

TV rights, Sponsoring, Ambush marketing at Olympic Games



TV rights

- IOC is the owner of Olympic broadcast rights (including TV, radio, mobiles, internet) – Olympic Charter, Art. 7 par. 2
- IOC created TV Rights and New Media Commission (chaired by IOC president Jacques Rogge)
- IOC also created Olympic Broadcasting Service (OBS - 2001) – in order to serve the Host Broadcaster organization (OBS ensures all IOC's contractual obligations)
- The IOC's broadcast policy is fundamentally based on the Olympic Charter
- Host broadcaster creates unbiased TV and radio signal – so called “International signal”



IOC fundamental broadcast policy

- IOC Marketing Fact File 2010
“Broadcast rights to the Olympic Games are sold principally to broadcasters that can guarantee the broadest coverage throughout their respective territories.”
- The fundamental IOC broadcast policy is to ensure maximum presentation of the Olympic Games to the world:
- Rule 48, Olympic Charter
“The IOC takes all necessary steps in order to ensure the fullest coverage by the different media and the widest possible audience in the world for the Olympic Games.”



TV Rights in Beijing 2008

- **First truly digital Games:**
 - OBS delivered over 5000 hours of HD broadcast
 - Unprecedented amount of footage available
 - 61.700 hours of TV broadcast in 220 territories
 - TV audience – 4.3 billion
 - Opening Ceremony – biggest broadcast event in TV history
 - Athens 2004 (40% less), Sydney 2000 (50% less)
- **Due to IOC's broadcasting regulations and restrictions** caused by different reasons such as culture, national laws, etc.
 - only netizens (an active participant in the online community of the Internet) in China mainland and Macau can access videos related to Beijing 2008 Olympic Games via CCTV.com
- **Regulations on Olympic broadcasting**
banned all media from live reporting from
Tiananmen Square and Forbidden City



Regulation of TV rights in Europe

- Directive “Television without frontiers” 89/552/EEC – 97/36/EC – 2007/65/EC – 2010/13/EU (Audiovisual Media Services Directive)
 - Intellectual Property related laws
 - Copyright and related rights
- These rights have to be implemented by the member states:
 - Greece: Presidential Decree 109/2010
 - Germany: German Broadcasting Act Art. 5a RStV
 - UK: Cable and Broadcasting Act
Ofcom Broadcasting Code



TV rights - Sochi 2014 and Rio 2016

- Europe – Sportfive TV (40 Euro countries)

EU Parliament, EU Council: “Member States may establish a list of events of major importance for society which must be broadcasted in Free-TV”

- China – CCTV (TV, internet, mobile)

- Covers also:

- SYOG in NANJING ‘14,
- WYOG in Lillehammer ‘16

- Central Asia – Dentsu Inc.
- Australia – “Ten Network TV” only signed Sochi 2014
- Canada – CBC sublicensed to TVA Sport
- USA – ESPN / ABC
- S. America – America Movil
(except Brazil)



SPONSORSHIP

- ... is an investment in cash or kind in an activity in return for access to the exploitable commercial and marketing potential associated with that activity
- “TOP” = The Olympic Partner Programme
 - Has a Role of regulations for sponsors
 - Long term corporate partnership established by “TOP”
 - Provides Worldwide Olympic partners with exclusive global marketing rights
- 4 levels of partnership
 1. Worldwide “TOP partners”/sponsors
 2. Olympic Partners
 3. Olympic supporters/sponsors
 4. Olympic providers and suppliers



Beijing 2008 sponsorship

- Domestic sponsorship programme
- Also big demand of foreign companies
 - Reach a growing market
- Big impact for international companies
- Biggest Chinese sponsors:
 - Bank of China
 - CChina net com, Sinopec, CNPC, China Mobile, Air China, PICC, CNPC – Olympic Games Partners
- Three beer official suppliers (2 Chinese)



