

Sport Management & the Business of Football

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**PROTECTING SPONSORS AT THE
LONDON 2012 OLYMPICS**

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Sponsoring the London 2012 Olympics	3
The importance of sponsorship at Olympic Events	3
The need to maintain sponsorship value	4
Ambush Marketing.....	5
Differing perspectives	5
Ambushing the Olympics.....	6
IOC Action Against Ambushing.....	7
Public awareness campaigns	7
Host city compliance	8
The London Olympic & Paralympic Games Act 2006.....	10
Unique protection.....	10
An unfair advantage	12
Protecting Sponsors at London 2012.....	13
Learning from experience	13
Athletes	13
Billboards.....	14
Broadcasting	14
The last line of defence	15
Conclusion	16
Bibliography	18

SPONSORING THE LONDON 2012 OLYMPICS

In 2012, London hosts one of sports mega-events, the Olympic and Paralympic Games. With a projected cost of over £9.3billion¹, the London Olympics will become one of the most expensive sporting events in history. Only the Olympic Games in Beijing 2008 with a reported outlay of £25billion², and the Games in Athens 2004 at an estimated £10billion³ will have cost more.

The importance of sponsorship at Olympic Events

When considering the figures involved in staging the Olympics, the importance of securing a large proportion of the funding through sponsorship is clear. However, it was not until the 1984 Los Angeles Games that the International Olympic Committee (“the IOC”) came to realise the true potential of strategic sponsorship. Rather than allowing ever increasing numbers of sponsors, a limited number of sponsors would be willing to pay more for the privilege of being the event’s exclusive sponsor in its industry sector⁴. The 1984 Los Angeles Games were a financial success, in part because of this new approach to sponsors. It helped the IOC to overcome the stigma of debt-ridden events such as the 1976 Montreal Games⁵.

Companies may align themselves with the London 2012 Games in one of two ways. The first option is open to multi-national corporations seeking exclusive global marketing rights through the IOC’s Olympic Partner Programme (“TOP”). The IOC is predicted to make £2.7billion from the sale of London 2012 broadcasting and sponsorship rights⁶, of which

¹ Oral statement by Tessa Jowell on costs and funding for the 2012 Olympic & Paralympic Games, 15 March 2007, http://www.culture.gov.uk/reference_library/minister_speeches/2069.aspx

² Beijing Olympics Made \$ 16 Million Profit?, <http://www.chinasportsreview.com/2009/03/07/beijing-olympics-made-16-million-profit/>

³ Cost of Athens Olympics Far Exceeds Estimates, http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2004/11/19/feature-01

⁴ ‘Olympic marketing: historical overview’, Josep Maria Puig, *Centre d’Estudis Olímpics*, 2006

⁵ 1984 Summer Olympics, http://en.wikipedia.org/wiki/1984_Summer_Olympics

⁶ London Olympics to top Beijing’s revenue, <http://www.sportbusiness.com/news/167702/london-olympics-to-top-beijing-s-revenue>

TOP sponsors are likely to contribute 40%. The other option is through agreements with the London Organising Committee of the Olympic Games (“LOCOG”). This is a lucrative means of income for LOCOG, which is reported to have obtained £500million in sponsorship deals to date⁷.

The need to maintain sponsorship value

Although there has been a massive increase in sponsorship revenue over the past 20 years (TOP sponsors paid \$95million in 1988, rising to \$866million in 2008⁸), this has to be considered in the context of the growing costs of hosting the event over the same period (with estimates that Seoul 1988 cost \$4billion, to Beijing 2008’s \$40billion⁹). Whilst modern Olympic Games can be profitable, this would not be feasible without the increasing sponsorship revenues. As such, the IOC is understandably anxious to protect what has become a valuable asset.

Unlike any other large-scale sporting event, the Olympic Games operate a ‘clean venue’ policy. This means that the Games, when broadcast around the world, will show events taking place in venues that are free of any advertising. Consequently, sponsors of the Olympic Games will not receive television exposure in the same way as sponsors of the football World Cup, who benefit from advertising hoardings inside the stadia. The purpose of the ‘clean venue’ is “*to keep the focus on the sport*”¹⁰, but it increases pressure on the IOC to ensure that its sponsors can get maximum value for their investment. In particular, it means that the IOC must deal with the threat of ambush marketing.

