

My grandfather, in his will, said that he wanted his children to "have the great opportunity of spending a useful, altruistic and full life in newspaper and broadcasting activities". All of us here tonight share that great opportunity of a full life in newspaper and broadcasting. And this week, journalists around the country proved their usefulness and yes, their altruism in reporting to a shattered nation. In doing so, we regained an appreciation for the role we play in people's lives.

Media is much more than an outlet for news; it is a forum for opinions, emotions and shared convictions that strengthen us all when we need strength most. This is why the providers of media must focus so hard on the pursuit of profits: because that enables us not to focus on profits at the times when our best and most important work has nothing to do with them. This is true not just in the case of monumental global events but all the time

and in all our businesses. Profits fund the excellence of our media services and the high quality of our products. They also provide a measure of our success that is critical to our desire to improve.

Our hard work to maximise revenues at our newspapers and TV stations year-round means we won't be forced to compromise the quality of those papers and stations in the event of a worldwide advertising slump, a price war declared by a rival, or the kind of event we saw last year or last week. At News our three fundamental beliefs – the good use of profit, the importance of international diversity, and the dangers of elitism – are what drive the value, in my opinion, of all modern media providers.

Great journalism needs profits, it needs to be broad minded, and it needs to always steer clear of elitism.

You know, when I was 6 years old standing in *The New York Post's* loading

dock, amongst the papers I loved then as I do now, I didn't really think about all this stuff. I only cared about the paper, its words and its images and I instinctively, I guess, understood its unique ability to relate to and inform its readers. I'd love to be back there now, in that headspace, and not be concerned about the realities of the world.

But none of us can do that. We've all grown up and don't have that luxury anymore.

*Lachlan Murdoch is the Chairman of News Limited and Deputy Chief Operating Officer of News Corporation*

As broadcast on ABC TV and available through ABC on-line. Reproduced with the kind permission of the Australian Broadcasting Corporation and Mr Lachlan Murdoch

## Olympic TV Rights

---

**Toby Ryston-Pratt, in this highly commended finalist of the 2002 CAMLA essay competition, reviews the ever-evolving saga that is Olympic broadcasting rights.**

---

In the lead up to the Melbourne Olympics, then International Olympic Committee ("IOC") President, Avery Brundage, commented that "*the IOC has managed without TV for 60 years, and believe me, we are going to manage for another 60*".<sup>1</sup> Brundage could not have been more wrong. Now the Olympics are supported by the sale of TV rights which account for 50% of Olympic revenue.<sup>2</sup> Although the Olympics have clearly moved on since Brundage's comment, broadcasting the Olympics continues to cause legal complication.<sup>3</sup> In this paper, I first consider the historical origins of the sale of Olympic TV rights. Second, I analyse the legal infrastructure of Olympic TV rights, focusing mainly on the Sydney Olympics. Finally, I consider the future of Olympic broadcasting.

### HISTORICAL ORIGINS

Olympic TV rights were first sold for the 1948 London Olympics when the BBC reportedly paid 1000 guineas for exclusive rights - approximately AUS \$4,000 using current exchange rates.<sup>4</sup> Despite this development, the IOC did not

rush to embrace television and expressed concern that allowing payment for TV rights would be contrary to the Olympic ethos.<sup>5</sup>

Regardless of the IOC's conservative approach, by the time of the 1956 Melbourne Olympics, the progress of television internationally meant that the market for rights was a growth area. Sensing an opportunity, the Melbourne Olympic Committee ("MOC") looked to capitalise on the sale of TV rights. The MOC reached agreement with Britain's principal broadcaster, Associate Rediffusion, who offered £25,000 after securing a US\$500,000 sponsorship deal with Westinghouse.<sup>6</sup>

Despite the Rediffusion offer, international interest was limited. Wealthy US networks refused to pay for rights claiming that the Olympics were a news event, not entertainment. They appealed to the constitutional rights of free press and demanded free and equal access to the Melbourne Olympics.<sup>7</sup> As a compromise, the MOC offered the networks three minutes of footage per day, but maintained that any more would damage the commercial distribution of

the official Olympic film. The US networks were not satisfied with the offer and demanded up to nine minutes per day. Amidst the furore, Rediffusion cancelled their contract and aligned with the US networks in arguing that the right to televise the Olympics should be free.<sup>8</sup>

The stalemate between the MOC and the international networks resulted in the networks boycotting the Olympics. *The New York Times* remarked that "*the Olympic Games as an institution, Australia as a nation and television as a medium of the free world...all have suffered from the consequences of the extensive black out*".<sup>9</sup> Local stations, principally Channel Nine who secured a sponsorship deal with Ampol, did broadcast the Olympics, but only within Melbourne.<sup>10</sup>

Despite the negative impact of the Melbourne boycott, 1956 proved a key turning point in the history of Olympic TV rights. The IOC launched an investigation into the role of television in the Olympic Movement which resulted in amendment of the Olympic Charter to recognise the sale of TV rights.<sup>11</sup> Even so, Brundage remained sceptical and in

1957 predicted that "[i]t isn't going to be easy to get money for the television rights to the Olympic Games".<sup>12</sup>

