Osborne Clarke is one of Europe's most respected law firms and a UK leader in advising marketers on the legal issues affecting them. The firm's Marketing Law.co.uk website has provided marketers with authoritative legal insights for over 10 years. Please send any queries regarding this column to Stephen Groom (stephen.groom@osborneclarke.com)

Legal and Regulatory Update

The best of the unofficial Olympic advertising

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Topic: Ambush marketing

Who: Paddy Power, Specsavers, Durex and others

Where: London

When: July/August 2012

Law stated as at: 9 August 2012

What happened

As at the time of writing, there's still a way to go before the Olympics 2012 Closing Ceremony — and of course all of the Paralympic Games still to come. However, we've already seen some strong contenders for gold medal status in a parallel global competition that's also caught the imagination of the media and the public — what you might call the 'World Ambush Marketing Finals 2012'...

Here's an initial review of some of the more interesting examples of non-sponsor activity we've seen around the Games:

Counting controversy

Paddy Power: With a track record of attention-grabbing stunts around major sporting events, it was no surprise to see Paddy Power making an early bid for ambush glory. The Irish bookmaker bagged strong media coverage with a cheeky London billboard campaign describing itself as 'official sponsor of the largest athletics event in London this year [...] (ahem, London France that is)'. They'd in fact sponsored an egg-and-spoon race in a small town called London in Burgundy.

Launched in the opening week of the Games, the campaign delivered high impact and clearly riled LOCOG, who were reported as having instructed JCDcaux to remove the ads. Paddy Power played their hand deftly — threatening to go to court for a declaration that the ads did not infringe the London Olympics Association Right — and LOCOG apparently backed down. Nine out of ten for audacity and creativity.

Nike: Somewhat ambushed by Paddy Power's lower budget campaign using the same essential theme, Nike's 'Find Your Greatness' campaign features non-Olympic athletes from various places around the world called London.

Reactive advertising

Specsavers: Very quick out of the blocks following the Olympic organizers' embarrassing Korean flags mix-up at Hampden Park, Specsavers issued a cute ad playing on its 'should have gone to Specsavers' slogan. The ad showed the two Korean flags followed by (allegedly) Korean script then breaking into English: 'ඉඳුඤ්ඡාලඤ්ඡ'

Specsavers (as they might say in North and South Korea'. A very smart piece of work — clever and topical without any real suggestion of an association between the optician and the London Olympics — this is a great illustration of the difference between alluding to an event and creating an association with it.

Condom wars

Kangaroos condoms: Aussie condom brand Kangaroos got themselves some good media coverage — but potentially a heap of trouble — after a bucket of their products turned up in the Olympic Village under a placard reading 'Kangaroos condoms, for the gland downunder'. Interesting attempt to piggyback on the media stories around the Olympic Village being a hotbed of sexual activity, but risky for any senior staff at the brand who may be in the UK at the moment if this is held to be unauthorized advertising activity within a restricted zone contrary to the 2011 Advertising and Trading Regulations.

Durex: OK, so this isn't really ambush as Durex are the official suppliers of condoms to the London Olympic Games (some 150,000 of them apparently, for 10,800 athletes...). And it loses marks for being photo-shopped rather than a real billboard, but we liked the Durex Performa ad doing the rounds on the internet featuring an Olympic rings of coloured condoms and the line 'Usain — not every man wants to be the fastest in the world'.

Oddbins: With a game effort at ambushing the anti-ambush laws, Oddbins announced that anyone wearing Nike trainers, with Vauxhall car keys, an RBS MasterCard, an iPhone, a bill from British Gas and a receipt for a Pepsi bought at KFC would be entitled to a 30 per cent discount.

Dr Dre 'Beats' headphones: Rapper and entrepreneur Dr Dre got good media coverage by sending his distinctive-looking Beats brand headphones to athletes immediately before the Games. A number of athletes tweeted about this, and many have been seen wearing and using the product.

Media confusion

Media hysteria over ambush marketing continues apace. One story we particularly enjoyed was the *Daily Mail's* report that 'Samsung are the latest electronics firm to attempt to ambush market the Olympics by handing out Union flags of differing sizes with the Korean company name on them at train and bus stations near Games venues including Eton Dorney'. Not really ambush is it though, given Samsung is a TOP-level IOC global sponsor...?

Why this matters

Impact of social media

A few interesting themes emerge from these different activities, but the biggest has got to be the impact of social media on ambush marketing. London 2012 was billed as the 'social media Olympics', and the likes of Twitter and Facebook have played a key role in some of the non-sponsor activity too. Just how much public attention would the phony Durex ad or the Kangaroos stunt have caught without the global distribution network of tweets, re-tweets and likes?