



department for
**culture, media
and sport**

improving
the quality
of life for all

Regulations on Advertising Activity and Trading around London 2012

A Consultation

March 2011



host government department of the
Olympic and Paralympic Games



Llywodraeth Cynulliad Cymru
Welsh Assembly Government



The Scottish
Government

DCMS aims to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

Summary

The UK, Scottish and Welsh Governments are jointly consulting on plans for regulating advertising and trading in open public places at Games time.

Scope of Consultation

The geographical scope of this consultation is Great Britain.

This is a public consultation. We particularly seek views from those likely to be affected such as street traders and their organisations, pedlars, advertisers and their organisations and local authorities. However, we also welcome views from others. While we are committed to regulating advertising and trading in open public places, we will consider all views on the scope of the regulations. All responses will be carefully considered.

The consultation period will run for 12 weeks from 7 March 2011 to 30 May 2011.

The consultation document is available online at www.culture.gov.uk/consultations. You can also order a hard copy by emailing trevor.dawes@culture.gsi.gov.uk or by telephone on 020 7211 6924. The line is open Monday to Friday from 9.30am to 4.30pm (excluding Bank Holidays).

Please respond before the closing date. You will find related questions at the end of each section and there is also a summary of questions in section 12. Please send responses to adtradeconsultation@culture.gsi.gov.uk If you do not have access to email, please respond to:

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Tel: 020 7211 6502

You can also respond to the consultation online at www.culture.gov.uk/consultations. This consultation is intended to be an entirely written exercise. Please contact Trevor Dawes on 020 7211 6924 if you require any other format e.g. Braille, Large Font or Audio.

Devolved Administrations

Different regulations will be made for Games events in England, Wales (at the Millennium Stadium) and Scotland (at Hampden Park). Draft regulations will be subject to approval by Parliament, the National Assembly of Wales or the Scottish Parliament and will be made by the relevant ministers in each nation.

The main issues this consultation seeks views on are: the scope of advertising activity and trading which we propose to regulate, the areas within which the regulations will apply (which we have called the 'event zones') and the time periods during which the regulations will be in force (which we have called the 'event periods').

Issued: 7 March 2011

Respond by: 30 May 2011

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Contents

Summary	1
Section 1: Introduction	4
Section 2: Executive Summary	7
Section 3: Advertising Activity	9
Section 4: Trading in open public places	13
Section 5: Event Zones & Event Periods	17
Section 6: Implementation	20
Section 7: How to respond	24
Section 8: Regulations (England, Wales, Scotland)	26
Olympic Games and Paralympic Games, England	26
Olympic Games and Paralympic Games, Wales	47
Sports Grounds and Sporting Events, Scotland	63
Section 9: Exceptions to the Advertising Activity Regulations	79
Section 10: Human Rights Assessment	91
Section 11: Impact Assessment	96
Section 12: Summary of Questions	113

Section 1: Introduction

What?

The UK, Scottish and Welsh Governments are developing secondary legislation to regulate advertising activity and trading in open public places around Olympic and Paralympic events during the 2012 Games. The London Olympic Games and Paralympic Games Act 2006 ('2006 Act') sets out the broad framework for the regulations. The draft regulations clarify the types of advertising and trading which will be restricted by the regulations, including by specifying a number of exceptions. These are explained in Sections 3 and 4.

In the areas where the regulations will apply (the 'event zones') during the periods when they apply (the 'relevant event periods') the regulations will override any existing advertising and trading authorisations and licences. This means that advertisers and traders who operate in open public places will need to be authorised under the regulations (in addition to holding current authorisations and licences under the general law).

We are fully committed to regulating advertising and trading in open public places but the extent to which we do this is subject to consultation. This document provides drafts of the regulations for England, Wales and Scotland, together with maps showing the event zones where they will apply, and requests your views.

Why?

The UK has not hosted an Olympic or Paralympic Games since 1948. The 2012 Games will draw international attention to the country and the way we stage the Games will have a lasting impact on the UK's international reputation. The UK, Scottish and Welsh Governments promised to respect commitments made to the International Olympic Committee (IOC) in the Host City Contract (which included obligations as to the regulation of advertising and trading) and to take all necessary measures to ensure that London fulfils its obligations. But more than that, it is important that we showcase London and the other cities and areas that are hosting events, protect sponsors' investment in the Games (without which they could not happen) and make it easy for spectators to move around. We are regulating advertising and trading in open public places for three reasons:

- To ensure all Olympic and Paralympic events have a consistent celebratory look and feel to them
- To prevent ambush marketing within the vicinity of venues¹
- To ensure people can easily access the venues

¹ Ambush marketing describes activities undertaken by businesses not sponsoring an event which nevertheless suggest they or their products are associated with the event or which seek to exploit the interest in the event by exposing their brands to spectators at the event and/or watching the event on TV around the world.

