

Paris 2024 Olympic Games:

The legal consequences of limited television coverage

BY IAN FELICE AND EMMA LABRADOR¹

Introduction

For many years, the Olympic Games have been considered a global event drawing billions of TV spectators around the world.

But the way these Games are aired and enjoyed has changed significantly as a result of the quickly evolving media landscape. As the 2024 Paris Olympics have come to an end, discussions concerning content availability, broadcasting rights, and the laws controlling sports event distribution have been spurred by complaints about the limited television coverage experienced in these Games when compared to previous editions.

In order to understand better the legal ramifications of these changes, this article will concentrate on three main areas: intellectual property rights; broadcasting rights; and potential challenges resulting from limited viewing access to sports' showcase event.

How we got here: the Olympics' need for TV

The success of the Olympic Games – both in terms of drawing in viewers and in generating revenues – has always depended heavily on extensive broadcasts, principally on “traditional”, public service, open TV. The International Olympic Committee (“IOC”) has historically sold the exclusive right to broadcast the Games to major television networks and channels, guaranteeing extensive coverage on a variety of platforms. Although these contracts have historically proved profitable for the IOC, the media environment has drastically changed in the last ten years. Traditional broadcasting strategies have been shaken by the advent of social media, on-demand viewing and digital streaming platforms. As a result of this, the IOC has had to modify its approach to

¹ Partners, Hassan's International Law Firm, Gibraltar. In addition to their legal roles, Ian Felice is a former FIBA international basketball referee, a member of the FIBA Europe Legal Commission and Vice-President of the Gibraltar Basketball Federation (GABBA); and Emma Labrador is President of the Gibraltar Volleyball Association, an international beach and indoor volleyball player for Gibraltar, and one of the Vice-Presidents of the European Volleyball Confederation (CEV). E-mail: ian.felice@hassans.gi and emma.labrador@hassans.gi respectively.

safeguard its financial interests and guarantee that the Olympics remain accessible to a worldwide audience.

In this sense, the Paris 2024 Summer Olympics have marked a major turning point. Compared to prior editions, the general public saw more limited television coverage throughout, whilst seeing an increased focus on digital streaming services. The exclusivity of broadcasting rights and the ramifications for customers who have been denied access to the content they had requested, as well as those who located the contents but were disconnected prior to the conclusion of the event or match, are amongst the legal issues raised by this change.

Digital platforms and the transition of broadcasting rights

One of the most important components of the Olympics' business strategy is the sale of television rights. According to IOC records, in previous editions of the Games, television rights generated more than half of the organisation's revenue. Networks fought hard to gain exclusive access to the Games and these broadcasting rights were usually sold to the highest bidder, who often were the national, public service broadcasters like the UK's BBC or Spain's RTVE.

Nonetheless, the nature of these transactions has altered due to the growing trend towards digital platforms. The IOC has, in recent times, prioritized agreements with streaming platforms, as they provide more customized and adaptable viewing experiences, particularly to younger audiences who shun the traditional TV offering.

One glaring illustration of the trend change was the NBC agreement with Peacock for the Tokyo 2020 Olympics. The company that broadcasts the Olympics in the United States of America, NBCUniversal, used its streaming service Peacock to broadcast Olympic footage from Tokyo 2020. Peacock provided live and on-demand coverage of the Games, featuring highlights, original programmes and reruns of entire events. The service was marketed as additional to NBC regular television shows with some events only accessible on Peacock. The action was a part of the NBCUniversal larger plan to incorporate its digital platforms with traditional broadcasting, in light of the shifting viewing preferences of consumers towards streaming. Although specifics about the financial terms and extent of exclusivity have not been made public, the strategic alliance between NBC and Peacock

signified a major change in the way Olympic content was disseminated. Although this action meets the increasing need for digital content, there are also questions raised by it.

The possible breach of antitrust laws, which may involve actions that restrict competition or establish monopolies, is one of the main legal issues at hand. By way of example:

- exclusive contracts: it may be considered anti-competitive activity if a broadcaster obtains exclusive rights and then utilizes them to prevent rivals from accessing any programming;
- tying agreements: another possible infraction might be if a broadcaster makes viewers pay for other services or goods in order to view Olympic programming;
- market allocation: it may be illegal for broadcasters to agree not to compete in other's markets for Olympic rights.

Although these investigations have usually centred on domestic sports leagues rather than international events, like the Olympics, the Department of Justice in the USA has investigated sports leagues like the NFL for antitrust breaches linked to broadcasting rights. Therefore, exclusive broadcasting agreements with digital platforms could be perceived as restricting competition, especially if traditional networks are not allowed to participate in the bidding process. Legal issues may arise from this, particularly in areas such as the European Union, the USA, the UK and Australia, which have severe antitrust laws:

- European Union: the EU has a strong system in place to enforce antitrust laws, especially through the European Commission, which routinely looks into and penalizes businesses that engage in anti-competitive behaviour;
- USA: with laws governing competitive tactics like the Clayton Act and the Sherman Act, the USA has a lengthy history of enforcing antitrust laws;
- UK: with a long history of looking into anticompetitive behaviour, the Competition and Markets Authority (CMA) of the UK is in charge of enforcing antitrust laws;
- Australia: matters concerning media markets and broadcasting are subject to the enforcement of competition law by the Australian Competition Consumer Commission (ACCC).

