

# Ambush Marketing: The Ethical Issues

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## ABSTRACT

**Ambush marketing is now, for some companies, a strategic alternative to formal association through the purchase of legitimate sponsorship rights. Research evidence indicates that this ambush activity may damage sponsors' events and even the interests of sports governing bodies and individual sports people. Legal issues clearly arise, but the body of case law is as yet slight. Discussion often focuses on property rights, but these too can be problematic if a major sports event of popular cultural significance is concerned. Four ethical perspectives—utilitarianism, duty-based ethics, stakeholder analysis, and virtue ethics—can provide a framework for the debate on the ethics of ambush marketing. A range of possible actions to create more ethical commercial sponsorship are identified and briefly evaluated. In particular an international code of conduct for event sponsorship seems to be an idea whose time has come. © 1998 John Wiley & Sons, Inc.**

**The growth of commercial sponsorship has been perhaps the most striking development in marketing communications over the last two decades. Commercial sponsorship of sporting, artistic, and other events offers an opportunity to marketers to make their voices heard in a cluttered media environment. It also provides an opportunity to develop**

positioning and branding strategies through association with events of defined status and value. The expansion of event marketing itself as a specialist area of management is inextricably linked to the attention corporations have paid to the potential of event sponsorship as a communication vehicle.

Sandler and Shani (1989) offer a definition that has considerable practical merit and provides a workable point of departure for the present discussion: "The provision of resources (e.g., money, people, equipment) by an organization directly to an event or activity in exchange for a direct association to the event or activity. The providing organisation can then use this direct association to achieve either their corporate, marketing or media objectives" (p.10).

Sponsorship offers a number of powerful attractions to marketers. In increasingly globalized markets it is difficult to identify and access vehicles that have a truly global reach and that furthermore have the capacity to transcend linguistic and cultural barriers. The number of such opportunities is limited, and the universal language of sport, particularly of the major popular sports, offers opportunities for simultaneous access to audiences that are truly global in terms of scale and composition. In fact, multinational marketers like Coca-Cola and Budweiser find commercial sponsorship provides a unique medium to promote their standardized messages worldwide.

Thus, sponsorship has proven to be a versatile tool, and motivations for its use in marketing communication can vary. Three main groups of objectives were classified by Meenaghan (1983) in terms of *broad corporate objectives* (creating and maintaining corporate image), *marketing objectives* (brand and product promotion directed to consumer perception or sales impact), and *media objectives* (cost-effective coverage and effective targeting of specific markets).

Major sporting events are clearly of particular interest to marketers, and consumer-focused sponsorship has increasingly relied upon such events to deliver audiences that in terms of scale or clarity of focus are unavailable through other means. The past half century has been characterized by mass interest in sports, where the proximate stadium audience is multiplied many times over by the ability of television—whether terrestrial, satellite, or cable delivered—to access an enormous mediated audience. In turn, sports events are among the few providers of popular program material to satisfy the hunger of the proliferating media outlets. It is no surprise that the intensification of competition for the right to carry major national and international sporting events has encouraged media owners to increase their demands on media sponsors and advertisers.

Some marketers, it would appear, have pursued an alternative to formal association through purchase and have chosen instead the route of ambush marketing.

## **AMBUSH MARKETING**

If large-scale corporate sponsorship is striking in terms of its persuasiveness and recency, the related phenomenon of ambush marketing is even more so. The term *ambush* refers to an attempt by a company to associate its own brand with the sponsored activity without securing formal rights, and this frequently results in a weakening of the impact of an official sponsor's activity. When Kodak announced itself as the proud sponsor of ABC's broadcast of the 1984 Olympic Games and became the provider of the official film of the U.S. track team, commentators were in no doubt as to the novelty and audacity of a clear strategy to compete with Fuji, who had paid for the actual sponsorship rights the event. "The first visible ambush marketing effort" had arrived (Sandler & Shani, 1989, p.11).

What was novelty in 1984 was standard practice by 1988. Fuji hit back at Kodak, who was now the official sponsor of the Summer Games, and American Express and Wendy's did much the same to Visa and McDonald's, respectively, who were official sponsors of the Winter Games. The struggle of the various contenders was initially treated as a superior sort of spectator sport by amused commentators in the press.

