

Final Business and Regulatory Impact Assessment

Title of Proposal

London 2012 Olympics: Advertising and Street Trading Regulations

Purpose and intended effect

- **Objective**

To restrict unauthorised advertising and street trading activity in the vicinity of Hampden Stadium in Glasgow for the period of the London 2012 Olympic football competition being held there. The restrictions will be in place from 24-28 July 2012, and 31 July–3 August 2012.

- **Background**

High profile events attract companies who want to associate themselves with the event. The Olympic and Paralympic Games are sponsored by companies who pay for that association right and therefore it is a requirement of the International Olympic Committee (IOC) that legislation be put in place to prevent other businesses associating themselves within the proximity of Games venues without permission.

- **Rationale for Government intervention**

The London Olympic Games and Paralympic Games Act 2006 (the Act) set out the broad framework for advertising and street trading regulations. However, as advertising and street trading are devolved matters the detail is set out in secondary legislation made by Scottish Ministers, the intended effect of which will be to restrict activity in the vicinity of Hampden Stadium.

Consultation

- **Key Stakeholders and Local Government**

The Scottish Government has consulted London Organising Committee of the Olympic Games (LOCOG), the Olympic Development Authority (ODA), the Government Olympic Executive (GOE), Glasgow City Council (GCC) and Glasgow Trading Standards on the proposals prior to drafting the regulations. Their views have been taken into account when deciding the vicinity of the restricted area and the consequence of enforcement of the regulations.

- **Public Consultation**

In June 2009 the ODA published UK-wide advance notice of the intention to introduce regulations restricting unauthorised advertising and street trading activity around all the Olympic Venues including Hampden Stadium. This will be followed up with a specific detailed notice 6 months prior to the Regulations coming into force in July 2012.

The GOE agreed to co-ordinate a joint formal public consultation on the proposed regulations with the Scottish Government and the Welsh Assembly. The 12-week consultation was launched on 7 March 2011. The consultation was registered on the Scottish Government's Consultation Registration and Evaluation System (CRES). Consultees were invited to respond and provide evidence of any additional burdens to business or competitiveness.

The consultation closed on 30 May 2011. The responses received and evidence provided were considered in detail and used to finalise the Statutory Instrument

before being laid in the Scottish Parliament.

- **Business**

Whilst developing the Regulations, the Scottish Government arranged an informal consultation meeting with a number of the traders in Glasgow who could potentially be affected by the introduction of the Regulations. The meeting had two purposes:

- to provide the traders with more details about the proposed regulations, and;
- hear the views of those who could be affected,

thereby, enabling the Scottish Government to better assess the potential effect of the regulations on small businesses. The meeting was, however, cancelled due to lack of interest from traders.

Arrangements were made for all traders who hold licences from GCC, and who normally trade in the restricted area around Hampden, to receive a printed copy of the consultation document and the draft regulations. In addition, a leaflet outlining the proposals was distributed to all businesses and residents living within the restricted vicinity.

The advertising space within the restricted vicinity of Hampden was identified by the ODA and the sellers of the space contacted by them. The responses from the consultation exercise have helped develop a final set of regulations. The regulations, Business Regulatory Impact Assessment and Equalities Impact Assessment will be laid in the Scottish Parliament.

Options

Prior to considering the introduction of the regulations to restrict advertising and street trading around Hampden, three options were considered by the Scottish Government.

Option 1: Do nothing and rely on existing regulations

This would mean that the status quo would remain where enforcement officers would have to rely on existing powers. Existing powers, however, are not suited to Games time and are insufficient to prevent illegal ambush marketers from benefiting from an association with the Games.

Option 2: Do what is proportionate and limit the scope of the restrictions

Introduce legislation to restrict specific activity, for a short time, in a limited vicinity around the competition venue. This is proportionate and will enable the Scottish Government to deliver the guarantee made to the UK government as part of the bid process. We are not making a permanent change to business in this area.

Option 3: Restrict any and all advertising and trading activity.

We could prevent any and every advertiser and trader from conducting business within a wide space around venues and for a long period as has been done during previous Olympic Games. This would deliver the commitments made to the IOC as part of the bidding process and the associated guarantees.

- **Sectors and groups affected**

All of the options impact on the street traders who trade, and owners of advertising space, within the restricted area around Hampden Stadium. An Equalities Impact Assessment has been prepared and accompanies these Regulations.

- **Benefits**

Option 1: Do nothing and rely on existing regulations

Doing nothing would preserve the status quo and could therefore provide a free market for companies and individual to derive commercial benefit from the Olympic Games. There would be no additional expenditure in authorising.

Option 2: Do what is proportionate and limit the scope of the restrictions

We only do what is necessary to protect against ambush marketing. Restrictions will be in place only for the duration of the competition being held at Hampden and only in the immediate vicinity. As a consequence of these strict restrictions, a permanent impact on competition in the affected markets is very unlikely. In addition, both UK and Scottish Ministers will be fulfilling their obligations under the Host City Contract and commitments made when bidding for the Olympic Games.

Option 3: Restrict any and all advertising and trading activity.

Restricting any and every advertiser and trader from conducting business within a wide space and for a long period would deliver the commitments given to the IOC in the Host City contract.

