zoran Đinđić / Koprivica, 2006), then against demonstrations, terrorism, and for the concert cancellation against the spread of communicable diseases and satellite and signal transmission interruption or failure (Sadler Sport & Recreation Insurance, n /a). Untimely execution of any necessary type installation works (telecommunications, water supply, fire protection) can also be a reason for cancellation. One example of the event cancellation after exceeding the telecommunications equipment fitting deadline is the case *HDMG Entertainment LLC v. Certain Underwriters at Lloyd's of London Subscribing to Policy No. L009082 355 F.Supp.3d 373, 2018 WL 6065351 (D.S.C. 2018)*. In this dispute, the contractor for fitting telecommunication lines advised the organizer only a week before the event of his inability to complete the work on time. The insurer, not knowing about it, issued an insurance policy only for the insured to advise him about the event cancellation just two days later.

Performer absence / non-appearance insurance

Typical risks of natural persons – musical performers, due to which they cannot appear on time at the venue to participate in the scheduled concert, is one of the set of risks insured. These are the key figures: singers, musicians, dancers, entertainers and other performers.

Risks of the performer absence or non-appearance most often occur when the insured (members of a choir, band, dance or other group) do not make travel arrangements enabling them to arrive at the venue on time. This risk also arises when the performer does not arrive on time for preparation and rehearsals before the concert. The performer has to meet the stated obligations faithfully and in a timely manner without leaving the possibility for objection to his conduct. State of drunkenness or stupor due to narcotics, lack of sleep because of a disorderly life, and the like, are not justified reasons for the insurer liability. The insurer's liability arises if the performer absence or non-appearance is due to an unavoidable travel delay. It occurs when the selected travel plan is irrevocably changed and this prevents the insured from arriving at the venue of the insured performance or event, provided the travel plan was so booked that it allowed enough time for arrival. Non-arrival of any other non-insured person, as a reason for concert cancellation, is not an insured event, so the insurer liability is invalid.

In addition to the performer's absence or non-appearance, the insurance terms limit the insurer's liability to two more named risks. These are: death or accident. However, rules of life and accident insurances for fixing the insurance premium (Glušac, 2022) in this insurance are inadequate due to the different nature of risk covered. It should be borne in mind this insurance does not cover the risk of concert cancelled due to the death, illness or accident of any other person who does not have insured status. In this sense, the death of a close relative or friend is not a valid basis for triggering the insurer's liability under the concert cancellation insurance policy. Accident means any accident or illness of the insured which, in the opinion of an independent medical expert approved by the insurers, wholly prevents the insured performer from appearing or continuing to perform at any insured performance or event. Same rules apply here as in voluntary health insurance and accident insurance being a sudden event independent of the insured's will, which, acting mostly externally and suddenly on the insured body, causes his death, total or partial disability, temporary work incapacity or health impairment requiring medical assistance (DDOR Novi Sad Sad, 2019; Wiener Städtische osiguranje, 2020, art. 5(1); art. 6(1)). Accident incapacitating and preventing members of a musical or other group to participate in a performance or concert can manifest in a dislocation or fracture of a limb or fingers, temporary or permanent loss of vision, contact dermatitis, repetitive and other injuries, sudden illness or medical condition (Okoshi, Minami, Kikuchi, Masahiro, Tomizawa, 2017). In this sense, the cancellation of the Belgrade concert of "Rolling Stones" in July 2006 due to the illness of Keith Richards is typical (Koprivica, 2006). Alternatively, a sudden "loss of voice" before a concert can also contribute to its cancellation. For the above reason, Andrea Bocelli was compelled to cancel concerts in Boston and Philadelphia in the USA early December 2023 when the audience was already seated in the theatre (Riley, 2023).