## **AMBUSH STRATEGIES**

A wide range of quite contrasting situations have been described as ambushes, illustrating the complexity surrounding questions of law and ethics in this area. Meenaghan (1996) cites a range of common ambush strategies "with varying extents of legal and ethical infringement" (p.106). A straightforward and clinically executed form of ambush will involve a corporation becoming the highly visible sponsor of the television broadcast of an event its competitor is supporting by direct sponsorship.

Traditional advertising may be used to mount an ambush. The legitimate use of an intense advertising campaign can be given an aggressive edge if the media buying plan aims to saturate available television spots around the broadcast of the event the rival is sponsoring. The competitive nature of such advertising can be intensified by choosing themes that have echoes of the major sponsored event even though they may not carry direct reference to it. Sometimes symbols and images associated with the event may even be used.

Major sports of interest to the media are essentially professional in character, and this has provided opportunities for corporations to make a sponsorship-related contribution to the players' pool even where they have not sought to sponsor a high-profile event, or the national governing body of the sport, or the team per se. As Meenaghan points out,

perspectives have changed over time, and this practice, which was once regarded as illicit and a deliberate sabotage, is now regarded as a legitimate arena for sponsorship activity (Meenaghan, 1996).

Only imagination ultimately limits the possibilities for ambushing, making it difficult for event owners and corporate sponsors to protect themselves from hostile competitive activity. Thus, Reebok refuses to relinquish its self-asserted right to access athletes at major events, even though they have decided not to compete for the main sponsorship or have failed to win it. A Reebok promotional team is present at almost every major event (e.g., the Boston marathon) providing branded merchandise to participants in order to counteract the saturation presence of the main sponsor, who is usually a direct competitor. The National Football League, as an overall event owner, has contracted a sponsorship agreement with Coca-Cola, but an individual club can still test the boundaries of such a deal. The Dallas Cowboys sold "pouring rights" to Pepsi for their home stadium in a cheeky attempt to capitalize on what they would see as specific property rights that they will argue are separate and distinct from those disposed of by the N.F.L. (Meenaghan, 1996).

## CHANGING PERSPECTIVES

Attitudes toward ambush marketing have perhaps become more harsh over time. There is certainly an adversarial edge to the definitions currently being traded by both advocates and opponents.

Townley (1992) defines ambush marketing as follows: "ambush marketing essentially consists of the unauthorised association by businesses with an event through any one or more of a wide range of marketing activities." This neutral and descriptive lawyer's tone contrasts with McKelvey's more censorious one:

[Ambush marketing describes] a company's *intentional* efforts to weaken—or ambush—its competitor's "official" sponsorship. It does this by engaging in promotions or advertising that trade off the event or property's goodwill and reputation, and that seeks to confuse the buying public as to which company *really* holds official sponsorship rights." (McKelvey, 1994, p.20)

There is a growing realization that ambushes are not ad hoc activity, but rather "well planned effort[s]" and that "the main objective . . . is not exposure per se . . . (but) to create miscomprehension in the consumer's mind about who the sponsor is and therefore either gain the benefits associated with being a sponsor or weaken the impact of a main competitor . . ." (Sandler & Shani, 1989, p.11). John H. Bennett of Visa, the target of ambush efforts, moved beyond the issue of intention

and bluntly located the activity within a moral and ethical frame: "Ambush marketing implies a connection to an event for which you have not compensated the owner. There's another word for it: stealing" (Ettore, 1993, p.55).

Michael R. Payne invited the U.S. Olympic Committee to consider two possible views of ambushing that were diametrically opposed. On the one hand, he suggested that ambushers might be seen as

inspired marketers, neutralising the competitive advantage by confusing the consumer as to who is the legitimate sponsor of an event . . . Who have successfully avoided paying the excessive demands and rights fees asked by event organisers and managers for their properties—all is fair in the cut and thrust of the marketing battlefield. (Payne, 1991, p.24)

The language in his alternative suggestion bespeaks a strength of real conviction, when he proposes that ambush marketers might be regarded as

thieves knowingly stealing something that does not belong to them? . . . Parasites? Feeding off the goodwill and value of the organisation they are trying to deceive the public into believing they support? Like leeches they suck the lifeblood and goodwill out of the institution . . . (Payne, 1991, p.24)

It is clear that the generally pejorative tone of these comments consigns the ambush marketer to the status of pariah. The alternative term *parasitic marketing* comes even more heavily freighted with moral and ethical judgement.