Sochi 2014

- **The Sochi 2014 Marketing programme**
 - General partners – up to 10 companies
 - Official partners – up to 10 companies
 - Official suppliers – up to 15 companies
- **General partners – right to use intellectual property, participate in Olympic projects**
- **Telecommunication partner category – worth 260mil USD – largest domestic sponsorship agreement in the history**
- **Olympic Relay Torch – access to 90% of Russian population**



RIO 2016

- Rio looks for 1.2 billion USD from private sector in order to save public economic sources for underdeveloped areas
- New model of partnership – long-term contracts beyond the period of the Games
- Brazil also uses mostly strong local companies
- IOC to replace Acer – new PC partner
- Rio still looking for a “beer” sponsor
- IOC wants a Chinese company as a “TOP” sponsor – for Rio 2016



Ambush marketing

- - A.k.a. “parasite marketing”
- Unauthorised association of a party with the marketing of particular event
- Gaining benefits without paying any license or sponsorship fees
- Non-sponsor uses creativity to reach a bigger audience for less money
 - How can we fight against a person who decides to paint a huge logo on his/her body and run across the pitch?
 - How can we prove that he/she is being paid or that it is an aimed marketing tactic?



Regulation of ambush marketing (RAM)

Beijing 2008 – smarter AM (no obvious infringements)

- The Regulations on the Protection of Olympic Symbols
 - Promulgated by Decree No.345 of the State Council of the People's Republic of China - formulated for the purposes of strengthening the protection of Olympic symbols, safeguarding the lawful rights and interests of the right holders of Olympic symbols and maintaining the dignity of Olympic movement
 - Article 1 of the Regulations on the Protection of Olympic Symbols
- Regulations on Management of Special Marks, Trademark Law, Anti-unfair competition law – the legal basis
- BOCOG (Beijing Organizing Committee)
 - Olympic legislation and publicity coordination mechanism
 - City Operation Plan



Regulation of ambush marketing (RAM)

- Certain London 2012 regulated by LOGPA 2006
(The London Olympic Games and Paralympics Games Act 2006)
- London had a set of protected Games' Marks (names, words, marks, logos, designs) – registered trade marks/designs
- Protected words by copyright: London, 2012, Team GB, Olympic, Paralympic and its variations
- Olympic Symbols Act 1995 – amended by LOGPA 2006
- LOGPA 2006 sections 19-22 - outlaw ambush marketing in and around Olympic Venues
- Host City Contract requires that all Olympic Venues are 'clean' and free from advertising of any kind
- Advertising and Street Trading Regulations 2009:
“The police have immediate powers to enter land or premises to prevent or stop unauthorised advertising”

London Olympic Association Right, LOGPA Art. 33 & schedule 4

- LIST A

Any 2 from List A used together:

-
- Games
 - Two Thousand and Twelve
 - 2012
 - Twenty twelve

- LIST B

1 from List A and at least one of List B:

-
- Gold
 - Silver
 - Bronze
 - London
 - Medals
 - Sponsor
 - Summer



Famous ambush marketing examples

- London 2012 – Durex campaign
- Usain – not every man wants to be the fastest in the world



Winter Olympic Games Vancouver 2010



RH
&C

RUIZ-HUERTA & CRESPO
ABOGADOS

FIFA World Cup South Africa 2010

- 36 female models hired by a brewery



London 2012 @ main train station



Atlanta 1996 - press conference after 100m



Bayern / Mario Gotze

2013 transfer press conference



Bayern/Kirchhoff transfer press conference

- Go Like Hell = Go to Hell ?!?!



