

AN ECONOMIC ANALYSIS OF OLYMPIC GAMES EVENT-SPECIFIC LEGISLATION: DO THE OLYMPICS MERIT SPECIAL TREATMENT?

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Abstract

Commencing with the 2000 Summer Olympic Games, the International Olympic Committee (IOC) has made the passage of event-specific legislation a requirement for hosting the Games, for the purpose of protecting the value of its official sponsorship program from the impact of ambush marketing (Grady, McKelvey & Bernthal, 2009). Such legislation provides the IOC with additional protection for the commercial use of words, phrases and associative imagery that not only exceeds the scope of country's existing trademark laws, but also pre-existing Olympic Trademark Protection Acts passed in most nations (McKelvey & Grady, 2004).

Such event-specific legislation has arguably become increasingly restrictive. It seeks to make illegal a variety of activities that would otherwise be deemed legal under existing intellectual property laws. As a result, numerous marketing/advertising associations and civil rights organizations have decried and in some cases legally challenged such legislation as draconian (Marketing body, 2008). Some academics have begun to argue that event-specific legislation is not only unnecessary, but is an unwarranted intrusion on commercial and civil rights, given that the IOC has not demonstrated any viable financial or economic interest at stake (Grady, McKelvey & Bernthal, 2009).

This paper broadens the direction of the literature by moving beyond these, often more normative, legal and marketing approaches employed in the past, and instead uses a heuristic economics framework as the primary analytical tool. From an economics perspective, the potential justification for this type of legislation is rooted in the notion that non-sponsors have an incentive to "free ride" – they appropriate benefits (i.e. by portraying an official connection to the games, and thus deriving

increased revenues that come from such a connection), but pay none of the costs. Such free riding can reduce the overall sponsorship revenues of the Olympics, in that potential sponsors may be reluctant to pay for "official" status if non-sponsors cannot be excluded from appropriating the same benefits.

In economics terms, this is a form of market failure, in that there is a misallocation of societal resources; in essence, free riding prevents the Olympic Movement from fully appropriating the value of its own property. However, the difficulty with this free riding argument is that it is the basis for trademark (and more broadly, intellectual property) legislation in general, and doesn't explain why the Olympics deserve special treatment. This paper argues that either the free riding problem is more severe with the Olympics than with any other commercial enterprises, thus warranting the enactment of the supplementary special-events legislation, or, alternatively, there are other factors at work with the Olympics that go beyond the basic free riding argument.

It is this latter issue that is of particular focus in this paper. The authors argue that the IOC has considerable monopoly power in the awarding of the right to host the Games. There are no close substitutes for the Olympics and the bidding process is, by the very nature of the Olympics, an all-or-nothing proposition; either a country gets the Olympics or they do not – there is no middle-ground (Leeds & von Allmen, 2008). Since hosting the Olympics conveys many potential benefits to a country (e.g., economic, social, political), countries will attempt to outbid each other in an effort to secure the right to host the Games. Some of the more well-known aspects of this bidding process involve spending lavishly on lobbying IOC officials, committing to spend billions on the construction of venues, etc. However, this paper argues that part of this bidding process also involves countries offering the best protection to the IOC brand. Thus, promising to enact highly restrictive special-event legislation simply becomes another bidding mechanism to help the country secure the Games. In essence, if one country does not offer the IOC full trademark protection, another country will.

Thus, while many previous normative analyses in the literature have well-documented the negative impacts on the host country of event-specific legislation, our paper's more heuristic approach focuses on why host governments are so willing to adopt such legislation in the first place. It concludes that such legislation is the inevitable outcome of the IOC holding complete monopoly power over the awarding of the Games. The IOC is accorded special treatment because of their ability to provide an all-or-nothing good – countries do not want to "underbid", for fear of losing the games. Conversely, regular firms or industries within a country have no power to secure such special legislation, since they operate in a competitive environment and hence have no particular leverage over policymakers.

References:

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