There is of course, another view, one which asserts the right of the ambusher. This view tends to invert the perspective of ethical judgement and rely on the robust rhetoric of the competitive marketplace. As Jerry Welsh, former head of marketing for American Express, puts it, "There is a weak minded view that competitors have a moral obligation to step back and allow an official sponsor to reap all the benefits from a special event . . . (competitors have) not only a right but an obligation to shareholders to take advantage of such events" (Brewer, 1993).

It is clear that little of the commentary to date has sought to examine these issues within an overall ethical framework that might help to evaluate the competing claims of ambush marketers and event owners. This is so despite the fact that the frequently heated and abusive debate has been conducted in moralistic language by protagonists who implicitly appropriate moral and ethical perspectives to their side of the argument.

Before considering the merits of the contending positions, it may be useful to enquire as to what level of damage actually does arise from ambush activity.

## AMBUSHING—REAL OR IMAGINED DAMAGE?

Research evidence based on tracking data suggests that official sponsors regularly fail to get the level of benefit they might have anticipated (Crimmins & Horn, 1996). Nonsponsors frequently score surprisingly well on both recall and recognition tests where respondents are asked to identify the sponsor of an event. Both Sandler and Shani's (1989) research, which asked respondents to identify official sponsors of the Olympics by product category, and data gathered by Graham for the 1992 Olympics showed that ambushers were identified as official sponsors in a significant minority of instances.

Commentators agree that beneficial image association and generalized consumer goodwill are two of the priority objectives of most corporate sponsors. The data reported by Graham suggest that these objectives are unlikely to be always realized either in absolute or relative competitive terms by the official sponsors. Mismanagement of the sponsorship program may be a possible reason and might for instance involve a failure to leverage the sponsorship properly. However, there is no external evidence to suggest that the companies and brands in question underperform competitively in other areas of their marketing management.

Figure 1 represents the desired relationship with event, media, and audience that a sponsor seeks. These relationships are conventionally

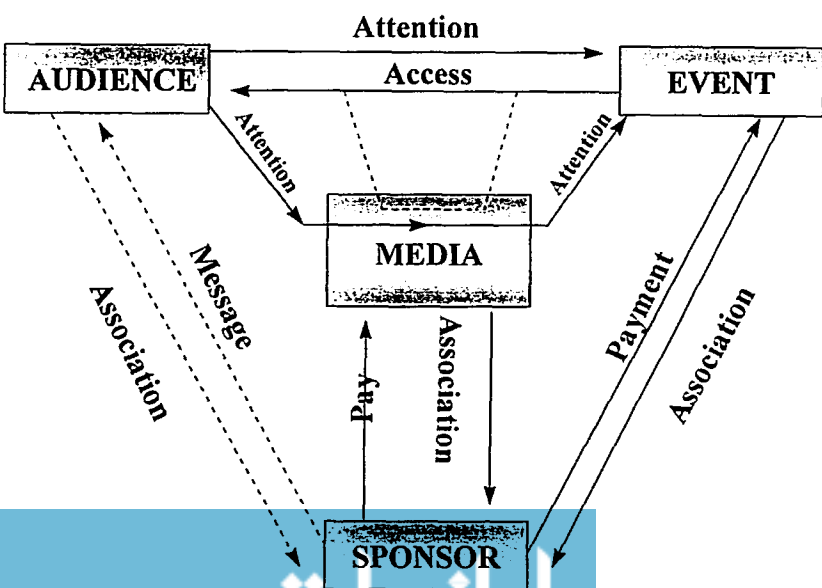


Figure 1

represented in terms of a triangle with audience, event, and media as the apex points. Audiences give attention (and revenues) to events and are in turn granted access as proximate spectators. Media gather large audiences by virtue of having (exclusive) access to an event and they in turn sell this media audience to advertisers or sponsors.

A sponsor of an event makes a payment to achieve association rights either to the event or to the medium or, increasingly, to both. These payments give the sponsor access to the audience. When an ambush takes place a spurious relationship with the event is communicated in order to capture the attention of the audience for both message and association effects. The lines of relationship and attribution in Figure 1 become unclear and confused, and the outcomes may include the weakening or eliminating of the association effects sought by the legitimate sponsor.

One must conclude that the effects of ambushing represent a significant weakening of official sponsor impact. The logical consequences are that corporate sponsors may lose faith in the medium or may become disillusioned with the inability of national governing bodies to deliver the exclusive benefits which have been contracted for. "If such a practice is allowed to continue unchecked, why should legitimate sponsors continue to support an event with their valuable marketing dollars, when competitors gain that same beneficial association at no cost" (Payne, 1991, p.25).