The Lloyd's insurance policy prescribes a few preconditions to the insurer's liability protecting him against negligent and malicious conduct of the insured relating to his health condition. The Insurer is particularly interested that the insured (musician or other performer) is in good health at the time of concluding the contract and capable of meeting the insured obligations. In foreign practice, there is a well-known lawsuit filed by some of Lloyd's insurers to nullify an insurance policy issued two months before Michael Jackson's death, because the promoter of his "This is it" tour did not report everything he knew about the singer's health when concluding policy (CBS, 2014). This means the insured must not be in an unfavorable or bad physical, mental or medical condition, and no treatment or therapy of any kind is effected, except those disclosed to the insurers. Only if the insurers agreed to cover the insured previous physical and health condition, prerequisite to their liability is the insured duty to comply with the doctor's recommendations, prescribed therapy or living style important for his good health during the insurance period (Non-Appearance and Cancellation Policy, 1997).

In a broader sense, the risks of natural persons also include the obligation of the insured to obtain required written authorizations, such as licenses, permits, visas, consent to copyrights and patents, etc. Obligation of the insured to this effect is not limited to the aforementioned, but to everything necessary for the legal and undisturbed performance or event.

WHO CAN BE INSURED?

Concert cancellation insurance implies the a large number of insured persons. Since the promoter is involved in planning and organizing the concert and executing preparatory activities and works through subcontractors, undoubtedly this person has a material interest to be insured if the concert is cancelled. The promoter of the insured performance or concert appears as the contractor and main insured in the concert cancellation insurance policy. Besides, the names of natural persons engaged as musical, vocal, dance and other performers of the main program, i.e. persons significantly contributing to any function necessary for the successful rendition of the insured performance or event, are usually specified in an insurance policy. Alongside these, other important persons (business advisors, financial managers, agents), contractors and their subcontractors (equipment transporters, electricians, fitters, couriers, etc.)

may also appear. These persons have the status of co-insureds (additional insureds), but one must remember these persons can also have own insurance policy.

INDEMNITY

Concert cancellation insurance due to the absence or non-appearance of the performer(s), is not providing indemnity against the performer death or accident. These personal events are the only reason for the concert cancellation and the insurer's liability to cover the promoter and other insured expenses.

Insurance terms regularly define the gross income and expenses in order to determine the net insured loss, the indemnity which is the insurer's obligation when the concert is cancelled. Gross income includes amounts that would have been paid or payable to the insured from all sources based on the insured performance or event had the claim not occurred (Non-Appearance and Cancellation Policy, 1997). Expenses are considered to be the total amount of all costs and fees the insured would have had in the organization, management and provision of services to maintain the insured performance or event if the damage had not occurred (Non-Appearance and Cancellation Policy, 1997).

Expenses of planning and organizing a concert can consist of a different number of items. Expenses can be divided into:

- **staff** (cleaners, auxiliary labor, electricians, firemen, first aid, reception staff, personal security of the performers, security at the venue, plumber, civil engineer, etc.),
- **production** (hire of obstacles, fencing, catering, cranes, telecommunication connections, cloakroom, fire extinguishers, forklifts, fuel, generators, internet connections, hotel and travel expenses, lighting in front and behind the stage, chipboard or tin panels, telephones, towels, video, walkie-talkie, cars, trucks, containers, etc.),
- the **venue** (costs of building a stage, renting various devices and things, air conditioning, heating, handicap and hearing impaired area, portajohns, tents, boards, markings, etc.),
- **advertising** (radio, TV, newspapers, press conferences, posters and flyers, promotional activities, flags, badges, etc.), and
- **other** (performance rights, liability insurance, ticket printing and sales, credit card commissions, sponsorship expenses, other commissions, etc.).

The above list of expenses is not exhaustive nor can the possible expenses that can burden the organization of a concert be limited. Everything depends on a case-by-case basis, that is, depending on the needs and wishes of the promoters and performers at the concert.

RISKS EXCLUDED FROM INSURANCE

Each type of insurance has a list of risks in relation to which the insurer excludes or limits its liability under certain circumstances. One should have in mind the insurance market is adaptable and can cover some excluded risks, but under special conditions and at the additional premium.

Typical risks in concert cancellation insurance are: risks of performer personal disability, risks of financing, war and political risks.