In our bid for the Olympic and Paralympic Games we stated “London will become a Host City with an unmistakable air of celebration and excitement” and that this feeling will be taken to all venues. We want to create “a backdrop fit for celebration on a truly global scale”. We are doing this through a number of mechanisms including the ‘Look and Feel’ programme, which will involve a whole range of Games design elements, including building wraps, lighting, flags, banners, fencing scrim and “spectacular” installations being displayed at venues and in public places across the UK. While the organising committee is paying for the venues to be dressed, the Government is contributing £32m towards the cost of dressing London and the venue cities across the UK during, and in the lead up to, the Games.

Games sponsors provide a vital source of funding for the Olympic and Paralympic Games, without which the UK would not be able to host the Games. In return for this funding, sponsors have exclusive rights to associate their brands with the Games. Unauthorised advertising and trading in open public places in the immediate vicinity of venues is a form of ambush marketing commonly employed by non-sponsor corporations attempting to create an association with the Games. Such activity not only undermines the value of Games sponsorship, it also threatens the aesthetic values of London and the UK at a time when we will be subject to unprecedented international scrutiny.

To ensure the free flow of spectators to venues we need to limit the number of additional people taking up space on the pavements. This may mean that traders who currently operate in open public places near a venue will not be authorised to trade at Games time. In addition some forms of advertising activity, such as the distribution of pamphlets or product samples, will contribute to litter and street congestion in the very areas which are expected to be more congested than normal.

There is already legislation in the UK which regulates advertising and trading in open public places. However a tailored approach is needed for the Olympic and Paralympic Games both because existing legislation was not crafted with the Games in mind (and therefore does not meet the three main objectives outlined above) and because enforcement procedures under current legislation are not suited to time-critical events like the Olympic and Paralympic Games. For example, under current legislation some types of illegal advertising can be removed only after 28 days’ notice – this is a longer time frame than the Olympic or Paralympic Games. Similarly, local authority powers to control street trading only apply to private land in limited circumstances – for example trading in gardens or on driveways a certain distance from the road does not necessarily need to be licensed by the local authority.

These regulations are part of a wider range of work to protect the Olympic, Paralympic and London 2012 brands. The London Organising Committee of the Olympic Games and Paralympic Games Limited (LOCOG) has a budget of around £2bn for the hosting and staging of the Games. This money is raised privately by selling sponsorship, tickets, broadcast rights and official merchandise. The values of the London 2012 brand, the Olympic and Paralympic symbols and the right to associate with the Games are crucial to this funding. These regulations contribute to the protection of the Olympic and Paralympic brands and therefore are vital to our ability to host a successful Games.

Where?

In 1996, in Atlanta, a non-sponsor sportswear company plastered the Games city in billboards, handed out banners to wave at the competitions and erected an enormous promotional centre overlooking the stadium. Following this, the International Olympic Committee (IOC) required all bidding countries to commit to take steps to prevent

ambush marketing in the proximity of Games venues. Sydney 2000 was the test case for this, and law makers there restricted advertising within a 1km perimeter² of the main Games venues. Since Sydney 2000, other summer and winter Games host cities have taken similar steps. In 2004 the Athens Olympic and Paralympic organising committee cut the number of billboards around the city, clearing 10,000 from buildings and city rooftops. During the Games the remaining billboards were controlled and offered to the Games sponsors. In 2008 the Beijing organisers ensured that all advertising was strictly controlled not just on billboards but on all public transport, at airports and in city streets.

South Africa introduced both civil and criminal penalties to deal with unauthorised advertising for the 2010 FIFA World Cup. This included special courts to deal with infringements. Under local by-laws all promotional and marketing activity was prohibited in a roughly 1km radius around South Africa's stadiums.³

It is important that we learn from previous Games and enact laws that are reasonable and proportionate. Our proposed advertising and trading regulations are intended to allow the majority of businesses to continue operating as normal, while ensuring that the look of the Games is not spoilt by over-commercialisation. As stated in Parliament we are looking to extend our regulations no further than a few hundred metres around each venue's perimeter. This amounts to around 0.01 per cent of the overall land space across England, Scotland and Wales. These event zones have been influenced by people flow, camera sight lines and areas of potential marketing ambush and with each venue we have considered the impact on local business.

We have also proposed that, for the majority of event zones, the regulations will only apply for a few days – from the day before the event and remaining in effect for the period of the event. The only exception is the Olympic Park zone where the regulations will come into force four days before the Opening Ceremony of the Olympic Games because, at that stage, the Park will be in operation, receiving athletes, broadcasters, officials and others.

What next?

This is a joint consultation covering regulations which will apply to venues across England, Scotland and Wales. There will be variations in the legislation for the different nations. However for efficiency we have combined the issues into a joint consultation and we hope to gain views from all parts of Great Britain.