## **LEGAL ISSUES**

There is no readily available solution emerging from the legal domain. The body of case law available is as yet slight and provides little by way of clear precedent. Mary Hutchings Reed puts it succinctly "There is no iron clad guarantee to a sponsor that you won't be ambushed and that, once ambushed you will have the support of the court." (quoted in Ettorre, 1993, p. 56).

Available decisions have generated more controversy than clarity. In Canada the National Hockey League sued Pepsi Cola Canada Ltd. in an effort to protect the rights of their major sponsor Coca-Cola. However, the court ruled that there was no duty on the part of Pepsi Cola "to refrain from engaging in advertising its products in a manner which, although aggressive, is not, by the law of Canada, unlawful" (quoted in Ettorre, 1993, p. 56) In effect Diet Pepsi received carte blanche to associate with professional hockey by running a promotion based upon illustrations of professional hockey players even though their rival had contracted for exclusive sponsorship rights.

In a slightly different situation in the U.S., Subway was allowed to continue an advertising campaign that featured Olympic emblems as a supposed tribute to two of their own suppliers, who were themselves



direct Olympic. With such uncertain outcomes to legal action it is not surprising that Ettorre (1993) quotes legal specialists as saying that ambush marketing cases are often settled privately because court cases can be costly.

## **PROPERTY RIGHTS**

Much of the practical business implementation of sponsorship programs involves actions that are grounded in an acceptance of conventional property rights. Thus the contract terms give access to a property, and the rhetoric with which ambush marketers are denounced makes frequent and explicit reference to the property rights of event owners and corporate sponsors. Dick Pound of the I.O.C. states "our attitude is that the practice wasn't wrong just because money wasn't paid to be a sponsor, but because someone appropriated something that didn't belong to them" (Ettorre, 1993, p. 55). In effect he argues the proposition that as a property owner his rights have been infringed, and the very terms he utilizes suggests the transgression belongs not just to the realm of law but also to the realm of ethical and moral judgement.

In all but the most centrally directed economies the rights of property owners are comprehensively defined and are regarded in many instances as providing both the ideological basis of the society and the framework of economic activity. These tend to be formally expressed in constitutional documents and make up a formidable body of case law and precedent in the legal systems of all western countries. However, this genuflection to property rights is in most societies tempered by a recognition that responsibility falls upon property owners to exercise their rights with due care for the rights of others.

A property owner cannot use his property to offer affront to the moral code of society, to limit or otherwise weaken the rights of others, or to subvert order and the interests of the community at large. The rights of property are thus not absolute and are subjected to a variety of constraints and legal provisions.

Addressing the issue of ambush marketing solely from the perspective of property rights is therefore problematic and raises important questions. In the exceptional case where a wholly new event has been created and the ownership and control of that event is clearly vested there may be a clear-cut determination of rights.

## **THE SOCIETAL INTEREST**

Most events have grown up over time and may form part of the tradition of the local community or indeed part of the popular culture of the so-



ciety as a whole. In that instance the very ownership of the rights and the exclusive and monopolistic exercise of those rights may be deserving of scrutiny. Even where rights are clearly vested, disposal of such rights may very well be constrained. Key questions arise, such as who owns the event? What is the meaning of a primary or secondary stakeholder and what are the rights of such stakeholders? Can the owner dispose of the event on a temporary or long-term basis? What impact do stakeholder's rights have on the terms of a sale?

Most of the events for which sponsorship rights are sold are major sporting events that predate not just the era of sponsorship but also the era of mass media. Many of these events grew up in the mid to late 19th century and have over time assumed the status of major popular cultural expressions. The events created a mass proximate audience that developed subsequently into a mass mediated audience through the print media in the late 19th and early 20th centuries. The symbiosis between event, media, and audience has ensured that major sporting events have become deeply embedded in the popular consciousness of industrial and postindustrial society, and in a very real sense the broad mass of the population have become stakeholders.

It has been argued by sociologists that sport in society affects the formation and transmission of values and the provision of role models for the young. Sporting events themselves often embody values of the kind endorsed as socially desirable by political and social leaders, and the mass media coverage brings attention to those values that extends far beyond the immediate participants or the proximate audience. In a sense society, as well as the individual members of the larger community, becomes a stakeholder in these events, and access to the events provides a channel through which values are transmitted, endorsed, amplified, and renewed. In addition the structure of individual sporting events provides the occasion for some of the key social rituals of contemporary American life.

