



The legal view | Pat Hickey and the Olympic ticket scandal

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Matt Bosworth, partner at Russell-Cooke examines the legal ramifications of the Pat Hickey ticket scandal and looks at the legislative infrastructure around the Olympics.

The news has now sunk in that yet another high ranking international sport official has become embroiled in criminal wrongdoing. European Olympic committee member Pat Hickey has been arrested on charges relating to the illegal sale of Olympic event tickets, that he has had his application for bail refused and is being held in prison in Rio de Janeiro.

The Olympic movement is now such a huge concern that when a host city is announced the infrastructure of the Games begins to be put in place with the formal adoption of an Olympic Games legislative infrastructure. The International Olympic Committee (IOC) protects its merchandising, advertising and ticketing operations with extreme prejudice. No-one is spared if the IOC feels its rights are being abused.

Shortly after Rio de Janeiro was selected to host the 2016 Summer Olympic and Paralympic Games, they passed the Olympic Act 2009. The Act contains a number of special rules required for the carrying out of the Olympic Games, among them specific provisions designed to protect the official symbols, curb ambush marketing and control ticketing throughout the Olympic cycle. The nature of the statutory framework was similar to the protections put in place by the London Olympic and Paralympic Act 2006.

The conditions of sale in Rio 2016 tickets are clear in their intent to protect official advertisers and to maintain IOC control of all aspects of advertising, marketing and ticketing functions where they state: "Tickets may not be transferred to any Person who pays or agrees to pay for some other goods or services [...] unless authorised by Rio 2016 [...] In such a case, the Ticket Holder will be denied entry to the Session and the Purchaser will not be eligible for a refund."

This is linked to Articles 6 and 8 of the Act that give the Brazilian federal authorities the

responsibility for monitoring, investigating and suppressing any unlawful acts that violate the rights in the Olympic symbols in connection with the Rio 2016 Games.

The Act complements the already-existing rules of other Brazilian statute in relation to unjust enrichment and the formation of illegal cartels. Brazil has specific statute, the Estatuto do Torcedor 2003, which states that an individual being convicted of selling tickets for sporting events at a price higher than face value can face 1 to 2 years in prison and a fine.

The IOC has always worked closely with law enforcement agencies in the host city in the effective protection of its intellectual property rights of which ticketing has always been a fundamental part. It has a well-polished routine of presenting statute that is enacted by the legislative function of the host country and then set to work with the agencies on the ground in ensuring that any wrongdoing is found and stamped out immediately - be that someone selling unofficial merchandise, counterfeit tickets though to non-partner companies seeking to use ambush marketing strategies around the Games.

In this particular set of circumstances - and it is of course noted that he maintains innocence of any wrongdoing at this time - Mr Hickey is alleged to have passed on 'friends and family' tickets to be used by the Irish Olympic Council to an unauthorised company The Hospitality Group (THG) who were then alleged to have been involved in 'gouging' ticket prices onto individuals and businesses by promising lavish packages that do not, in reality, exist.

The concept of 'gouging' is key to this matter. It brings in the involvement of the Brazilian federal law enforcement agencies as it is a criminal act. From that starting point the investigation has now grown rapidly to have international ramifications: the Irish authorities have launched investigations into the matter - and as THG is a British company it would not take a great leap of imagination to assume that the British authorities are looking onto their business practices; especially as they are already being sued by Uefa in relation to ticket infringements in the recent European football championships in France. Again all parties involved deny any wrongdoing.

Under touting/gouging statute, the Estatuto do Torcedor 2003, Mr Hickey could face a maximum of two years imprisonment and a fine.

The arrest warrant also stated that there were illegal cartel matters being investigated - being convicted of any such charge would ensure a longer custodial sentence. This does not take into account any Irish law matters raised by the affair.

One thing is for sure, this incident will run longer than the Games and also remind everyone - the 'great and the good' of the IOC included - that no one is safe if they interfere with the intellectual property rights of the Olympic Games.

Matt Bosworth

Partner

+44 (0)20 7440 4840

Matt.Bosworth@russell-cooke.co.uk

www.russell-cooke.co.uk