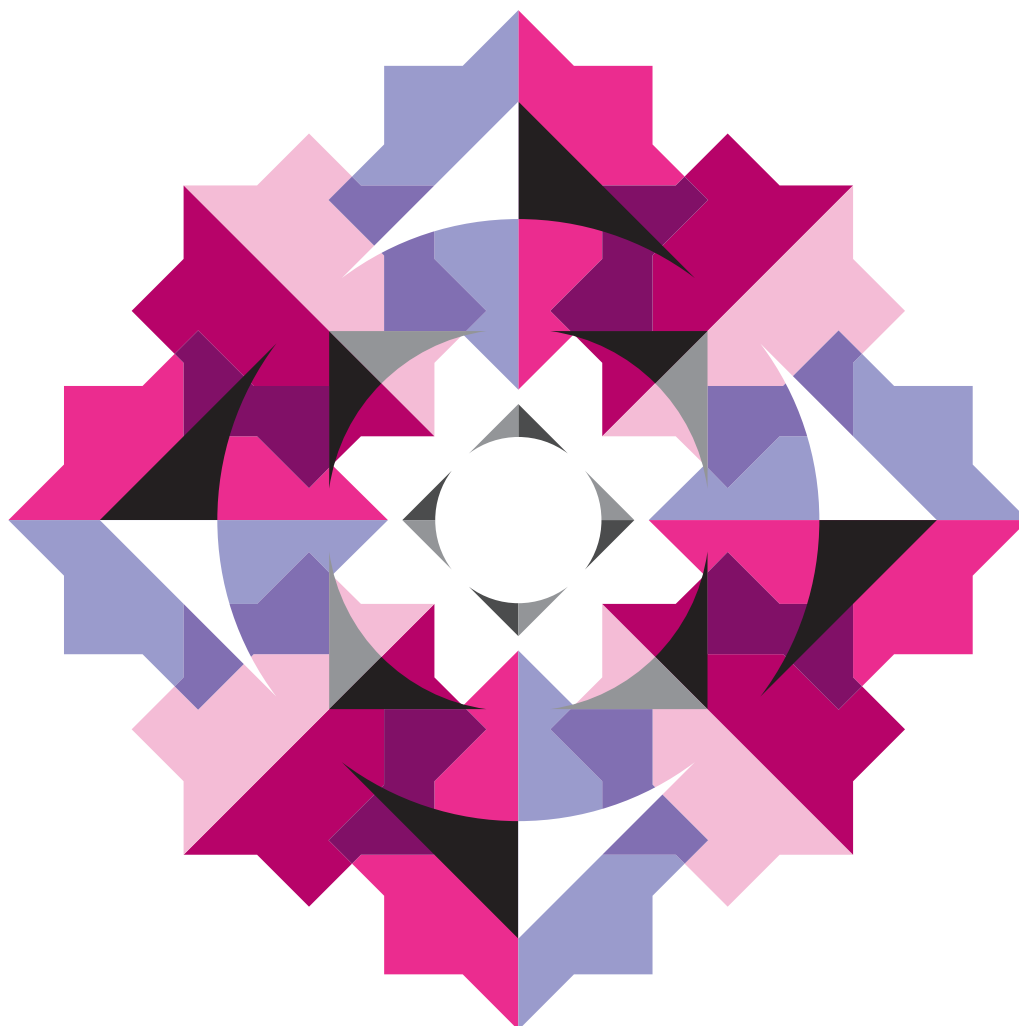


Sponsorship



► Inside

- How is the sponsorship market evolving?
- What are the key commercial issues?
- What is ambush marketing?
- Olympic alert
- The growth of naming rights



Introduction

Sponsorship is booming. As brandowners increasingly understand the power of well executed sponsorship not only are fees on an upward trajectory but also the opportunities. Those involved in this area need an understanding of the key contractual and intellectual property issues.

Key commercial issues

It is important for both sponsors and the owners of properties to conclude a comprehensive contract protecting their respective interests. A bad fit between sponsor and property carries a significant risk of devaluing the future commercial value of the property and of damaging the sponsor's brand. The negotiation of these contracts is critical both from a legal and commercial perspective in that it is often the moment when the operational blueprint is drawn up between the parties and the risk of potential future problems allocated. Many of the following points will need to be addressed:

Term: Not just how long, but also what happens at the end? Options, lock-out periods, matching rights, fee recalculation formulas. Also, what events could give rise to early termination?

Territory: Whilst sponsors generally require global rights, developments in technology such as virtual advertising now provide events owners with the opportunity to split packages by territory. With the appropriate technology the displays on billboards on event broadcasts can be altered to carry different branding in different territories.

Naming Rights: Is the sponsor's brand going to become part of the property's name such as "Barclays Premier League", or will it be 'sponsored by', 'partnered by', 'in association with', 'official supplier to.'

Fee: The key considerations are how much is to be paid, how are the payments to be staged, whether there is any payment in kind and whether payments may be adjustable against promotion/relegation or other evaluation criteria.