⁷ London 2012 organisers dealt £20 million blow after losing major sponsor, <http://www.telegraph.co.uk/sport/othersports/olympics/london2012/5797450/London-2012-organisers-dealt-20-million-blow-after-losing-major-sponsor.html>

⁸ ‘Olympic marketing: historical overview’, Josep Maria Puig, *Centre d’Estudis Olímpics*, 2006

⁹ A Look at Olympic Costs, *International Journal of Olympic History*, Vol 1, Number 2, Spring, 1993, and Beijing Olympics Made \$ 16 Million Profit?, <http://www.chinasportsreview.com/2009/03/07/beijing-olympics-made-16-million-profit/>

¹⁰ Playing your cards right, 29/12/09, <http://news.bbc.co.uk/sport1/hi/olympics2000/921068.stm>

AMBUSH MARKETING

Ambush marketing is a highly contentious topic, and a difficult term to define without bias. Even the terms with which such marketing is associated – ‘ambush’, ‘guerrilla’, ‘parasitic’, ‘coattail’ – give the concept a negative undertone from the outset. For the purposes of this essay, ambush marketing can be neutrally defined as the marketing activity of a brand that suggests an association with a sports event (within legal boundaries), when the brand does not have official sponsor status.

Differing perspectives

To some, ambush marketing is unethical to the point of theft – *“What impacts on sponsorship is when you don’t get value. That happens when ambush marketing is allowed to occur. Let’s get this straight. Ambush marketing is not clever marketing. It is stealing, it is thievery. Michael Payne [Marketing Director] of the IOC got it right when he called it ‘parasite marketing’. You know what parasite means. It is when one organism lives off another with no benefit to the host.”*¹¹ These were the comments of Norman Mandel, Marketing Counsel at The Coca-Cola Company. As Coca-Cola is a regular sponsor of the Olympics and other major sporting events, it is unsurprising that Mandel’s stance is so strongly opposed to the practice of ambush marketing.

A common champion or villain of ambush marketing (depending on your point of view) is sports brand, Nike. Their brand manager, Simon Pestridge, offers a different perspective – *“We play inside the rules and we bring a different point of view that’s true and authentic to sport.”*¹² Nike has been behind some of the most successful and high profile ambush marketing strategies in recent years, and even if you disagree with the ethics, there is no doubting the creativity and ingenuity behind their campaigns, and those of fellow ambushers.

¹¹ Simon Gardiner et al, *Sports Law Third Edition* (Cavendish Publishing 2006), pg459

¹² Ambush marketing has a valid place in today’s marketing environment? <http://www.onside.ie/193.html>

Ambushing the Olympics

Here are some examples of the ways in which non-sponsor brands have created an association with past Olympics¹³:

- 1984 Los Angeles – Fujifilm was the Olympics’ official sponsor, but Kodak sponsored the television broadcasts, leading to confusion as to who was sponsoring the event;
- 1988 Seoul – in a role reversal of the 1984 Games, Kodak was the official sponsor, but Fujifilm ambushed the event by sponsoring the broadcasts;
- 1992 Barcelona – Nike were sponsors of one of the world’s biggest sporting stars, Michael Jordon, and took full advantage of this alliance by sponsoring press conferences with the victorious gold medal-winning USA basketball team, despite Team USA’s official Olympic sponsor being rival brand Reebok;
- 1996 Atlanta – official Olympic sponsors, Reebok, were again ‘victims’ of the actions of a Nike ambush, when Nike advertising dominated the billboards around the Olympic city in one of the most blatant ambushing campaigns ever seen. In a further blow to Reebok, Linford Christie gave his own sponsors, Puma, huge publicity by wearing contact lenses embossed with their logo at a pre-100 metre final press conference;
- 2000 Sydney – the Games’ slogan, ‘Share the Spirit’, was confusingly similar to the slogan used by Qantas Airlines, ‘Spirit of Australia’, much to the annoyance of official sponsor, Ansett Air;
- 2008 Beijing – Adidas were the official sponsors of the Games, where the symbolic torch-lighting during the Opening Ceremony was carried out by Chinese athlete, Li Ning, whose ‘Li Ning’ sports brand is one of the biggest rivals to Adidas in China.

¹³ Ambush marketing steals the show, http://www.brandchannel.com/features_effect.asp?pf_id=98

IOC ACTION AGAINST AMBUSHING

The IOC's Olympic Marks and Imagery Usage Handbook defines ambush marketing as “*a planned attempt by a third party to associate itself directly or indirectly with the Olympic Games to gain the recognition and benefits associated with being an Olympic Partner*”. It is something that the IOC rightly takes seriously given the need to maintain value through exclusivity in exchange for the multi-million pound sponsorship investments. It has responded to the threat in a number of ways.