1994 Winter Olympics

- **VISA v. American Express (AE)**
- **VISA – longstanding official sponsor of Olympic Games**
- **AE – You don't need a visa to travel to Norway**



RAM in the future

● Sochi 2014

- Criminalises the use of words or symbols that are similar to those which have been granted legislative protection (at London only enforcement policy, not law)

● Rio 2016

- Criminalises any improper connection with the Games including the use of similar terms, words and symbols to those with specific legislative protection
- Suspension of all advertising agreements around Games venues, strategic buildings and transport hubs for up to 180 days around event times



Similar protection is demanded elsewhere:

- For example by:
 - **2010 FIFA World Cup South Africa Special Measures Act**
 - **Glasgow Commonwealth Games Act 2008**
 - **Law Of the World Cup Brazil 2014**
 - Protection of trademarks, emblems, mascots and FIFA symbols
 - Areas of Special Commercial Restrictions
 - Restrictions to capture and broadcast of sounds and images
 - Civil Sanctions (specified unlawful actions)

Law of the World Cup Brazil 2014

- Chapter 8 provides specific Criminal provisions

- **ARTICLE 32:**

- To utilize trademarks, products or services, with the purpose of obtaining economic or marketing advantage, by means of direct or **indirect** association with Events or Official Symbols, without authorisation by FIFA or by person appointed by FIFA, inducing third parties to believing that such trademarks, products or services are approved, authorised or endorsed by FIFA:

- Penalty: detention 3-12 months, and/or fine

- **ARTICLE 33:**

- To expose trademarks, businesses, establishments, products, services or to practice promotional activity non authorised by FIFA or by person appointed by FIFA, attracting in any way the public attention in the Official Venues of Events, with the purpose of obtaining marketing or economic advantage:

- Penalty: detention 3-12 months, and/or fine



TAS/CAS v. Ambush Marketing

“...provides for the arbitral resolution of sports-related disputes...”

Art. S3 of CAS Code

- Therefore the jurisdiction of CAS might be possible
- It has to be supported by the temporary provisions or laws, such as Art. 36 of FIFA World Cup Law rendered by each organizing country of the Event which would give a jurisdiction over the matters of ambush marketing to the CAS and it would be limited by time range (year of the Event) and object of the matter (claims by the official sponsors of OG – counterparty automatically has to follow the CAS Ad-Hoc proceedings)

☐ **Effective way to fight AM by CAS:**

- Give power to CAS
- Creation of special Ad-Hoc anti-ambush division (immediate reaction)
- Shifting the burden of proof (like doping matters)
- Threatening fine imposed by CAS = official sponsoring contract



ADIDAS v. UNDER ARMOUR ANDY MURRAY

ADIDAS' Tweet: You can choose armour, or you can choose a weapon.
#ImpactTheGame



adidas tennis @adidastennis · 21h

You can choose armour, or you can choose a weapon. [#ImpactTheGame](#)



SUPER BOWL 2013

- **SAMSUNG:**

- <https://www.youtube.com/watch?v=wsdNgLJIQVo>

Further Ambush Marketing Attacks

- Some weird things have been happening at sporting events recently.
 - Why were a group of lovely ladies arrested at this year's World Cup for wearing orange dresses?
 - Why did hundreds of soccer fans have to strip to their underwear?
 - Is there a dark side to the fun stuff that companies hand out for free?
- We have been investigating the rise of the pseudo-sponsor, and the phenomenon known as "Ambush Marketing". Read on to discover some of it's finest moments....
- The expression ambush marketing was coined in the early nineties by American Express marketing guru, Jerry Welsh. His original perception was the idea of healthy competition in a climate of expensive and often ill-conceived sponsorships.

Further Ambush Marketing Attacks

- Today, ambush marketing most commonly occurs in association with major sports events, although potentially other types of events could be used as a venue. Sponsorship is big business, and one brand may pay millions of dollars to become the exclusive and official sponsor of an event. This exclusivity then creates a problem for the other brands, and they have to find ways to promote themselves in connection with the event, but without paying the sponsorship fee and without breaking any laws.
- For the 2008 Beijing Olympics the T.O.P. (The Olympic Partner) program of 12 sponsors paid a total of \$866 million for the privilege of exclusivity. These same companies also spent a further \$1.2 billion on supporting marketing activities. Yet for all this cash, recognition of these brands as the official sponsor was rated below 40% amongst consumers in a post games survey. The success of many of these campaigns means that ambush marketing has itself become a huge growth industry.