## **ASSERTING SOCIETAL RIGHTS**

The status of certain events has been recognized variously by governing bodies and regulators. In the U.K. as early as 1974, Lord Hunt, in a wide-ranging examination of the future of television, accurately forecast the importance of the emerging DSB and cable systems. He argued that certain major events—the English F.A. Cup Football Final, the Derby and Grand National Horse Races, et cetera—should be accorded a quasi-sacred status and protected from the possibility of exploitation by a media monopoly. Hunt's position was affirmed as recently as the spring of 1996, when specific events—each of which was seen as having a resonance in the national psyche—were identified by the British Parlia-

ment as having a special status, and were placed outside the reach of media monopolists. The Commission of the European Union and the Australian Government have adopted similar positions.

It might also be argued that property rights that are acquired or contractually leased by a corporate sponsor must be exercised with due regard for the rights of others, even those of direct commercial competitors. This can certainly be the case where a property confers a monopoly in terms of television access to a specific audience and is then used to advance ethically dubious arguments against a competitor. Such it could be argued was the case in the Visa/Amex celebrated ambush controversy of 1984.

In summary, the rights of an event owner or sponsor can be strongly argued from the context of property law, and ambushing may be seen as a form of theft practiced by corporate pariahs. However, such rights are tempered by the rights of citizens to access enriching aspects of their culture as well as the care that is due to respect the rights of others, including the rights of competitors. Sponsorship practice raises issues of event owners' rights, which, although sometimes problematic in terms of enforcement, clearly lie in the domain of law. However, the responsibilities that seem to accompany the exercise of legitimate rights and the evaluation of the behavior of ambushers would seem to equally and inevitably lead the discussion into the ethical domain.

## **ETHICAL THEORY AND AMBUSH MARKETING**

If a purely legal approach cannot currently provide a satisfactory way forward, the question remains as to whether ethical discussion can inform strategic and operational choice in this area. Dickson (1994) argues that ethical behavior is a necessity if a free market is to be maintained and if that market is to work efficiently. Four ethical theories can be applied to the question of whether ambush marketing should be viewed as an unethical marketing practice. The theories are utilitarianism, duty-based ethics, stakeholder analysis, and virtue ethics. Before exploring these theories, a brief analysis of the importance of ethical discourse is provided.

Ethical discourse in marketing has received substantial discussion in the past 20 years. The importance of utilizing ethical principles, rather than relying exclusively on economic or legal precepts, is increasingly accepted by marketing scholars, but there is perhaps less concrete evidence that practitioners routinely engage in ethical reasoning when making decisions. Doust (1997) suggests that "the degree to which a company agrees to 'back off a bit' will to a large extent be determined by its own code of ethics, and by whether that company views ambush marketing practices as unethical or simply good business sense" (p. 25). It may be reassuring to think that the practicing manager will be in-

clined to run an ethical yardstick over particular decisions to see how they stand up, but many will be skeptical that the ethical dimension is actively considered in the cut and thrust of business. Nevertheless, it is useful to ask which ethical principles might be applied in an area such as ambush marketing, where commentators seem so ready to reach for the terms of ethical discourse when addressing the conflicting claims of protagonists.

Although many principles have been advanced, four ideals that can bring an ethical perspective to bear on practical marketing might be usefully adduced. They are justice, equality, freedom, and truth (Walton, 1998). In an ideal world the justice and fairness notions might be regarded as implicit in the universally accepted marketing concept. Marketers attempt to satisfy consumers with products that are priced fairly, and consumers are expected to respond in a just manner. The notion of equality does not mean that each consumer is treated exactly the same, but, given financial and other constraints, marketers treat their buyers with equanimity. In theory at least, freedom is a principle that both marketers and consumers ought to cherish. Companies want the freedom to sell their products to whatever consumers they desire, and buyers ought to be able to benefit from freedom of choice among the multiple offerings available in the marketplace. Finally, the notion of truth and truth telling is important in that any business system worthy of ethical endorsement must ultimately be built on truth.