Public awareness campaigns

Dalton Odendaal, senior manager of sponsorship for London 2012 explained, “*We want to get across that ambush marketing is harming the event and the public, the taxpayer, if the money to run the games cannot be run from the sponsorship deals... Between now and 2012 we will be endeavouring to impress the public that ambush marketing is bad. I think it will come down to how effective we are in our education programme and educating the consumer*¹⁴”.

During the 2006 Turin Winter Olympics, an ‘anti-ambush kit’ was launched by the IOC¹⁵. This was part of a new campaign by the IOC to raise awareness of the contribution of Olympic sponsors, and the negative impact of ambush marketing. The kit was distributed to National Olympic Committees (“NOC”) for implementation nationally prior to the 2006 event, and also for the Beijing Games in 2008¹⁶.

¹⁴ London 2012 on 'ambush' alert, 29/12/09, <http://news.bbc.co.uk/1/hi/business/7364391.stm>

¹⁵ IOC Marketing Report Torino 2006

¹⁶ IOC Marketing Report Beijing 2008

Key results of the Turin 2006 anti-ambush campaign were reported to include exposure of up to 73% of the population in certain countries, unprecedented interest in the media of ambush-related matters, and growing interest in the NOC community for brand protection matters¹⁷.

The underlying purpose of the campaign was to try and put moral pressure on non-sponsors, in order to shame them out of making ambushing attempts. ‘Naming and shaming’ can be an effective deterrent if the public perception is that ambush marketing is damaging and unethical. One of the major problems with restricting ambush marketing is that brands act within the boundaries of the law, so legal action is rarely an option. In any event, the publicity of a court case risks giving positive exposure to the non-sponsor.

Host city compliance

In addition to NOC obligations to raise awareness of ambush marketing, the IOC has also put pressure on host cities to deal with the threat. In order to host an Olympic event, the host city is required to meet the demands of the IOC’s host city contract, which includes measures to control ambush marketing.

The Olympic Charter states¹⁸:

“Bye-law to Rules 7-14, 1. Legal Protection:

1.1 The IOC may take all appropriate steps to obtain the legal protection for itself, on both a national and international basis, of the rights over the Olympic Games and over any Olympic property.

1.2 Each NOC is responsible to the IOC for the observance, in its country... It shall take steps to prohibit any use of any Olympic properties which would be contrary to

¹⁷ IOC Marketing Report Torino 2006

¹⁸ IOC Olympic Charter as in force from 7 July 2007, 29/12/09,
http://www.olympic.org/Documents/Reports/EN/en_report_122.pdf

such Rules or their Bye-laws. It shall also endeavour to obtain, for the benefit of the IOC, protection of the Olympic properties of the IOC.”

During the bidding process for the 2012 Games, the Queen’s Speech promised new legislation in line with the Olympic Charter:

“If London is selected to host the 2012 Olympic Games, legislation will be introduced as soon as possible to establish the necessary powers to ensure the delivery of the Games, and that the requirements of the International Olympic Committee are met”¹⁹.

¹⁹ Olympics Bill Announced In Queen's Speech,
http://www.culture.gov.uk/reference_library/media_releases/3029.aspx

THE LONDON OLYMPIC GAMES AND PARALYMPIC GAMES ACT 2006

London was awarded the 2012 Olympic Games on 6 July 2005, and less than two weeks later, the London Olympics Bill was given First Reading. According to the Department for Culture, Media and Sport, immediate legislation was needed “*to create a public sector body that can facilitate the staging of the Games*”, and also to “*meet the commitments given in London's bid about how the Games, and the Olympic environment, will be managed – particularly in relation to advertising and marketing*”²⁰. It was further noted that the Government would introduce legislation necessary to prevent ambush marketing and to control advertising and air space during the period of the Games.

Unique protection

It was on the back of these pledges that the London Olympic Games and Paralympic Games Act 2006 (“the Act”) came into force. The Act provides special statutory marketing rights that go far beyond the protection afforded by pre-existing legislation and common law rules relating to intellectual property. Whereas most brands must seek to protect their intellectual property rights through the limited auspices of registered trademarks, design rights, or copyright and passing off claims, the Act gives unprecedented powers to LOCOG to prevent ambush marketing at the 2012 Games.

The Act, at Schedule 4 ‘London Olympics Association Right’ states²¹,

“1 (1) There shall be a right, to be known as the London Olympics association right, which shall confer exclusive rights in relation to the use of any representation (of any

²⁰ The London Olympics Bill, Bill 45 of 2005-06, Research Paper 05/55, <http://www.parliament.uk/commons/lib/research/rp2005/rp05-055.pdf>

²¹ London Olympic Games and Paralympic Games Act 2006, http://www.opsi.gov.uk/Acts/acts2006/plain/ukpga_20060012_en

kind) in a manner likely to suggest to the public that there is an association between the London Olympics and—

(a) goods or services, or

(b) a person who provides goods or services.

