

Revised Rule 40 Advertising Guidelines Offer New Opportunities for Sponsors and Athletes Just in Time for 2020 Tokyo Olympics

The Bottom Line

- The changes to the Rule 40 Guidelines offer significant new opportunities to athletes and their personal sponsors. Yet, marketers seeking to leverage Olympic athletes during the 2020 Tokyo Games will need to agree to broad anti-guerilla marketing prohibitions. For those prepared to do so, the revisions to the Guidelines offer increased flexibility and discretion:
 - Advertising campaigns featuring Olympic athletes can begin at any time;
 - Sponsors can wait until Olympic teams are announced to select potential athlete endorsers; and
 - Both athletes and sponsors can acknowledge each other in social media during the Games.

Amid continued criticism that previous efforts have done little to address athlete concerns, the IOC and USOPC have once again revised the Rule 40 Athlete Marketing Guidelines, just in time for the 2020 Tokyo Olympic Games. The revised Guidelines apply to all marketing using participants in the Tokyo Games beginning July 14, 2020 through August 11, 2020. Athletes and their sponsors are hoping the revised Guidelines afford meaningful sponsorship opportunities during the Games.

Earlier Guidelines

When the International Olympic Committee (IOC) and the United States Olympic & Paralympic Committee (USOPC) introduced revised Rule 40 Guidelines (Guidelines) in 2015 to govern personal sponsorships of athletes from non-Olympic sponsors, it was touted as the beginning of a new era in the relationship between the governing bodies and the athletes they serve.

Yet, the implementation of the Guidelines for the 2016 Rio Games and 2018 PyeongChang Games created more frustration than opportunity, as cumbersome rules and unrealistic timelines prevented many athletes from taking advantage of the new rules.

For more information on the previous guidelines, read our alert, [“As Advertisers Head to Rio for the Olympics, a Changed Regulatory Landscape Awaits.”](#)

The Revised Guidelines

A Flexible Application Process

The revised Guidelines require athletes to notify the USOPC of their personal sponsors through an online registration process, which can occur at any time prior to the date any advertising featuring the athlete appears in the marketplace.

In addition, personal sponsors are no longer required to submit campaign materials and media plans to the USOPC as part of the approval process. These are significant departures from prior versions of the Guidelines, which required notification six months prior to the start of the Games and required that USOPC-approved advertising campaigns be in market four months prior to the start of the Games. Most of the sports' governing bodies had not even selected their teams by this date, so sponsors would have to wager production and media budgets on the hope that their athlete endorsers made the team. This requirement made it all but impossible for the majority of Olympic athletes to secure sponsorships under the Guidelines.

Enforcement with Teeth

The apparent tradeoff for this increased flexibility is more direct enforcement authority over personal athlete sponsors and ambush marketing tactics. Once a sponsor is registered, the sponsor must complete an online Personal Sponsor Commitment, agreeing to abide by IOC and USOPC rules governing Olympic advertising. This change is designed to shift the balance of compliance responsibility, which had previously been squarely on the athletes' shoulders.

Under the Personal Sponsor Commitment, the USOPC will have increased tools to take enforcement action against a broader array of personal athlete sponsors to protect the interests of official Olympic sponsors (and protect that value of those Olympic sponsor rights agreements).

Words of Gratitude and Congratulations

The revised Guidelines now also permit athletes to thank their personal sponsors before and after events and sponsors can wish athletes good luck and congratulate them on their accomplishments, subject to restrictions on use of Olympic trademarks. This change offers an opportunity for athletes and their personal sponsors to connect with audiences as never before.

A Changing Wind?

While complaints about the restrictiveness of prior Guidelines began almost as soon as they were introduced for Rio 2016, the change in the Guidelines are not just responsive to those complaints — they also echo recent legislation in California and other states, permitting college athletes to seek personal sponsors and monetize the use of their name, image and likeness.

For more information on the legislation in California and other states, see our previous [alert](#).

Like the California legislation, the changes appear aimed at addressing the growing sense that these athletes, whether collegiate student-athletes or aspiring gold medalists, have been taken advantage of and deprived of their right to monetize their performance. Rather than waging war with multiple states over this issue, as the National Collegiate Athletic Association appears prepared to do, the IOC and USOPC are taking steps to address this historical imbalance.

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