## **Utilitarianism**

Utilitarianism places emphasis on the consequences of an action. That is, a decision is viewed to be ethical if it yields the greatest good for the greatest number. In cost-benefit terms the event owners may pursue the greatest possible revenue by subdividing the various rights and thereby offering for sale a multiplicity of sponsorship opportunities. Selling subsidiary sponsorships on behalf of a national governing body, within each country, such as was done in the World Cup, obviously brings more financial benefit than if only the world body sold rights. It might be argued that this is ambush marketing, but it appears that various Olympic and professional sports authorities condone such activity in the spirit of financial utilitarianism. Thus, the greatest financial good is gained by offering multiple, even competing, organizations an opportunity to sponsor some aspect of a sports event.

Such a narrow interpretation of philosophical utilitarianism is not adequate, however, for our discussion. One of the major limitations of this ethical theory is that the majority may benefit while a minority may be substantially harmed. In this instance, allowing some ambushing to occur may benefit the television and event owners as well as the ambushers, whereas the major sponsor is significantly harmed. To the extent that Coca-Cola, McDonald's, Visa, and other sponsors are

harmed substantially by the ambushing, they may be reluctant to support events in the future. An analysis of benefit and damage can be conducted with the use of both financial and attitudinal measures.

A second issue surrounding utilitarianism relates to the sports fan and the general public. The greatest good and consequences aspects of this theory needs to take into consideration the national and international populations that are viewing these major events.

If the ambusher's marketing message causes confusion or cynicism on the part of the fan, the goodwill that is assumed to exist may be undermined. At the current time the purpose and spirit of the Olympics is being questioned, by some, partly because of the impact of ambush marketing on many sporting events.

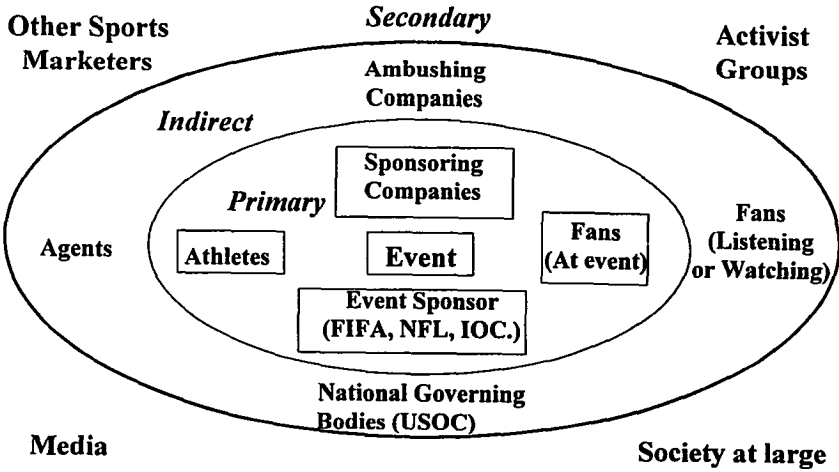
## **DUTY-BASED ETHICS**

Duty-based ethical theory is fundamentally different from utilitarianism. The intentions of the decision maker, not the consequences, are used to evaluate the ethical propriety of the action. If ambush marketing's main objective (Sandler and Shani, 1989, p. 11) is "to create miscomprehension in the consumer's mind about who the sponsor is and therefore either gain the benefits associated with being a sponsor or weaken the impact of the main competitor being the exclusive sponsor of an event," then the intention is clearly one of deceit. If this standard is applied, ambush marketing would be an ethically questionable practice.

Another interpretation of duty-based ethics is offered by Meenaghan (1996). He argues that the ambusher may have a moral duty to pursue corporate business objectives through seeking to gain competitive advantage through ambushing so that stockholder returns may be maximized. In other words, without ambushing, the firm is "otherwise denied the right to participate in an important promotional opportunity due to the inability to meet the cost of official sponsorship and further that their duty to stockholders demands that ambushing activity be undertaken" (Meenaghan, 1996, p. 109). The financial success of Nike, which has practiced this strategy in recent years, is a good illustration of this approach applied in practice. However, this type of financial analysis suffers from some of the same limitations mentioned above regarding a reliance on strictly monetary cost benefit analysis.

## **STAKEHOLDER ANALYSIS**

Stakeholder analysis occurs where a manager examines the impact of a decision upon a wide range of individuals or groups. The analogy that is often used is to a poker game. Players have a stake in the game when



**Figure 2** Stakeholder analysis for sports sponsorship.

they participate in it. Similarly, many players have a stake in the behavior of a corporation and the outcomes of such behavior. Some of the more important stakeholders are shown in Figure 2. The distinction between primary and secondary stakeholders seems to be important. Primary stakeholders are those that have a formal, official, or contractual relationship with a firm, whereas all others are classified as secondary stakeholders (Carroll, 1993, pp. 62–65). In this situation the event is the firm.