The draft regulations can be found in Section 8 and the main issues this consultation seeks views on are:

- Definitions of trading and advertising activity to ensure they are consistent with our three aims
- Whether we have been clear in explaining what we intend to cover by the restrictions and how we intend to deal with any breaches
- Whether the proposals we have made for event zones and event periods are reasonable

² Section 66 of the Olympic Arrangement Act 2000 when read with clause 11C of State Environmental Planning Policy No 38-Olympic Games and Related Projects.

³ The relevant South African legislation is the 2010 FIFA World Cup South Africa Special Measures Act 2006 and the 2010 FIFA World Cup South Africa Special Measures Safety and Security Regulations 2009 (made under the 2006 Act). Regulation 3 prohibited "commercial activities" in "exclusion zones". "Commercial activities" included advertising and trading activity. Under section 5 of the Act, "exclusion zone" was any zone surrounding a venue etc. identified by the Organising Committee.

Section 2: Executive Summary

This section provides a brief overview of the regulations commenting on the geographical scope, the timings, the exceptions, the authorisation process and the enforcement role.

The UK, Scottish and Welsh Governments promised to respect commitments made to the International Olympic Committee (IOC) in the Host City Contract (which included obligations as to the regulation of advertising and street trading) and to take all necessary measures to ensure that we fulfil our obligations. However beyond that we want to showcase London and the other cities and areas that are hosting events to make the Games a great experience for everyone. We are regulating advertising and trading in open public places for three reasons:

- To ensure all Olympic and Paralympic events have a consistent celebratory look and feel to them
- To prevent ambush marketing within the vicinity of venues¹
- To ensure people can easily access the venues

The Olympic Games and Paralympic Games Act 2006 laid out the foundations of control at Games time, however, the detail was left to the regulations (a form of secondary legislation).

The Sydney 2000 Games was the test case for regulating advertising around events and law makers there enacted restrictions within a 1km perimeter² of the main Games venues. Other summer and winter Games host cities have adopted similar restrictions. South Africa introduced both civil and criminal penalties to deal with unauthorised advertising for the 2010 FIFA World Cup which extended roughly 1km radius around their stadiums³. We are proposing that our restrictions apply no further than a few hundred metres around an Olympic or Paralympic venue perimeter.

As well as being geographically specific we are proposing that the regulations are also time-specific and that they do not apply for longer than three weeks for the Olympic Games (coming into force four days prior to the Opening Ceremony) and two weeks for the Paralympic Games. This period is for the Olympic Park. For events held at other venues – such as mountain biking at Hadleigh Farm – the regulations will come into force one day before the event and will apply for the event itself. In the case of the mountain biking, this means that the regulations will only apply for three days in total.

¹ Ambush marketing describes activities undertaken by businesses not sponsoring an event which nevertheless suggest they or their products are associated with the event or which seek to exploit the interest in the event by exposing their brands to spectators at the event and/or watching the event on TV around the world.

² Section 66 of the Olympic Arrangement Act 2000 when read with clause 11C of State Environmental Planning Policy No 38-Olympic Games and Related Projects.

³ The relevant South African legislation is the 2010 FIFA World Cup South Africa Special Measures Act 2006 and the 2010 FIFA World Cup South Africa Special Measures Safety and Security Regulations 2009 (made under the 2006 Act). Regulation 3 prohibited “commercial activities” in “exclusion zones”. “Commercial activities” included advertising and trading activity. Under section 5 of the Act, “exclusion zone” was any zone surrounding a venue etc. identified by the Organising Committee.

We are proposing that the regulations include a number of exceptions. For the English regulations, this includes certain advertisements on businesses' premises (such as standard shop signs) which do not require express consent from local planning authorities under the existing law. Likewise, advertising on vehicles that are not used principally for the display of advertisements (such as taxis and buses) would be exempt. For trading in open public places, exceptions will include selling newspapers and trading on private land adjacent to shops and cafes where the trading forms part of the usual business of the shop or cafe.

In addition to exceptions on the face of the regulations there will be an authorisation process whereby advertisers and traders can apply to advertise or trade during the Olympic /Paralympic period. LOCOG, which is identified by the draft regulations as the designated body to authorise advertising, will permit advertising which does not conflict with the aims of the regulations, including advertising by London 2012 sponsors on existing outdoor advertising sites in the event zones. In the case of trading in open public places, the Olympic Delivery Authority (ODA) is responsible for issuing authorisations. It is looking to authorise traders where there is not a risk of compromising the three main aims. Where a trader cannot be authorised, the ODA will provide assistance to help the trader identify acceptable alternatives.

