

## I. FACTS

On 20 April 2017, the renowned TH&C Events organised a large festival in Amsterdam. With three acts and 30.000 tickets sold (at a price of EUR 90), the festival was expected to be a great success. TH&C Events was particularly excited to have booked the world-famous DJ Draak to be the last act of the day.



From: Dion Steenbergen [d.steenbergen@thcevents.nl]

Confirmation performance April 20th

To: DJ Draak [dj@draak.nl]



*Dear Mr. Draak,*

*We at TH&C Events are honoured to have you perform at our upcoming Amsterdam festival on April 20<sup>th</sup>, 2017. You will perform from 22:00 until 00:00 as the final act of the day. Among the 30.000 expected visitors will be some of your biggest fans, so be sure to include some of your biggest hits.*

*As for compensation, you will receive your standard rate, which in this case amounts to a total of EUR 600.000, all expenses included and paid upfront.*

*Best,*

*Dion Steenbergen  
TH&C Events*

On April 20<sup>th</sup>, the sold-out festival goes smoothly and without any issues. When the second act finishes just before 22:00, all 30.000 visitors are eagerly awaiting the main and final act: DJ Draak. The organisation notices that DJ Draak and his entourage are nowhere to be seen. They soon realize he is still in his trailer. The trailer is locked, and DJ Draak claims he is still preparing for his performance and will come out when he is ready.

When the trailer is opened at 22:45, DJ Draak and his entourage are visibly stoned and still smoking marijuana. Furthermore, there are leftover fries and chicken on the floor. DJ Draak is vomiting and barely able to communicate. It is not until 23:30 that DJ Draak finally arrives on stage.

The remaining visitors – some have already left during the 1,5 hours of waiting – are not pleased when it immediately becomes clear that DJ Draak is unable to give a proper performance. During his set, the songs he plays are only barely recognizable as Draak's hits. By 00:00, DJ Draak is booed off stage by a disappointed and angry audience.

In the days following the festival, the media widely reports on the dreadful performance by DJ Draak. Many visitors speak out and claim they want their money back. Fairly quickly, Stichting Draak Claim is formed, with 10.000 of the visitors behind it claiming a

refund. TH&C Events has openly voiced its own disappointment in DJ Draak, and agrees to pay Stichting Draak Claim a total of EUR 50,- for every one of those 10.000 visitors, a total of EUR 500.000.

## II. CLAIM

TH&C Events wants DJ Draak to pay back this EUR 500.000. DJ Draak refuses to do so. He argues that on the evening of April 20th he got sick after 'eating some bad sushi' (although in fact he ate fries and chicken). Moreover, he claims that he has all the artistic freedom to perform as he wishes. Lastly, he states that marijuana is his main form of inspiration before performances.

TH&C Events sues DJ Draak for civil liability. TH&C Events wants a declaratory judgment of DJ Draak's liability for the damages it incurred.