Figure 2 indicates that there are several levels of stakeholder analysis. The sponsors of the event, official corporate sponsors, athletes participating in the event, and fans in attendance make up the primary stakeholders. The event owners have a formal relationship with the official sponsors and grant them rights. The athletes are either under contract with their team (in professional sports) or are representatives for their country. The fans in attendance also buy a ticket, which gives them an opportunity to attend the event. The rights of these various constituencies must be taken into account in conducting the stakeholder analysis.

In the case of sponsorship activity it is useful to define a category of indirect stakeholders who have some of the characteristics of the primary stakeholder group and might be usefully regarded within this group. They are represented in Figure 2. These indirect stakeholders include the nonsponsoring companies (i.e., ambushers) who do not have a contractual relationship with the event and its sponsor, and their actions are usually “well planned” (Sandler and Shani, 1989) and ongoing. Thus, they are not secondary stakeholders as defined by Carroll. Furthermore, the fans viewing on television (or listening on radio) represent

another indirect, but important stakeholder. In fact, it often is this larger group rather than the fans attending the actual event that are the targets of the ambush marketing efforts. Additional indirect stakeholders are sports agents who represent the athlete.

Secondary stakeholders include the media, general public, other companies (nonsponsors and nonambushers), activist groups, and sports agents. Decision makers need to be aware of these stakeholders and their potential impact on the event. Although the focus should largely be on primary (including indirect) stakeholders, the media and their investigative reporters can influence the general public with negative statements about any international event. Ignoring public sentiment and the views of companies who might be potential sponsors in the future will likely have a long term detrimental impact.

A hypothetical stakeholder analysis might be conducted for a possible scenario that may occur during the 1998 World Cup Championships. The event owners are FIFA, who, hypothetically, have contracted with Adidas for the sale of the worldwide sponsorship rights. The final match may pit Brazil, the reigning World Cup champs, against France. Two of the star athletes on these teams, Ronaldo of Brazil and Eric Cantona of France, are under contract with Nike. The American firm places ads in the TV broadcast of the final match and sponsors billboards near the venue which explicitly feature these athletes among other stars. As part of their contractual package Adidas has exclusive rights to be the only shoe company advertising within the stadium. The fan attending the match is confused as to whether Nike or Adidas is the official sponsor, because both names are prominently displayed, at least in the general vicinity. The TV viewer is under the impression that Nike is the sponsor, because several ads are shown for that company and none are shown for Adidas (which has decided to allocate its promotional dollars elsewhere). The general public may be satisfied to have subsidized entertainment, irrespective of who pays for it. However, the media commentators make a big issue of Nike's ambushing Adidas and their sponsorship. Is there anything unethical about this scenario?

The answer to the question is not an easy one. The activity by Nike may be viewed as ethical if they do not intentionally mislead consumers into thinking they are sponsors of the World Cup. If the uniforms of Ronaldo and Cantona from their professional leagues were used rather than their country colors and they were shown in action with these teams, the fan would focus on the personality and not the event. If the event sponsors set down specific guidelines about the distance from the venue where the billboards could be used and Nike followed these rules, the stakeholder analysis would say that Adidas and the event owner have not been harmed by these actions.

However, as is often the case, the ambusher purposely attempts to mislead the fan and viewer into thinking they are an official sponsor by putting the contracted athlete into a situation where the fan perceives



them to be part of the national team, which by implication enjoys the support of the ambusher.

## **VIRTUE ETHICS**

Virtue ethics takes a very different approach from all of the above and places the focus on the person or organization and not on the decision. It draws on Aristotelian ethics and has seen a resurgence in recent years. A virtue is a character trait of good habit that is morally valued. Although companies and organizations are not generally seen as being virtuous, the characteristics of the corporate culture can often legitimately be viewed in these terms.

Two important aspects of virtue ethics are its particularly aspirational nature and the notion of the ethic of the mean. One of the key dimensions of this theory is that persons and organizations aspire to do better. It is somewhat analogous to the highest level of Maslow's hierarchy, which suggests the importance of a drive toward self-actualization. If one follows this theory, the idea of engaging in ambush marketing, which has the potential to mislead and deceive consumers, would be likely to be rejected. A firm following this approach would see ambush marketing as counterproductive.