Advertising Opportunities: How and where will the brand be seen? Perimeter boards, big screens, flags, on pitch branding, programmes, tannoy, website, the list goes on... Can a property secure TV advertising surrounding the broadcast of an event, can it secure billboards outside the venue? For broadcast events a sponsor should ensure that branding is within the unimpaired view of the principal cameras.

Hospitality: This often forms a significant part of the package providing the sponsor with tickets and hospitality access for both staff and for promotional purposes. The number and

positioning of tickets, the choice of events for which tickets are available, the level of service of catering, parking facilities and specifications for boxes and lounges need to be considered. Tours of the grounds are often included.

Public Appearance: The sponsor may wish to use players in its advertising, to give post match interviews in the sponsor's lounge or have them present in-house motivational talks for their employees.

Merchandising: Will a sponsor wish to be able to distribute free premiums as part of its marketing campaign? How are these sourced and priced and do they compete with the property's own merchandising operations.

Content Creation: A sponsor may wish to create its own content, eg interview players for management training videos, or include footage of players in its advertising or on its website.

Data: A club's or a band's database of fans can provide a valuable mine of customer information. A sponsor will often want the right to be able to use that database to send direct marketing communications.

Presentation: Presentation rights may include the right to present the trophy and medals to winners, or to the man of the match, and possibly the right to feature the trophy or use it for marketing purposes in the future.

Exclusivity: A sponsor will generally require a 'clean venue'. Not only should the sponsor be the only partner within the relevant product category, consideration should also be given to an obligation on the property to use the sponsors product/services (eg car fleet, power supply, telecoms services) and a restriction incorporated preventing the use of those of competitors.

Intellectual Property Rights

A sponsorship agreement will generally result in both sides being able to use the other side's intellectual property and in particular their trade marks. This requires a cross licence of IP with strict controls over the other party's use of that IP to avoid any brand denigration. Both sides will want approval rights over the use of any materials featuring their IP.



In certain circumstances when a sponsor obtains the right to have its name actually form part of the event title, a new mark is created comprised partly of the sponsor's name and partly of the event itself. Think 'Barclay's Premier League'. This is a composite mark. Composite marks are commonly applied for jointly in the name of both parties and careful consideration needs to be given to the treatment of the mark following the expiry of the sponsorship contract.

What is Ambush marketing?

With businesses at times paying many millions to associate themselves with an event it is not surprising that their competitors engage in 'ambush marketing'. This is an attempt by an unauthorised party to take advantage of the high media profile of an event at the expense of another business's (usually a rival) official association with the event without paying any licence or sponsorship fees to the organisers.

Some examples of effective ambush marketing campaigns include:

Atlanta Olympics – Reebok and Linford Christie/Puma: The British sprinter Linford Christie attended a press conference wearing contact lenses that prominently displayed the Puma logo, thereby generating considerable media buzz for the brand, much to the chagrin of Olympic sponsor Reebok.

New York Marathon 1997 - Toyota and Mercedes Benz: Five aeroplanes appeared and wrote MERCEDES BENZ in the sky over New York during this Toyota sponsored event.

Los Angeles, Barcelona, Salt Lake City and Atlanta Olympics: Now more mainstream (and sometimes itself the victim of the ambush marketing campaigns of others), Nike was formerly adept at ambush marketing. Whilst it was not a sponsor of these Olympics it achieved notoriety through buying advertising space surrounding the stadia, painting murals, handing out Nike Swoosh flags free to attendees at Atlanta which were subsequently waved at the cameras during the events as well as building a Nike centre overlooking the Olympic stadium itself.

A property may have devised its own brand protection programme. This will involve notifying

potential ambush marketers that ambush marketing will not be tolerated, informing them of the relevant IP and regulatory protections and that a team of lawyers are on stand by to take immediate action. Stewards and trading standards should also be briefed to assist.

Olympics alert

There has been specific legislation in the UK for many years preventing third parties from using the Olympics name and rings for certain commercial purposes. However the UK's successful bid for the 2012 Olympics lead to this legislation being supplemented by the more draconian London Olympic Games and Paralympic Games Act 2006. With concerns that even a seemingly benign strap line such as "Come to London in 2012" could potentially give rise to liability brandowners and advertisers need to ensure that any commercial communications that reference the upcoming games, even obliquely, are given careful consideration.

Stadium naming rights

Stadium naming rights is a growth area as it can confer a depth of brand association that is the envy of other forms of sponsorship. The sums involved are far larger and the sponsor needs to be prepared to commit to the relationship for the long haul (Citigroup are reportedly paying €20M per year on a 20 year deal for the New York Mets 'Citi Fields' name). Whilst naming rights are an attractive proposition for new build stadiums, a sponsor needs to understand that not all properties would be appropriate as there is a risk of alienating supports with an established stadium. Arsenal may well have not attempted to change from 'Highbury' to 'The Emirates Stadium' if it had not moved grounds.

A sponsor tends to look for far more from such a deal; for example a car manufacturer may wish to incorporate a showroom into the stadium.

Our expertise

The Sports Law Group at Lewis Silkin has a deep knowledge of sponsorship issues having advised both rightsholders and leading brands in the

utilities, automotive, telecommunications, apparel and entertainment industries on some of the highest value sponsorship deals struck in the UK.

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