Additionally, there is the issue of rights for consumers. To guarantee public access, major sporting events, including the Olympics, must be televised on free-to-air (FTA) networks in numerous nations. Examples of these laws and regulations are as follows:

United Kingdom: free-to-air television is required to carry a list of so-called “crown jewel” events, which includes the Olympics (enshrined in the BBC’s constitution). Ofcom is in charge of this.

Australia: the country has anti-siphoning regulations that mandate that before pay-television channels may purchase the rights, some important sporting events must be made available to FTA broadcasters.

Germany: the country’s broadcasting rules have comparable regulations that guarantee the public access to important sporting events on FTA channels.

France: there are laws in France that ensure public attendance at major athletic events, such as the Olympics.

These regulations are intended to keep huge groups of people from being excluded from events that they otherwise might not be able to view because of technological budgetary constraints. The transition to digital platforms may violate these legal frameworks, resulting in legal conflicts between the IOC, authorities and broadcasters.

Intellectual property and broadcasting content

The handling of intellectual property (“IP”) rights is a key legal concern that has arisen from the limited television coverage of the Olympics in Paris in 2024. All Olympic content, including event broadcasts, the use of Olympic emblems, and the dissemination of associated media, is owned exclusively by the IOC. For the IOC, this IP management is essential since it helps preserve the integrity of the Games, guarantees that revenues are maximized and protects the brands of the IOC main sponsors, who would take severe action, for example, in the case of the type of “ambush marketing” that Nike made famous in the 1996 Atlanta Games.

The growing usage of digital platforms, however, makes it more difficult to enforce these intellectual property rights. Digital platforms enable a considerably wider and more dispersed dissemination of content than traditional broadcasting, which distributes it through a restricted number of channels. As a result, it may be difficult to keep an eye on and regulate how Olympic intellectual property is used, especially when it comes to unauthorized streaming and the usage of Olympic material on social media. Unauthorised streaming is a particularly troublesome issue. The likelihood of illicit streaming rises as more people watch the Olympics on online platforms. This not only dilutes the value of the broadcasting rights but also presents a major enforcement headache for the IOC. Recently, the IOC has taken legal action against several platforms and individuals for unauthorized use of Olympic content; however the sheer scale of the internet makes it increasingly difficult to eliminate completely this problem.

The IOC has, however, taken proactive measures to safeguard its intellectual property and enforce its legal rights over the unlawful use of Olympic content. The IOC has taken strong legal action in recent years against internet streaming services that have improperly aired Olympic competitions. The IOC and Olympic Broadcasting Sites (“OBS”) have collaborated closely with national authorities in several nations to shut down unapproved streaming sites that were disseminating Olympic content unlawfully during the Tokyo 2020 Olympics. Pre-action letters, court orders to restrict websites, and lawsuits against the owners of these platforms were all part of the IOC vigorous legal strategy. The IOC has had no choice

but to do this – its sponsors and rights holders surely demand it as part of their considerable investment.

In addition, the IOC has taken legal action against social media sites that permitted the unlawful dissemination of Olympic content. The IOC took aim at social media sites, like Facebook, Twitter, and YouTube, during the Rio 2016 Olympics because users had posted and shared footage from Olympic events without the required broadcasting rights. The Digital Millennium Copyright Act (“DMCA”) takedown requests and subsequent legal procedures were among the enforcement measures taken by the IOC in case the content was not removed in a timely manner. In addition, the IOC has filed lawsuits against those who shared illicit Olympic content on their own social medial platforms. Legal warnings, for example, were sent to a number of athletes and influencers for releasing Olympic footage on Instagram or other platforms without authorisation, in violation of IOC strict guidelines. To stop Olympic broadcast piracy, the IOC has partnered with national broadcasters and local governments around the globe. In order to combat illicit streaming websites, the IOC collaborated with the UK’s Intellectual Property Office and other law enforcement organisations during the 2012 London Olympics. The IOC even obtained injunctions against internet service providers to prevent access to these websites. This was one of the largest well-coordinated IOC attempts to safeguard its content during a big event.

Online marketplaces, such as eBay, were the target of legal action taken by the IOC in relation to the sale of unlicensed Olympic products, which included video recordings and other intellectual materials. In order to get these products taken down and prevent the sale of goods that violated Olympic trademarks and copyright, the IOC filed a lawsuit. These instances show the IOC’s extensive legal approach to safeguarding its valuable content, which includes bringing civil actions, as well as working with law enforcement and other institutions to make sure Olympic information is not utilized without permission. The IOC works to uphold the integrity and uniqueness of the Olympic brand in addition to safeguarding its financial interests.