The ethic of the mean basically says that individuals and organizations strive for balance in their lives. As Aristotle said, the deficiency of truth is deception and the excess of truth is boastfulness. Companies that would espouse the ethic of the mean would probably view ambush marketing in a negative fashion because of the possibility for miscomprehension on the part of the consumer.

Event-owning organizations like FIFA and IOC or professional sports leagues, or indeed national governing bodies, who chose to espouse virtue ethics would likely be more concerned with the integrity of the game, and consequently would not charge exorbitant fees to sponsors. The greed of organizers must be recognized as one contributing factor toward the growth in ambush marketing. This theory would challenge the sponsoring organizations to examine their actions in a new light.

## **PREVENTING THE AMBUSH**

At the simplest level the promotion and maintenance of event integrity by event owners and by sponsors should protect the rights of official sponsoring companies. Legal diligence and product category exclusivity are but two vehicles that can be employed to cut through the bewildering proliferation of contracts for varying rights that have been available to sponsors during the last several Olympic Games.

It is necessary to eliminate confusing layers of sponsorship by offering



potential sponsors complete vertical and lateral sponsorship rights. The official sponsor would be so pervasive and visible that ambushing would not make sense. Stephen Disson, who proposed this approach, believes that official Olympic sponsors should be given rights relating to everything from the national team federations to the worldwide sponsorship (Ettore, 1993). The issue is how high the price tag would be for this option, but some of the megacorporations would likely be able to afford it and prefer it over the current situation. The obvious other question is whether this would price many medium-sized firms out of certain types of event sponsorship and perhaps even give them an ethical sanction to utilize creative ingenuity in achieving an association with a sports event. This could be particularly the case where the intending ambusher had contributed to the development of the event or even the sport itself in the past and has now been pushed out of this market access by superior competitive financial muscle.

The linking of event and broadcast sponsorship as proposed by Meenaghan (1994) seems both logical and feasible. The threat of being ambushed by TV sponsors could be controlled if the networks and event organizers worked together to give the official sponsors the right of first refusal for broadcast time. In a major editorial devoted to ambush marketing, *Advertising Age* [IOC Police, (1994)] said: "If the IOC is serious about what it calls 'ambush marketing' in the future, we'd suggest TV carriers of its games not sell time to marketers who employ this tactic. But since TV runs the games, we doubt the IOC could get away with telling a network who could buy their ad time." Despite this rather cynical, though no doubt realistic, conclusion, the issue might usefully be discussed between event owners and media owners as an option if other mechanisms to control the situation do not prove successful.

## THE ROLE OF ETHICS

The development and upholding of standards is an issue of concern to all primary stakeholders. As the hypothetical analysis offered earlier has demonstrated, the numbers of primary stakeholders is not that large. If representatives from the various groups agreed upon the acceptable range of competitive actions during an event and publicized these standards, some of the secondary stakeholders like the media and activist groups could be used to help police unethical ambush activity. On the consumer side, because public sentiment and goodwill is important to sports shoe companies and other major international consumer products marketers, such companies might be more reluctant to engage in ambush techniques if they were going to be publicly denounced for these actions. Whereas competitive action is healthy in the consumer marketplace, and the authors are certainly not advocating monopoly rights, blatant attempts to mislead consumers should be discouraged

through the concerted action of primary stakeholders on the one hand and the weight of negative public opinion on the other.

Both forces, acting in tandem with regulators, might ultimately provide the dynamic needed for the formulation and launch of an international code of conduct—an idea whose time who may well have come. It will be necessary, however, to achieve a much more comprehensive understanding of the nature of ethical reasoning in marketing decision making and the ways in which ethical principles are applied in practice, as an absolute prerequisite to the framing of such a code. The present discussion has examined the sources of ethical discourse and the broad principles that might inform debate in the complex area of ambush marketing. It is now important that an ambitious research agenda be defined that will make an inventory of current practice and examine in detail the ethical reasoning of both perpetrators and victims.

The ambush phenomenon represents an urgent challenge. The scholarly contribution of the ethics specialist is needed to provide the theoretical perspectives and generate the empirical data that will shape the debate. In the final analysis ethical discourse will prove to be an important source of insight in the search for a pragmatic and fully workable way of reconciling contending claims in what will inevitably become a very high stakes game.

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