3 (1) For the purpose of considering whether a person has infringed the London Olympics association right a court may, in particular, take account of his use of a combination of expressions....”

It is the breadth of the expressions referred to at section 3(1) of Schedule 4 that gives most cause for concern. The legislation acts so as to restrict use of any two expressions from list A, or any expression from list A with one or more word from list B, in a context that could suggest an association with the London Olympics:

List A	List B	
(a) “games”	(a) gold	(e) medals
(b) “Two Thousand and Twelve”	(b) silver	(f) sponsor
(c) “2012”	(c) bronze	(g) summer
(d) “twenty twelve”	(d) London	

Furthermore, the lists are not exhaustive, but only an indication of expressions that the Court would take into particular account when considering whether there has been any breach of the legislation. Other expressions that create the same sort of representation would also be prohibited. Therefore, prior to 31 December 2012 (the date on which Schedule 4 ceases to have effect), any use of phrases such as “London Games”, “Golden Games”, “Golden Summer 2012”, or “London 2012” in a sporting or commercial context could well fall foul of

the legislation. Breaching the Act can result in a criminal conviction and a fine of up to £20,000 for lesser breaches, or unlimited fines for more serious infringements. The enforcement provisions under the legislation are extensive, allowing raids on premises where it is reasonably believed that infringement of the advertising regulations of the Act is taking place²².

An unfair advantage

Given that other sporting events are not afforded the same special treatment, it could be said that the IOC is obtaining an unfair advantage. The Act has been criticised by Marina Palomba, legal director of the Institute of Practitioners in Advertising, who says that the legislation may be going too far:

“Sponsors need protection but it is a question of balance...We are concerned about an overreaction to the problem and, of course, the bill favours the multinational companies with deep pockets.”²³

“Blatant ambush marketing has to be prevented but there are already laws in existence to prevent that. This is new legislation which gives the event holder unparalleled power. Why should the IOC have the monopoly on the terms London, 2012, summer, gold, silver and bronze?”²⁴

There is also a counter-argument to the assumption that sponsorship value needs to be protected in the first place. It can be argued that the ‘protection’ actually pushes up the price of sponsorship. That is not an issue that the powerful and political IOC is likely to raise, given its vested interest in maintaining a high sponsorship price.

²² Section 21 of the Act deals with ‘Offences’ and section 22 of the Act deals with ‘Enforcement’

²³ ‘Olympics Bill to blitz ‘ambush advertising’’, *Daily Telegraph*, 9 July 2005

²⁴ Olympics bill comes under attack, http://news.bbc.co.uk/sport1/hi/other_sports/olympics_2012/4744983.stm

PROTECTING SPONSORS AT LONDON 2012

Whilst the Act should ensure that blatant attempts at ambush marketing are discouraged and restricted, it would not have been able to prevent any of the Olympic ambushes referred to earlier above. Therefore, it is interesting to consider what additional steps the IOC and LOCOG have taken to protect against similar actions.

Learning from experience

a) Athletes

Athletes are a difficult group to manage, particularly because high-profile stars may be under instructions to promote their own sponsor where the opportunity arises. Puma secured a priceless marketing coup following the 100 metre final in Beijing 2008, when Usain Bolt held up his winning gold Puma spikes in an iconic image that was seen around the world²⁵.

Olympic athletes are therefore required to enter into Team Member Agreements (“TMA”) prior to the Games, as a condition of selection and participation at the event. A TMA incorporates elements of the Olympic Charter, and sets down rules about the athlete’s behaviour, including respect for official sponsors, such as:

“Athletes may not wear, have tattooed, branded, painted, shaved, cut, pierced, applied or affixed to, into or onto their body (including...spectacles or contact lenses [as with the Linford Christie example]) any name, logo or design of any commercial or political entity.

“The BOA will consent to competitors allowing their image to be used for advertising only if the advertiser is an Official Olympic Partner [which would restrict the Michael Jordan and Nike example].

