



To All Broadcast Clients

February 1, 2006

Broadcasts and Promotions Related to the 2006 Olympic Games in Torino, Italy

The 2006 Winter Olympic Games in Torino, Italy, begin on February 10, 2006. Because the Olympic organizing committees have been extremely vigilant in protecting the trademarks and copyrights associated with the Olympics, stations should be careful not to use any materials that could infringe on these property rights, as outlined in the following general guidelines.

The United States Olympic Committee and the International Olympic Committee control marketing rights with respect to Olympic emblems, marks, symbols and terminology. These Olympic Committees use their protected marks, symbols and terminology for revenue generating purposes and reserve the use of such symbols for official sponsors and licensees who have made major investments in the Olympic programs. The Olympic Committees vigorously protect and enforce their rights with regard to Olympic-related marks to preserve their value to the authorized licensees.

Attempting to form an association with the Olympic Games in the minds of consumers by using promotions and advertisements designed to create the appearance of a relationship between the station and/or station clients and the Olympic Games—also known as “ambush marketing”—is a risky practice. The Olympic Committees and their official sponsors may have legal claims for trademark infringement, unfair competition, false advertising and misappropriation of good will against entities infringing sponsor-

ship rights. Although the use of a disclaimer, such as “not an official sponsor of the Olympic Games” may protect the potential infringer to a certain extent, use of such disclaimers is not fail-safe.

Use of Olympic Terminology and Music

Under federal law, the Olympic Committees have the exclusive right to use the words “Olympic” and “Olympiad,” as well as numerous other Olympic-related designations, including the well-known five interlocking Olympic rings. Trademarks relating specifically to the 2006 Winter Olympic Games, such as “Torino 2006,” and symbols such as “Neve,” and “Gliz,” the Olympic mascots, are also protected trademarks. Other Olympic marks include “Let the Games Begin,” “Go for the Gold,” and “Team USA.” Unlicensed use of such trademarks for any purpose, including the sale or promotion of any products or services bearing those marks, for the purpose of trade or to induce the sale of any goods or services is unlawful.

For the last 20 years, the “Olympic Fanfare and Theme” has been closely identified with the Olympic Games. A broadcast of this music, and other Olympic-related music, is covered under your station’s BMI performance license; however, as is the usual case with copyrighted music, without separate “synch” rights or other specific authorization, Olympic-related music cannot be used as background music in advertisements, promotions, or for similar commercial purposes.

Unauthorized Distribution of Olympic Games Tickets

The Olympic Committees and their authorized agents are the only legal sources for the distribution of Olympic tickets. In the purchase of Olympic tickets, the purchaser agrees to all terms and conditions on the ticket request form, which includes a prohibition on reselling or transferring the tickets. Furthermore, tickets generally may not be used for advertising or promotional purposes unless specifically authorized by or on behalf of the Olympic Committees. In light of these terms and conditions, a station cannot conduct a promotion in which trips and/or tickets to the Olympic Games are awarded, even if the tickets were validly purchased by the station.

News Reporting on Olympic Events

The International Olympic Committee holds property rights in the accounts and descriptions of the Olympic Games and sells the television and radio rights for the Games. By reason of its creation of the Games, its control of the venues and its restriction of the dissemination of the news therefrom, the IOC has the right to control the use of information relating to the athletic events for a reasonable time following the completion of those events. In addition, tickets to Olympic events generally include a restriction which

prohibits persons located within the stadium from disseminating accounts of the sports event to the media without authorized press credentials. Unless a station applied for and obtained press credentials, it is not permitted to report on the Olympic Games from the venue while the event is on-going. When the event has concluded, it is permissible to report the “news” of the event, *i.e.* the names of the medalists and scores of the event.

Courts have held that the copyright owner of a telecast—in this case the IOC and its licensees—has a right to charge a fee for the use of highlights. Therefore, stations need to obtain consent from the appropriate rights holder before using highlights of athletic events and the opening and closing ceremonies in station newscasts.

The limited case law in this area indicates that although the First Amendment may allow the media to report news on athletic events, such as the scores and names of medalists, shortly after the event, the First Amendment does not likely protect a station which broadcasts footage or accounts of an event in violation of licensed rights to the event and, in particular, prior to its conclusion.

This memorandum is intended only as a general discussion of these issues and should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired. If you have questions regarding the legality of promotions or broadcasts relating to the Olympic Games, we recommend that you contact Peter Gould at 202.416.1091 or any other attorney in our office.