1.Kodak Vs Fuji

- According to Professor of marketing at Bath University, Mike Beverland, *“Ambush marketing really began with Kodak in the 1984 Olympics when they ran a series of campaigns suggesting they were the official sponsors when in fact they weren’t.”* They successfully managed to convince the consumer they were the official sponsor, when in fact it was Fuji Film.
- Kodak ambushed Fuji again in 1996. *‘As soon as Atlanta was awarded the rights for the 1996 summer games, Kodak bought 50 major poster sites in the city for the next four years, at an estimated \$28,000 per month,’* said Richard Busby, chief executive of Strategic Sponsorship, a leading UK consultancy.
- The local Olympic organizing committee had tried to negotiate a deal with the city’s poster companies to offer Olympic sponsors first right of refusal – but they were too late. So, the official sponsor Fuji, was again pipped at the post by Kodak.

2. Bavaria Beer Vs Budweiser

- One of the highlights of this year's World Cup in South Africa occurred during the match between Holland and Denmark. 36 female Dutch fans arrived wearing very cute little orange mini-dresses, which soon caught the attention of the world's media. Unfortunately, these ladies were evicted from the stadium and arrested by police, as it was claimed the dresses were provided by a Dutch brewery, called Bavaria Beer. FIFA officials intervened to stop the media coverage, in order to protect their official sponsor Budweiser.
- Peer Swinkels, from Bavaria Beer, said people *"should have the right to wear what they want. The Dutch people are a little crazy about orange and we wear it on public holidays and events like the World Cup,"* he said. *"This time we put no branding on the dress. And Fifa don't have a monopoly over orange."*

FIFA World Cup 2006

- Bavaria Beer are no stranger to controversy – or to sports fashion. Back in 2006, during the FIFA World Cup in Germany, marketers from Bavaria Beer arrived with around 120,000 pairs of bright orange lederhosen emblazoned with the Bavaria brand. FIFA officials issued orders for security people to strip the Dutch supporters of the offending articles, which meant hundreds of Dutch fans had to watch the game in their underwear. The world's media ran riot with the story, even suggesting FIFA's heavy-handed approach to protecting its official sponsor, Budweiser (again), infringed on human rights.
- Professor Simon Chadwick, who heads up the Center for the International Business of Sport at Coventry University explains: *“Clearly the ambush failed because they didn't get into the stadium. But in another sense it worked perfectly because suddenly everyone across the world was talking about it.”*

3. Coca-Cola Vs PepsiCo

- Coca-Cola spent a total of \$400 million on marketing in Beijing in 2008, including \$85 million to be an Olympic sponsor, yet up to 60% of consumers believed Pepsi was the official sponsor.
- PepsiCo's highly successful marketing campaign included an online competition, in which 160 million voters from mainland China ranked mug shots sent in by fans. The winning entries were printed on cans cheering on Team China. Pepsi also replaced its traditional blue cans in China with red ones "to show our respect to the year of China," says Harry Hui, Pepsi's marketing chief in China.

4. Li Ning Vs Adidas

- This has been called the greatest marketing ambush in sports history. Adidas, had spent nearly \$200 million to become the official sportswear brand at the Beijing Olympic Games in 2008 – only to be ambushed quite spectacularly by the Chinese sportswear brand Li Ning.
- The problem occurred when Li Ning, a former gymnast and founder of the sportswear company, was chosen to light the Olympic cauldron at the opening ceremony. Li Ning was China's most decorated Olympian and a national hero. He was the first Chinese gymnast to win a medal in the Olympics, winning three golds, two silvers, and a bronze in the 1984 Los Angeles Games.
- The media exposure effectively gave his company a free ten-minute advert across China and the world.
- Li Ning was shrewd enough to realize that his starring role would lead Chinese consumers to automatically believe he was wearing his own apparel – when in fact he was legitimately bedecked in Adidas' official Olympic clothing. To add to the confusion, Li Ning's corporate logo resembles the famous Nike 'swoosh', while the company slogan, 'Anything is Possible', is similar to the Adidas tag line 'Impossible is Nothing'.
- It worked – after the event Li Ning's Hong Kong-listed shares jumped 3.4%.

