

Can Wagering Service Providers promote and market the Olympics in gambling advertising?

1. Promotional activities, marketing and the Olympics

With the 2024 Paris Olympics fast approaching and community excitement growing, businesses will look for opportunities to benefit from the profile and interest in the event. In preparation for this, it is essential that all businesses, including wagering service providers (**WSPs**) offering gambling products on Olympics events, are well-informed of the legal restrictions regarding promotional and marketing activities with a connection to the Olympic games.

The International Olympic Committee (IOC) and governments around the world, including in Australia, have taken a number of steps to protect intellectual property rights associated with the games and the Olympic properties (including the Olympic symbol, flag, motto and other designations). These are monitored and enforced globally and action is often taken where unauthorised use occurs.

2. WSPs must ensure their licence conditions permit accepting bets on the particular events

Firstly, it is important that all WSPs planning on opening markets and accepting bets on the Olympic games confirm that their licence conditions allow them to do so. While these are now largely uniform, there can be differences between jurisdictions. For example, while some jurisdictions sanction betting on any events at the Olympic games conducted under the auspices of the IOC, not all Olympic events are specifically approved in others (such as surfing in South Australia). We recommend checking licence conditions regarding “approved betting events” (or similar) to determine whether particular Olympic markets can be offered.

3. Olympic laws in Australia

As a general comment, the protection of intellectual property rights associated with the Olympics consists of a complex framework of domestic and international laws and guidelines.

In Australia, the Olympic insignia and certain Olympic phrases are protected under the *Olympic Insignia Protection Act 1987* (Cth) (**OIPA**) which makes provision for Olympic-related copyright, designs and trade marks. This protection means that the Australian Olympic Committee (**AOC**) has an effective monopoly over these protected insignia, symbols and phrases. The commercial use of certain Olympic insignia, symbols and phrases is prohibited, unless a licence is obtained from the AOC.

Olympic Insignia or Symbols

The OIPA prescribes that the AOC shall be taken to be the owner of logos and emblems and owns the copyright and design rights regarding Olympic symbols. This includes:

- Emblems (rings)
- Registered Mascot
- Torches (flame design)

Olympic Phrases

Similar to Olympic insignias and symbols, phrases such as “Olympic”, “Olympics”, “Olympic Games”, “Olympiad”, “Olympiads” or anything closely resembling these phrases are protected under the OIPA and must not be applied for “commercial purposes”, meaning that WSPs should avoid use in any form of advertising, promotion and commercial use.

4. What is considered commercial use of Olympic symbols and phrases?

Chapter 3 of the OIPA prohibits the commercial use of certain Olympic properties and expressions. “Commercial purposes” include the following conduct with a licence from the AOC:

- applying Olympic symbols and phrases to goods or services;
- applying Olympic symbols and phrases in advertisements or other commercial documents that promotes goods or services;
- applying Olympic symbols and phrases in advertising or promotional purposes to likely enhance the demand for goods or services; or
- applying any material that suggests affiliation as a sponsor for the Olympic Games

For a WSP, the use of an Olympic Symbol or Olympic Phrase in the marketing of goods and services for direct or indirect financial gain would likely be prohibited.

In addition, it is important that WSPs do not advertise any material that may suggest they are a sponsor or affiliated with Olympic Games, the AOC and the Australian Olympic team. Such a suggestion may also amount to misleading and deceptive conduct under the Australian Consumer Law.

5. Questions?

We recommend that WSPs and other related entities familiarise themselves with the legal framework regarding the promotion or marketing of the upcoming 2024 Paris Olympic games.

If you have any questions regarding copyright, commercial and/or promotional use of Olympic properties please contact the Senet team.