



# Ambush Marketing: A Global Legal Perspective





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## EXECUTIVE SUMMARY

'Ambush marketing': A controversial marketing practice involving unofficial association or intrusion that pits non-sponsors against event producers, official sponsors, and other rights holders. Even though ambush marketing campaigns are quite prevalent, most countries do not, in fact, have specific legislation designed to address the practise. Some countries have adopted more specific legislation to guard against ambush marketing where the event owners (such as the International Olympic Committee and FIFA) have pushed for the enactment of highly-restrictive event-based legislation in order for a locality to obtain the rights to produce the event – these include Brazil, Russia, and South Korea (when each hosted the Olympic Games), and Italy (which will host the Olympic Games in 2026). Without specific rules governing typical ambush marketing practises around the world, official sponsors, the so-called 'ambush marketers', and the owners of events themselves must look to traditional intellectual property and unfair competition laws to determine what each party can and cannot do.

One reason ambush marketing may not be specifically outlawed is that it is hard to define. Is the use of generic imagery of a sport or entertainment event by a non-sponsor an 'ambush' or even illegal? And should it be? Is a brand an 'ambusher' of the Olympic Games or the FIFA World Cup even though it sponsored several national teams or individual athletes? And what about new technology: is a filter or 'skin' within a social media app featuring advertising from a non-sponsor and which is triggered when the app user enters an event venue considered an ambush? These are critical questions that challenge the current legal frameworks around the world.

Ambush marketing is most often thought of in the context of sporting events, but it is certainly not limited to that field. Popular entertainment events and notable international events, such as the Academy Awards, the Grammys, 'fashion week' runway shows, and royal weddings, also generate a fair share of ambush marketing activity.

The practise of ambush marketing does not appear to be going away any time soon. As recent actions by the Australian and US Olympic Committees, the Danish Football Union,

the regulatory body of the Russian Federation, and the US' National Collegiate Athletic Association show, ambush marketing and the enforcement against it is still a hot button issue.

This guide, which updates GALA's 2014 edition, summarizes the laws, rules, and regulations governing ambush marketing in 68 countries. The guide addresses legal considerations, regulatory considerations, commercial considerations, and recent enforcement actions in the field of ambush marketing.

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The Global Advertising Lawyers Alliance (GALA) is the leading network of advertising lawyers in the world. With firms representing more than 90 countries, each member has the local expertise and experience in advertising, marketing and promotion law that will help your campaign achieve its objectives, and navigate the legal minefield successfully. GALA is a uniquely sensitive global resource whose members maintain frequent contact with each other to maximize the effectiveness of their collaborative efforts for their shared clients. GALA provides the premier worldwide resource to advertisers and agencies seeking solutions to problems involving the complex legal issues affecting today's marketplace.

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 GREECE 

### LEGAL CONSIDERATIONS

Greek legislation does not include any legal provisions prohibiting, or specifically dealing with ambush marketing, with the exception of the special legislation relating to the Olympic Games (Law no 2598/1998 as amended) which protects the following from any unauthorized use: the Olympic symbol (Olympic Rings), the terms “Olympic”, “Olympiad”, “Athens 2004”, “Olympic Games—Athens 2004”, “Olympic Games 2004”, “Olympic Games—Greece” and any relative terms as well as the emblems/trademarks of the Hellenic Olympic Committee.

In other cases of ambush marketing activity, the following legal tools may be invoked:

- The Greek Consumer Protection Law (which implemented EU Directive 2005/29 on unfair commercial practices) includes provisions about misleading advertising/misleading commercial practices which could relate to ambush marketing. For example, a false claim by a trader that a product has been approved or authorized by a public or private body it is deemed to be a misleading practice. Nevertheless, only consumers (ie not the official sponsor) are entitled to sue in case of such false claims.
- The affected official sponsor may bring a claim against an offender relying primarily on provisions of the Greek Law against Unfair Competition and, perhaps, those of the Trademark Law (if there is also a trademark infringement).
- Additionally, any breach of the contractual obligations by the event organizer will lead the official sponsor to raise a claim against him, based on that contractual breach.

### REGULATORY CONSIDERATIONS

At a self regulatory level, the Hellenic Code of Advertising & Communication Practice (which conforms to the ICC Code of Advertising & Marketing Communication Practice) prohibits ambushing of sponsored properties (Chapter B—Sponsorships, article B4).

### COMMERCIAL CONSIDERATIONS

The extent of exclusivity a contract guarantees to an official sponsor determines the extent of its protection against ambush marketing: the stricter the terms of an agreement with regards to the rights of an event organizer to offer areas or spaces within the event venue to third parties for their marketing purposes, the safer for an official sponsor.

More specifically, one can consider some of the following contractual provisions:

- Official sponsors should ensure that they are granted the exclusive use of all advertising spaces connected to the relevant events.
- Official sponsors should oblige the event organizers to contractually ensure that only the official sponsors can advertise or otherwise be related to broadcasts of the events, relevant press

conferences etc.

- On the tickets for the event it should be expressly provided that visitors cannot bring any items bearing logos of competitors into the stadiums.

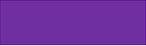
The most recent and characteristic examples one can point out relate to the Olympic Games of 2004 in Athens. Before entering into the stadiums, spectators were asked to remove the labels from bottles of water they were carrying that were not of the officially sponsored brand of water of the Games. Other visitors, who wore T-shirts or jackets bearing logos or brand names of competitors of the official sponsor, in particular of sportswear, were asked either to remove the clothes or wear them inside out, in order to cover the competitors' brand names.

### **RECENT ENFORCEMENTS**

In view of the fact that Greece has not recently hosted any major sporting/ cultural event, there are no recent court rulings in the field of ambush marketing.



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