5. Visa Vs Amex

- One of the most deep-rooted and long-lasting rivalries in marketing occurred between Visa International and American Express. These two card companies had been at war ever since Amex lost the Olympic rights to Visa after the 1984 Los Angeles Olympic Games, and hostilities rumbled on into 1992 and the Barcelona Olympics. In the US, Visa's tag line was '*the Olympics don't take American Express*', with images of ticket windows being slammed shut in the faces of American Express card holders. American Express responded in style, pointing out in its own advertising campaigns that '*to visit Spain, you don't need a visa*'.
- This is perhaps one of the finest examples of successful ambush marketing. With no recourse to the law, proof of a violation of intellectual property rights being very hard to pin down in this instance, Visa was forced to accept the campaign as legitimate.

6. Nike Vs Everyone else ! !

- Probably the most outright and unapologetic (not to mention successful) brand to embrace ambush marketing is Nike. Nike has ambushed just about every sports shoe manufacturer you can think of...

- **Nike Vs Adidas**

During the lead up to the 2008 Beijing Summer Olympics, Nike made considerable use of the number 8, a symbol of luck and fortune in China and incorporated the design pattern on items of clothing and footwear.

- For the 2002 World Cup in South Korea and Japan, Nike spent \$18 million on it's ambush by funding bus-side screens to display the latest scores, and hosting a mysterious "Scorpion" tournament featuring some of the world's best footballers. A December 2001 study found that, from a list of 45 likely sponsors of the 2002 World Cup, 20% of those polled picked Nike.

6. Nike Vs Everyone else II !

- **Nike Vs Umbro**

The 1996 Uefa European Championship provided an example of ambush marketing that changed the face of sports sponsorship. English sportswear company Umbro had paid for the rights to be the official sponsor of the championships, only to find that Nike had purchased all the poster space and advertising sites in and around Wembley Park Underground Station, which was the main travel hub for England's national stadium, Wembley.

- **Nike Vs Reebok**

This time the 1996 Atlanta Olympics provided a huge platform for the sportswear company to show its marketing muscle, and it wasn't about to let the fact that Reebok held the official Olympic sportswear sponsorship get in the way of that.

6. Nike Vs Everyone else III !

Nike's ambush of the 1996 Atlanta Olympics demonstrated just how effective ambush marketing can be. By saving the \$50 million that an official sponsorship would have cost, Nike plastered the city in billboards, handed out "swoosh" banners to wave at the competitions and erected an enormous Nike center overlooking the stadium. When television audiences were asked to recall the names of official sponsors, 22% cited Nike, compared to only 16% who cited the official sponsors, Reebok.

- During the Barcelona Olympics in 1992, Nike held a sponsors press conferences with the US basketball team despite Reebok being the official sponsor. One of the most audacious ambush marketing feats occurred when both Michael Jordan and Charles Barkley, accepted the gold medal for basketball and covered up the Reebok logos on their kit. Both athletes were individually sponsored by Nike.

6. Nike Vs Everyone else IV !

- Nike vs. Converse

Converse was the official sponsor of the 1984 Olympic Games held in Los Angeles, yet Nike built large scale murals near the Los Angeles Coliseum, which displayed the Nike Logo and several of the athletes competing in the games wearing Nike attire.

THE AXE EFFECT

<https://www.youtube.com/watch?v=pzSGPCgv0U8>

THE AXE EFFECT II

<https://www.youtube.com/watch?v=KBV69DTmX2M>

THANK YOU



Ruiz-Huerta & Crespo, SPORTS LAWYERS