



MCG dispute highlights the impact of technology

Melbourne lawyer Craig Richards explains the implications of the virtual advertising dispute, in particular the rights to multimedia broadcasts

Broadcast technology has threatened the future of sporting events held at Melbourne's famous cricket ground, the MCG. In July, a dispute about virtual advertising and the rights to use broadcast footage in multimedia products caused great controversy. While the immediate threat is over, the issue remains vital for any person involved with sports or events.

The dispute

What is virtual advertising? Put simply, it is altering a broadcast to replace ground advertising signs or include new advertising signs in a broadcast. In Australia, Channel 7 has the rights to use the technology that makes virtual advertising possible. The altered image is so realistic that the viewer has no reason to believe that what they are watching is not what the spectator is seeing. Shadows, a divot in the turf and players moving in front of signs do not inhibit the effectiveness of the technology.

The virtual advertising controversy peaked with the Bledisloe Cup rugby international between Australia and New Zealand which was broadcast on July 11. Channel 7's broadcast of Australia's historic victory was nearly cancelled but after last minute wrangling the broadcast proceeded and a digitally inserted Reebok sign periodically appeared in a section of the crowd.

The multimedia aspect of the dispute had been brewing for some time. The Melbourne Cricket Club (MCC), which controls the MCG, had been concerned about not sharing in the potential revenue from multimedia products. Accordingly, it planned to refuse to allow television stations to enter the MCG unless they gave the MCC a non-exclusive licence to use the copyright in the broadcast of events held at the MCG.

The dispute led to speculation that the 1998 AFL Grand Final and Boxing Day Test Match would be moved from the MCG to another venue. The AFL and MCC have now agreed to work together toward a solution. In the meantime, Channel 7 will not use virtual advertising during AFL matches and the MCC will not pursue its claim for a share of multimedia revenue. The cricket controversy is still bubbling.

Virtual advertising: legal implications

In some cases, virtual advertising may breach sections 52 and 53 of the Trade Practices Act. Viewers may be misled or deceived if they are convinced that what they are watching is an exact representation of what spectators see at the ground. An example is if a section of the crowd appears to be holding up advertising signs.

Altering signs during the broadcast may also illegally represent a sponsorship that does not exist. The most obvious example is

replacing logos in places traditionally used by team or event sponsors, such as on the players' uniforms or painted on the playing surface.

Virtual advertising undoubtedly has the potential to change the structure of sports marketing. The ability to display different brands to different viewing audiences is a tremendous opportunity to maximise marketing impact. But until virtual advertising becomes so well known that all significant sections of the viewing public know that what they are watching is not reality, legal difficulties may exist.

Altering signs during the broadcast may also illegally represent a sponsorship that does not exist. The most obvious example is replacing logos in places traditionally used by team or event sponsors, such as on the players' uniforms or painted on the playing surface.

Nevertheless, any sponsor wanting to make sure their ground sign is not obliterated from a broadcast should not simply rely on the law. Sponsorship and advertising contracts should cover the issue of virtual advertising.

Any person selling advertising space at an event that will be broadcast should also be careful. Representations about the amount of television exposure a sign will receive may be false if virtual advertising technology is used to remove that sign.

MCG Dispute

Multimedia rights: legal implications

Footage of events is valuable property. Communication developments such as multimedia products, the Internet, pay television and broadcast digitalisation increase the options for viewing the game.

Naturally, any increase in access to events by viewers can jeopardise the number of spectators. This can reduce the revenue of venue owners. For example, two of the MCC's most significant revenue sources are membership fees and a share of gate takings.

Essentially, the multimedia rights dispute involves two contractual issues:

- 1) Who can broadcast or record an event?
- 2) Who owns the footage?

The venue hiring contract will usually address whether the event organiser has the sole right to broadcast or record the event. An event organiser who wishes to

produce an integrated event should seek to be the only person that can broadcast or record its events. Naturally, a venue owner is likely to increase the hiring fee if it relinquishes the right to broadcast or record events held at its venue.

Of course, it is difficult to prevent unauthorised broadcasts of events if the venue does not have a roof and a fence. In those circumstances, the venue owner is simply providing a privileged right of access to vantage points that will enable a quality broadcast to be produced.

The broadcasting contract between the television station and the event organiser should determine who can use the footage. The broadcaster that creates the footage initially owns the copyright. The question is whether the broadcasting contract provides the event organiser with a licence to use the footage and restricts how each person can use the footage.

Therefore, great care must be taken when preparing any venue

hiring or broadcasting contract. Who can broadcast and use footage of events should be clearly specified. Access to broadcast footage is important to maximise the attractiveness of Internet sites and other multimedia products.

Conclusion

Television coverage is often seen as the Holy Grail of sports marketing. Technology such as virtual advertising and multimedia has the potential to further swing the focus from spectators to viewers. The MCG broadcasting dispute highlights the importance of contractual arrangements to protect and enhance revenue streams. ➤

Craig Richards is a lawyer who conducts his own sponsorship and event marketing consultancy, Craig Richards Sponsorship Solutions. He is the author of a sponsorship law textbook, "Structuring effective sponsorships", which will be published by LBC Information Services in September 1998.

Comment

outlets (4,000, of which 2,500 must be in rural or remote areas); and delivery frequency (98 per cent of people must get five deliveries a week and the rest must get at least one a week. In "Better Communications" the coalition promised that everyone would get "a twice weekly service wherever possible"). A freeze on the standard letter rate at 45c until 2003, and other reforms in response to the National Competition Council's review of Australia Post, were announced on July 16.

Then came a new plan for Telstra,

from a government desperate to get the necessary legislation passed before the election: a sell-down to only 51 per cent public ownership, with no further sale until an independent inquiry has certified that Telstra's service levels are adequate. New consumer safeguards would be included in legislation which would be introduced regardless of whether the sale legislation was passed, and the Minister would be given a power to direct Telstra regarding compliance with service standards.

The government claimed nothing much had changed: it still planned to sell the whole company, but there were more hoops to jump through before it did it. But those government backbenchers who'd spoken out against the full privatisation were seeing it as a more significant and perhaps long-lasting backdown.

For a government attracted by the fast buck to be made from selling off the telecommunications farm, buying back the farmers is proving to be an expensive exercise. ➤

Jock Given