

Ambush Marketing and the 2018 FIFA World Cup

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Sports & Entertainment - Squire Patton Boggs

The 2018 FIFA World Cup has now kicked off in Russia after much anticipation. So far, it has not failed to entertain, ensuring a number of dramatic upsets and last minute goals that remind us why it is the [most watched](#) and highly anticipated competition in the world.

As such, one can see why it is tempting for brands to piggyback on the global attention and interest of the tournament, deploying marketing initiatives that take advantage of the hysteria surrounding the World Cup.

This is known as ambush marketing – where brands take advantage of the hype of certain events by creating a commercial connection or association with the event despite no official link. FIFA has defined [Ambush Marketing](#) as:

“any attempts by any entity or individual to gain an unauthorised commercial association with the Competition itself, or to exploit the goodwill and publicity generated by the FIFA World Cup.”

Indeed, in its [Media and Marketing Regulations](#) for the 2018 World Cup in Russia, FIFA asserts that, without its authorisation, no third party:

“may do anything which gives rise to any association between such third party and the competition... or directly or indirectly exploits the goodwill associated with the Competition.”

FIFA licenses its intellectual property rights for the World Cup to official sponsors who may demonstrate their genuine association with the competition. Ambush marketing devalues the commercial exclusivity and prestige of FIFA’s official marks, which are reserved for those who pay for it.

Vivo – the Chinese smartphone manufacturer – will pay up to [€400 million](#) to FIFA to sponsor its

tournaments up until 2022. As such, you can see why FIFA would want to protect these rights given their enormous commercial value and it aims to prevent this type of free advertising from prevailing during the World Cup in a number of ways.

Different types of ambush marketing

Ambush by association is a type of ambush marketing where a non-sponsor brand almost passes itself off as an official sponsor of the competition. This is a direct style of marketing and is usually performed by associating the brand with a country, team or player that is present at the World Cup.

In the 2014 World Cup in Brazil, 'Beats by Dre' held a number of advertising campaigns that referred to '[The Game Before The Game](#)', featuring prominent World Cup players wearing the headphones whilst conducting their pre-game rituals. Despite no official connection to the World Cup, this positioned 'Beats by Dre' at the heart of the event and saw the brand [experience](#) a growth of 130% in headphone sales and receive over 26 million views on YouTube for its adverts.

Ambush by intrusion is another form of ambush marketing, which involves a brand gaining exposure at the event itself. In the past, brands have been present on site through pop up stalls, handing freebies to spectators or placing large signs at the venue or in the surrounding areas.

At the 2010 World Cup, [Bavaria Beer](#) provided 36 tickets for the Holland v Denmark match to a group of women in matching orange branded outfits. The cameras broadcasted the group during the game on a number of occasions for the world to see.

Opportunistic advertising involves brands indirectly referring to the competition, often through tongue-in-cheek advertising. During the London 2012 Olympic Games, [Paddy Power posted an advert](#) that it was the "*official sponsor of the largest athletics event in London this year! There you go, we said it (Ahem, London France that is)*". Paddy Power actually sponsored an egg and spoon race held in London, France so despite the efforts of the IOC to remove the advert, it remained.

How can FIFA protect itself from ambush marketing?

Around [200 countries](#) across the world will broadcast this summer's World Cup matches. FIFA needs to protect itself on a global basis and ensure it is protected across a multitude of different jurisdictions with different intellectual property laws. Therefore, FIFA employs a number of ways to protect itself from ambush marketing.

Like many event organisers (including, for example, the IOC in respect of the Olympics), FIFA requires prospective host countries to detail how its laws protect relevant intellectual property rights, and FIFA may require host countries to enact special anti-association and anti-ambush marketing laws for the duration of the World Cup. This prevents marketing and advertising that aims to connect or associate the brand with the competition. These laws cover a wide range of marks and rights.

This type of legislation is time-barred and will usually only apply for the year that the event takes place. The London Olympic Association Right, part of the [London Olympic Games and Paralympic Games Act 2006](#), applied in the UK during the Olympic Games in 2012 but expired shortly after, whilst the offence of ambush marketing was established in Brazil for the 2014 FIFA World Cup but was only enforceable until the end of 2014.

The Russian State Duma introduced Federal Law in 2013, which extended the existing offence of

unlawful trade to include direct or indirect association with FIFA or the World Cup without FIFA's permission. This recognises FIFA's exclusive rights relating to the World Cup in 2018 but these prohibitions will only apply until 31 December 2018.

It is often a requirement that, at the time of bidding, prospective host countries will ensure that such protections will be in place. Host countries are also expected to arrange a straightforward and fast track procedure for FIFA to register its trade marks and rights in the host country.

This year, FIFA has registered over 90 marks in Russia. Its Media and Marketing Regulations lists its Competition Marks, which of course include word marks such as "FIFA World Cup" but also include the FIFA World Cup Trophy, the official mascot and the host city posters. This increased protection seriously limits the types of marks and designs that unassociated brands could use as they try and establish a connection with the World Cup.

FIFA will also require special laws to be implemented in the host country that prevent unauthorised advertising at the venues. Article 18 and 51 of the 2013 Russian Federal law introduced new advertising law that grants FIFA exclusive rights to control the location of advertising and trading vendors within a two-kilometre radius of a match day venue. This will prevent advertisers or brands from engaging with spectators at match day venues and stadia, thus unable to piggyback onto the enormous foot traffic and the buzz around these venues. This is an effective means of dealing with ambush by intrusion and returns some control to FIFA, the rights holder.

Ambush by intrusion can be prevented further as the event organisers for Russia 2018 should ensure the ticket terms and conditions prohibit the user from carrying out any commercial activity whilst at the venue without FIFA's authorisation. This contractual provision should also help protect against any marketing or advertising stunts in the arenas.

Advice for brands

Brands should avoid making direct references to the competition without FIFA's permission and instead find creative ways of circumventing these rules without breaching them.

In 2014, after Luis Suarez famously took a bite out of Giorgio Chiellini, Specsavers tweeted an advert comparing the [Italian footballer with a plate of Cannelloni](#), implying that Suarez "*should've gone to Specsavers*".

This sort of topical humour can help brands to legitimately get into the spirit of the World Cup, along with the rest of the public, without misleading the public as to its connection with the competition.

Arguably, aspects like the tongue-in-cheek humour (in addition to the fact that no use was made of any FIFA protected terms, nor was there any direct reference to the competition) may lead the public not to associate the brand with the competition in an official capacity.

Trainee Solicitor Jack Blakey contributed this article.

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