Personal disability is a state in which a musician or other performer is brought to by own fault or negligence, disabling him fully or partially to attend and participate in a concert. Personal disability will, for example, exist due to:

1. travel by air, other than travel as a passenger on a scheduled airline or chartered aircraft on a regular air route;
2. any hazardous activity, feat or performance;
3. insufficient voice quality, unless directly caused by illness or infectious disease contracted or bodily injury occuring during the insurance period;
4. any known pre-existing physical, psychological or medical condition, unless otherwise agreed in writing by the insurers;
5. failure to follow the medical or other prescribed regime;
6. unreasonable or capricious behavior;
7. any sexually transmissible disease or their after effects;
8. infections with Covid-19 and AIDS and
9. illegal possession or ilicit taking of drugs and their effects.

Risks related to financing are such events due to which the promoter cannot fully or partially realize the organization of the concert. Financial risks arise from:

1) any withdrawal, insufficiency or absence of financial resources;
2) the financial failure of any undertaking;
3) lack of or inadequate income, sales or profits of any enterprise;
4) changes in the exchange rate, interest rate or stability of any currency;
5) financial default, insolvency or non-payment of any natural, legal person or organization, notwithstanding it is a party to this insurance or otherwise.

Also, minor appearance at the concert resulting in an income decrease, which may not be attributable to the cancellation, abandonment, postponement, interruption or relocation of the concert, is not covered. Also, the insurers exclude liability for reimbursement of costs the insured did not disclose, and insurers did not agree.

War risks are events beyond the reasonably possible influence and control of the insured and the insurer, but they are still risks created by the human will. The insurance conditions provide for a broad definition of what is considered war risks. Thus, war risks include: actual or threated war, invasion, acts of the enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, nationalization, requisition or destruction of or damage to property by or under the order of any government or public or local authority. Given that numerous war and political risks appear in different forms and can apparently overlap with war operations, whether an act was done to achieve war goals or for political motives circumstances for classifying an event as war or political risk are decisive, i.e. if the risk is covered or excluded from insurance (Jovanović, 2016). According to the domestic terms of personal accident insurance, the insurer's liability is excluded when the insured event occurred: as a result of war events or armed actions (DDOR Novi Sad, 2019, art. 10(1)(2 and 3)), as well as events directly attributable to war, invasion, armed conflict, civil war, uprising, rebellion or revolution (Wiener Städtische osiguranje, 2020, art. 11(1)(2 and 3)).

Political risks are considered social events such as civil unrest, strikes or demonstrations taking proportions or qualified to a popular uprising, rebellion, state of emergency or act of any legally constituted authority to maintain public order. Political risks are also decisions and actions of authorities, national or local, such as customs seizure or destruction of things in accordance with customs or other regulations, confiscation, nationalization or requisition or destruction or damage to property or handling of contraband or the engaging in illicit trade or transportation. Likewise, the authorities have the discretion to refuse entry to the country where the insured performance or event is to be held when crossing the state border and issue an order for the repatriation, internment, imprisonment and deportation of the insured.

General exclusions typical of all insurances, including this one, are:

1) radioactive radiation or contamination by radioactivity, and
2) seepage, pollution and/or contamination.

CONCLUSION

Major concerts and tour cancellation insurance arose as a result of the emergence and development of the profitable entertainment industry after World War II. This insurance belongs to the group of financial loss insurances in the non-life insurance field. Cover primarily serves the economic protection of private interest, and in some cases also of public interest if public and/or non-profit organizations appear as organizers and when a concert is not profit-oriented. It is specifically because of the way of performing the concert organization, the performers' personal nature and their inherent risks. Therefore, besides the promoter, numerous natural and legal persons who contribute to the concert organization by providing services or works or delivering goods may appear as co-insured. The indemnity covers costs and expenses reasonably incurred for holding the concert and agreed by the insurers. Along with the standard risks covered by the insurance conditions, which result in cancellation, abandonment, postponement, interruption or relocation of the concert, it is possible to agree cover against other risks, which depends on the needs of promoters and performers. These are either risks excluded or risks not provided for in the standard cover.

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