Another set of difficulties arises when Olympic content is used on social media. As previously mentioned, sites, like Facebook, Instagram, and Twitter (now X), offer challenges for unauthorized use of intellectual property, even though they are useful tools for interacting with fans and promoting the Games. These actions may lessen the IOC’s intellectual property value, which inevitably results in legal strife.

The impact of consumers and access to content

The effect on consumers is one of the most controversial aspects of the move to digital media for Olympic programming. Accessibility issues are brought up by digital streaming, even though it gives users greater flexibility and options, especially those who might not have access to the required technology or internet connectivity to watch the Games. Throughout the Paris 2024 Olympics, where it was clear that traditional

television coverage was less extensive than in past Games, this problem was especially pertinent. Large sections of the public were denied access to the content, either because “paywalls” prevented them from accessing it or because they lacked access to digital platforms.

This has led to a great deal of backlash, with social media (ironically) abuzz with lamentations about how easy, at least in the UK, it had all been with the famous red button. In terms of the law, this raises questions about the fairness and equity of the IOC broadcasting strategy. In many countries, there are regulations that require certain major sporting events to be broadcast on free-to-air channels to ensure that they are accessible to all. The shift to digital platforms, particularly if it involves exclusive deals with subscription-based services, could, therefore, be seen as a violation of these regulations.

There is also the matter of consumer protection. If watching the Olympics requires having multiple platform subscriptions, fans may wind up spending a lot more than they would for traditional television coverage. Consumer protection organisations may file a lawsuit in response to claims of unfair business practices.

Legal disputes and regulatory challenges

Legal problems have already arisen as a result of the limited television coverage of the Paris 2024 Olympics, and further regulatory challenges are expected. There are already a number of court proceedings involving intellectual property rights, athlete image rights, broadcaster and consumer rights, and other related issues.

To defend its trademarks and uphold the Olympic brand’s commercial integrity, the IOC has filed lawsuits against unaffiliated businesses using unapproved symbols and branding. In response to businesses that engage in “ambush marketing” or unauthorized advertisements that falsely imply an affiliation with the Olympics, the IOC has taken both proactive measures and reactive litigation.

In relation to the use of their image rights, athletes have also been at the heart of legal challenges. Following the Games, a number of disputes involving athletes or their representatives contesting the unlawful use of their likenesses in advertising campaigns by non-Olympic corporations came to light. Complex talks over monetary remuneration for the use of athletes’ images are frequently at the centre of these conflicts, particularly when it comes to improperly capitalized advertising of athletes’ Olympic accomplishments.

More importantly, as this article has explored, disputes over the extent and exclusiveness of broadcasting rights have led to legal issues between broadcasters and the IOC. Significant legal cases have resulted from disputes over the internet broadcasting of Olympic events, especially when specific sites have permitted unlicensed broadcasts.

Consumer complaints over the quality and accessibility of Olympic broadcasts have abounded and, in several

circumstances, these complaints have led to legal action against streaming services or broadcasters. These court cases bring to light the intricate legal environment that surrounds major international athletic competitions, such as the Olympics, where broadcasting agreements, intellectual property rights, and athlete representation are strictly controlled and often subject to dispute.

Mitigation of legal risks: strategies for the IOC and broadcasters

The IOC and broadcasters must act quickly to reduce the dangers involved with the limited television coverage of the Paris 2024 Olympics, given the variety of legal difficulties that have come with it. This could entail a variety of tactics, such as creating strong IP protection enforcement systems and making sure local laws and regulations are followed. Ensuring that the distribution of broadcasting rights is equitable and transparent should be a primary priority. To see that antitrust issues are handled and that the interests of all stakeholders are taken into consideration, the IOC have to think about incorporating regulators into the process. This can entail establishing precise rules for the bidding procedure and making sure that established networks are given the chance to compete for rights alongside digital platforms.

Enhancing the enforcement of intellectual property rights is a crucial additional approach. In order to avoid unlawful

use of Olympic content on social media and to monitor and remove unauthorised broadcasts, the IOC should collaborate closely with digital platforms. This will inevitably entail working closely with tech firms to create more advanced monitoring systems and coordinating the law enforcement to take legal action against IP rights violators. Ultimately, it is imperative that the IOC and broadcasters guarantee the fairness and transparency of their pricing plans. This could entail making material available on free-to-air channels in countries where it is mandated, as well as providing tiered payment alternatives to guarantee that viewers with varying economic levels can access the content they choose.

Conclusion

The Paris 2024 Olympics marked a turning point in the history of sports broadcasting, as more regulated TV coverage and a major move towards digital platforms were implemented. Although this offers room for creativity and more freedom in terms of how content is consumed, it also raises a multitude of legal issues. To guarantee that the Games are open to everyone and that their legal risks are kept to a minimum, the IOC and broadcasters must negotiate a complicated legal environment that includes issues, such as the distribution of broadcasting rights, the enforcement of intellectual property, the effect on consumers, and the possibility of legal challenges. All of that whilst trying to accommodate evolving consumer preferences and complying with the values of the Olympic Movement!