- **Costs**

Option 1: Do nothing and rely on existing regulations

Doing nothing would result in UK and Scottish Ministers going back on their guarantee to take all the necessary steps to prevent any ambush marketing during the Games and could result in the IOC or sponsors taking legal action against the Government for breach of the Host City Contract. Tailored provision is needed to act as a stronger deterrent to ambush marketing and illegal trading. Without regulations to limit unauthorised activity, LOCOG may find it difficult to secure investment from sponsors and licensees and without such investment the Games could not happen.

Option 2: Do what is proportionate and limit the scope of the restrictions

There are no additional compliance costs for businesses. In order to trade in the vicinity of Hampden traders will require a licence from LOCOG which can be applied for free of charge. Similarly advertising activity can only be undertaken with LOCOG's authorisation and application can be made free of charge. There may be an additional cost to the Local Authority in enforcing these regulations. However, the ODA will provide additional resource to meet this.

Option 3: Restrict any and all advertising and trading activity.

Such stringent control in a wide area and for a long period is not proportionate and is likely to draw huge criticism from business the general public. The option to enforce restrictions covering a large area and for a lengthy period of time would be costly and problematic.

Scottish Firms Impact Test

These regulations may have an impact on a number of small businesses and lone traders who hold licences to trade in the streets within the restricted area around Hampden, or firms who maintain small billboards. The traders will have their existing local authority trading licence suspended for the restricted periods. The regulations will also restrict unauthorised

advertising in all its guises within the restricted area. We do not believe that the restrictions are substantial or long lasting enough to warrant a detailed assessment. We have identified licensed fixed-stance and mobile traders within the restricted vicinity who will be affected by the regulations. These traders may continue to trade with ODA's authorisation. Moreover the enforcement of the regulations will deter any rogue traders who may tempt business away from legitimate traders. Lack of take up from the business community prevented the gathering of more specific details of the impact of the regulations.

It is envisaged that the sellers of advertising space will be able to sell their space generally to sponsors thereby mitigating some of the potential loss. They may even be able to sell the space at a higher price and there may be some gains for sellers.

- **Competition Assessment**

We are restricting who may advertise or trade in a small restricted vicinity in Glasgow so there will be an impact on competition. However, the restrictions are not substantial or long lasting enough to have a significant impact as they apply to a tightly defined area for a period of only eight days. Wherever possible the ODA are looking to authorise trade in the vicinity and advertising space will be utilised. We are not making a permanent change to business. Additionally, the Games may generate an influx of new trade to the wider Glasgow area and arguably there is scope for exploiting the market outside this area. We consider that this policy is unlikely to raise substantive competition concerns.

- **Test run of business forms**

The ODA and LOCOG are working on their plans for authorising trading and advertising respectively. For traders wishing to trade outdoors they will be required to apply to the ODA for authorisation. Those authorised to trade will be issued an ODA Authorisation document those not authorised will be issued refusal letter and may apply for a review. They will need to then fill out a review form application. Finally, some outdoor traders who are refuse authorisation may be entitled to Financial Assistance and this requires a form to be completed. **The ODA will keep the applications forms as simple as possible**

Legal Aid Impact Test

Details of the proposed regulations have been considered by the Scottish Government Legal Aid Team who have concluded that there will be minimal impact on the Legal Aid Fund.

Enforcement, sanctions and monitoring

Enforcement of the regulations may be carried out by enforcement officers designated by the ODA and/or the Police. The Act conveys powers to designate enforcement officers under section 22 in relation to advertising and under section 28 in relation to street trading. It is proposed that the ODA designates small teams of enforcement officers drawn predominantly from local 'host' authorities trading standards officers who are experienced in dealing with street trading and advertising offences. The ODA will remain responsible and accountable for the enforcement of the regulations and for the actions of these enforcement officers. The ODA will take a light touch approach to minor infringement but persistent offenders could have offending items seized in order to stop or prevent contraventions or for evidence.

Implementation and delivery plan

These regulations will come into force from 24 July 2012 and will cease to take effect on 3 August 2012. They will be implemented by enforcement officers and the Police. Local Authority street trading licences are issued for a period of three years. The Local Authority have been alerting all new and repeat trading licence applicants to the restrictions since 2010.

- **Post-implementation review**

No formal review of these provisions will be carried out as the restrictions are not

wide-reaching or permanent.

Summary and recommendation

We recommend option 2, to produce regulations which build on existing law and do only what is necessary to protect against ambush marketing and ensure we maintain a focus on the sport itself. Restrictions will be in place for two periods of only four days when matches are being held in Hampden. The restricted zone is less than 200 meters around the perimeter of the stadium and the narrow public walkways to the stations which service it. In the restricted zone (during the relevant periods) the regulations will override any existing advertising and street trading authorisations and licences. That means that advertisers and traders will need to be authorised under the regulations. The regulations will not impact on those that trade indoors, so shops and businesses in the restricted zone will be able to conduct business as normal.

There will be an authorisation process whereby advertisers and existing street traders can apply to advertise and trade during the restricted periods. LOCOG is the designated body to authorise advertising and will permit advertising within the restricted zone which does not conflict with the aims of the regulations. In the case of trading the ODA is responsible for issuing authorisations. Their focus will be ensuring that existing business can continue to operate without compromising the main policy objectives.

Declaration and publication

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

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