It did not take long for Brundage's shortsightedness to become apparent. After Melbourne, the price paid for Olympic TV rights rose steadily until, in 1968, the true value of TV rights emerged. The American Broadcasting Corporation acquired US rights to the Mexico Olympics for US\$4.5 million, and through advertising deals with major US corporations, including Coca Cola, recouped over US\$20 million.<sup>13</sup> Since then, the price of Olympic TV rights has risen exponentially. From 1984 until 2008, the IOC has concluded broadcast agreements worth more than US\$10 billion.<sup>14</sup> While the price has gone up, so have the numbers watching: only 100,000 people saw the Melbourne Olympics live on TV, whereas an estimated 3.7 billion viewed the Sydney Opening Ceremony.<sup>15</sup>

### **BROADCASTING THE SYDNEY OLYMPICS**

The IOC sells Olympic TV rights on an exclusive territorial basis. Through contracts with the IOC, rights holders acquire rights such as to broadcast the Olympics on free-to-air television, cable television (but not pay per view), closed circuit television and to a limited extent, satellite and high definition television. The rights generally also include "pre-Olympic" events and "cultural events". For the Sydney Olympics, the Seven Network paid US\$45 million for Australian rights and NBC paid US\$705 million for the US rights.<sup>16</sup>

Sydney rights holders acquired footage from two main sources. The primary source of footage was the live feed produced by the host broadcaster, the Sydney Olympic Broadcasting Organisation ("SOBO"). SOBO produced international television and radio coverage of every Olympic event, utilising more than 900 cameras to produce 3400 hours of live footage. Compare this to the Melbourne Olympics where only three cameras were used to capture footage from the main arena.<sup>17</sup> Rights holders supplemented this footage with individual unilateral coverage.

In addition to rights holders, other members of the television media, known as "non-rights holders", were granted limited access to venues for the purposes of documenting the Olympics.<sup>18</sup>

### **THE IOC, RIGHTS HOLDERS AND NON-RIGHTS HOLDERS**

The major issue relating to Olympic TV rights, particularly in light of the vast sums which are paid for those rights, is protecting exclusivity. It is important for both the IOC and rights holders that rights are not diminished in any way. Consequently, the IOC imposes rigorous demands and restrictions on both rights holders and non-rights holders to ensure the protection and standards of the Olympic Movement.

#### **Rights holders and IOC copyright ownership**

While being a Sydney Olympics rights holder entitled broadcasters to transmit Olympic images and sounds, it did not amount to a grant of ownership in Olympic footage nor an exclusive licence for the purposes of section 31 of the *Copyright Act 1968* (Cth). The IOC retained copyright in Olympic material and was responsible for controlling the use of its copyright material. The retention of ownership by the IOC had three important consequences for Sydney rights holders.<sup>19</sup>

First, because Sydney rights holders did not own copyright in relation to Olympic footage, their use of that footage, outside the scope of any agreement with the IOC, was subject to IOC approval. This restriction applied to all footage except that which was defined as the rights holder's own material, such as commentary, interviews and historical features. The restrictions imposed on rights holders, subject to the specific contractual terms between the rights holders and the IOC, had broad practical implications ranging from preventing advertising or sponsor credits appearing at the same time as Olympic coverage, to requiring any sub-licensee of a rights holder to enter an individual agreement with the IOC and SOCOG.

Second, stringent restrictions were placed on the use of Olympic symbols by rights holders. This aspect is governed by Rule 17 of the Olympic Charter which provides that the IOC may take steps to prohibit any use of the Olympic symbol which is contrary to the Olympic Charter and, during the Sydney Olympic period, required SOCOG to protect the emblems that they devised. Similarly, under the Host City Contract, SOCOG and the AOC were to protect the intellectual property associated with the Olympics.

The *Olympic Insignia Protection Act 1987* (Cth), which granted a monopoly in the five ringed device and certain Olympic Designs to the AOC, provided that for the purposes of the *Copyright Act*, the Olympic symbol was an original artistic work in which copyright subsisted.<sup>20</sup>

Finally, the IOC's retention of ownership of Olympic broadcasts and symbols had particular consequences in relation to remedying any alleged breach of a rights holder's Olympic TV rights. A major concern for Sydney rights holders was that Olympic events could be illegally filmed or live feed intercepted and converted into digital format using a video capture card or other device. This material could then have been uploaded as live stream video and audio content and made available to the public in the usual manner. Clearly, an injunction would have remedied this problem, however, because of the ownership structure of the Olympic footage, the proper plaintiff in such an instance had to be the IOC, in the case of Olympic footage, or the AOC, in the case of Olympic expressions, and not the rights holders themselves. Thus, in the event of a breach, rights holders had to rely on the IOC or SOCOG to protect their exclusive rights.

In addition to copyright protection, the IOC had the power to protect Olympic TV rights under sections 52, 53(c) and 53(d) of the *Trade Practices Act 1974* (Cth). These sections prohibit the making of a false representation or engaging in misleading or deceptive conduct. During the Olympics, Australian rights holder, Seven Network, repeatedly sought protection from these provisions where other broadcasters or advertisers made representations that they were in some way licensed Olympic broadcasters or had some connection with the Olympics.<sup>21</sup>

Similar protection was also available under the *Sydney 2000 Games (Indicia and Images) Protection Act 1996* (Cth), which specifically targeted ambush marketing and unauthorised use of Olympic symbols and logos.<sup>22</sup> The protected symbols included the word "Olympic" and expressions "Games City", "Sydney Games" and "Summer Games". The Act prohibited the use of any of these indicia or images for a purpose which suggested some connection with the Olympic Games or the Paralympic Games. This Act was repealed at the end of 2000.