²⁵ Usain Bolt: Olympic Champion Gives Puma the Ultimate Golden Moment, <http://shoeminx.com/usain-bolt-olympic-champion-gives-puma-the-ultimate-golden-moment/>

“Athletes agree to assist and co-operate with the BOA, LOCOG and the Olympic Partners and comply with all reasonable requests of the BOA in assisting the BOA/LOCOG and the Olympic Partners to enable the Olympic Partners to maximise the promotional benefits from their sponsorship...”²⁶”

b) Billboards

LOCOG have taken heed of the 1996 Nike ambush, and have already taken an option on 99% of advertising space around the Olympic venues. Official sponsors will have the right of first refusal in respect of this, and Mr Odendaal (senior manager of sponsorship for London 2012) believes that the sponsors will make the most of this in order to ensure that competitors do not have easy marketing accessibility to those attending the events²⁷.

c) Broadcasting

The potential issue of official sponsors’ competitors being able to sponsor television broadcasts of the Olympic Games (as with Fujifilm and Kodak in 1984 and 1988) is usually dealt with in the event’s contract with the broadcasting company. Restrictions will be in place to ensure that competitors will not be permitted to sponsor the screening of the event. The additional risk of non-sponsors seeking an association through advertising during breaks in the broadcast will be dealt with in a similar way to the billboard advertising referred to above. Options will be taken over advertising slots, which official sponsors can then choose to purchase.

²⁶ BOA Team GB Advertising and Media Guidelines, <http://www.olympics.org.uk/documents/Olympians%20Advertising%20&%20Media%20Guidelines%2014.3.07.pdf>

²⁷ London 2012 on 'ambush' alert, 29/12/09, <http://news.bbc.co.uk/1/hi/business/7364391.stm>

d) The last line of defence

In order to ‘police’ the outdoor advertising around the event that may result in breaches of the Act, it is expected that LOCOG will engage a Brand Protection Task Force, comprising police, trading standards officials, Customs and Excise officers, and LOCOG’s own experienced staff²⁸.

Terms and conditions of tickets will provide further restriction on what visitors can wear, eat and drink at Olympic venues. With wording that epitomises the extremes of sponsorship protection, Mr Odendaal speaks of the last line of defence – the team of sponsorship watchdogs who will monitor what is taken into the London 2012 venues by the public: “*We will have people circulating in the stadiums to make sure people are not taking in the wrong soft drinks, when there is a sponsor in that category*”²⁹.

²⁸ The London Olympics Bill, Bill 45 of 2005-06, Research Paper 05/55,
<http://www.parliament.uk/commons/lib/research/rp2005/rp05-055.pdf>

²⁹ London 2012 on ‘ambush’ alert, 29/12/09, <http://news.bbc.co.uk/1/hi/business/7364391.stm>

CONCLUSION

A Canadian journalist, Maurice Cardinal, writing ahead of the 2010 Vancouver Winter Olympics, refers to ambush marketing as ‘leveraging Olympic momentum’³⁰. It is a valid turn of phrase. After all, you cannot realistically expect large non-sponsoring brands to stop marketing for the duration of the Olympics. The Olympics are meant to create a sense of pride and achievement, and a company would arguably be failing its investors if it did not try and capitalise on the mood of an inspired public simply because it was not an official sponsor of the event. The obligations of the company behind the brand are, first and foremost, to its shareholders. Similarly, the IOC has obligations towards its sponsors and wider stakeholders, both present and future. A responsibility therefore rests with the IOC to foresee ambush threats, and deal with them accordingly to ensure that the goodwill of the Olympic Games is not diminished.

Whilst it is certainly not the desired effect of ambush marketing, one of the side effects is that it forces rights holders (such as the IOC) and sponsors to better protect and utilise their assets. Sponsors should not be intimidated by the prospect of ambush marketing, as the ball is firmly in their court. Only official sponsors have access to the marketing rights and opportunities afforded by the sponsorship deals, so the focus should be on maximising their own brand’s potential – after all *that* is the opportunity for which they have paid so many millions of pounds in sponsorship. Ambush marketers can only take advantage when gaps are left for them to move into, and given the opportunity, they will do this with creativity and initiative. Conversely, if sponsors are proactive and inspired in the same way that so many of the leading ambush marketers have been in the past, the prospective ambush marketers would have to step back and admire their rivals’ efforts.

³⁰ Olympic Brand Ambush Marketing is...(A) a Mortal Sin (B) Good Business Sense (C) None of the Above
<http://www.vancouverobserver.com/politics/commentary/2009/11/29/olympic-brand-ambush-marketing-isa-mortal-sin-b-good-business-sense-c>

The IOC and LOCOG believe they have done as much as they can to protect the official sponsors from ambush marketing, learning from past experiences and pushing through unprecedented legislative rights. However, it will still not be enough. Inventive and resourceful marketing campaigns will no doubt be in evidence during London 2012, run by non-sponsors who will want to make the most of the feel-good factor of a successful mega-event, and who will relish the new challenge they face.

George Orwell once said that “*Sport is war minus the shooting*”. It is clear that this extends to the battle of the brands.

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