The regulations may be enforced by the police or by enforcement officers designated by the ODA. It is only right that the police focus on safety and security matters at Games time and therefore the ODA will take the lead on enforcement. It is looking to designate enforcement officers from local authorities, who are experienced in dealing with street trading and advertising offences (for example Trading Standards Officers, Street Trading Enforcement Officers). The ODA will take a light touch approach to minor infringements that can be rectified easily but persistent offenders could face having offending items seized, removed or destroyed. Serious and deliberate ambush marketing attempts will be dealt with using the full enforcement powers conferred on designated officers, and may result in prosecution through the criminal courts.

Section 3: Advertising Activity

The display of advertisements is currently controlled in England by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, in Wales by the Town and Country Planning (Control of Advertisements) Regulations 1992 and in Scotland by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Local planning authorities are responsible for the day to day operation of the advertisement control system. Existing advertisement regulations enable local planning authorities to control advertisements, when it is justified, in the interests of 'amenity' and 'public safety'. Some types of advertisement are exempt from detailed control; and other specified categories of advertisement qualify for what is called 'deemed consent', giving them automatic permission provided they conform to stated conditions and limitations for each category.

By focussing on 'amenity' and 'public safety', existing legislation does not entirely achieve the three objectives that drive our need to control advertising activity around 2012 Games events – ensuring Games events have a consistent celebratory look and feel, preventing people from engaging in ambush marketing, and ensuring people can easily access Games venues. Further, although current legislation gives local authorities the ability to require removal of illegal advertisements on private property, the removal process is too slow to deal effectively with advertisements installed during or immediately prior to the Games.

Our proposed approach is to prescribe a broad definition of 'advertising activity' and then to specify a number of exceptions. Any activity not excepted on the face of the regulations will be permitted only if specifically authorised by LOCOG.

Definition of 'advertising activity' – broad and all-encompassing

Ambush marketers seek to find new and innovative ways to associate brands with the Olympic and Paralympic Games. According to Sponsorship Research International, a private company specialising in media and market research for the sports industry, the Olympic rings are the most recognised symbol in the world. In a survey spanning three continents, 81 per cent of respondents said they associated the rings with success and high standards¹. It is no wonder then, that companies will find unusual ways to associate their products with these qualities.

To protect London 2012 as far as is reasonable, we have proposed a broad definition of advertising activity so that the regulations cover all types of activity.

The 2006 Act sets out the broad framework for the regulations. It provides that the regulations may apply to advertising activity of any kind including non-commercial announcements and notices, the distribution of documents and articles, and the display or projection of words, images, lights and sounds. The regulations may cover advertising activity on both public and private land.

¹ Ambush Marketing and the *Sydney 2000 Games (Indicia and Images)* Protection Act: A Retrospective. Volume 8, Number 2 (June 2001) <http://www.austlii.edu.au/au/journals/MurUEJL/2001/10.html>

Accordingly, our proposal is that the regulations apply not only to all types of advertising activity, including billboards, posters and other 'traditional' forms of advertising, but also to the distribution of flyers and giveaways, projected advertising (e.g. lasers and light shows), moving and aerial advertising and advertising in the form of costumes or which is displayed on clothing worn as part of an ambush marketing campaign. The regulations will apply to advertising activity on public or private land within an event zone regardless of whether it is the subject of existing permissions or consent (e.g. from the landowner or the local planning authority).

We propose that, for the purposes of the regulations, 'advertising activity' be given a broad meaning to include:

- Displaying, projecting or exhibiting any kind of advertisement, whether it is of a commercial or non-commercial nature
- Carrying or holding an advertisement or something on which an advertisement is displayed
- Displaying an advertisement on an animal
- Wearing a costume that is an advertisement or clothing on which an advertisement is displayed as part of an ambush marketing campaign
- Distributing or providing a document or article for the purposes of promotion, advertisement, announcement or direction

For these purposes, we propose that 'advertisement' should have a meaning based on, but broader than, that in the Town and Country Planning Act 1990² (under which the existing legislation for Wales and England was made) or under the Town and Country Planning Act (Scotland) 1997 which covers Scotland. That meaning would include any word, image (including logos and other forms of branding), sound, costume or representation, whether illuminated or not, which is in the nature of, and employed for the purposes of, promotion, advertisement, announcement or direction.

We propose that the regulations apply to all those who are directly or indirectly responsible for advertising activity (subject to a general defence set out in the Act – see below). This will include people who actually undertake advertising activity or arrange for it to take place and people who maintain advertisements. It will also include people who are responsible for goods, services or businesses advertised (such as directors or managers of companies whose products are advertised) and people who own, occupy or manage land (whether directly or indirectly) on which advertising activity takes place.

A general defence set out in the Act

Section 21(2) of the 2006 Act includes a defence for any person charged with an offence of contravening the advertising regulations. Such a person will avoid liability if he or she proves that the contravention occurred:

- Without his or her knowledge; or
- Despite his or her taking all reasonable steps to prevent it from occurring or (where he or she became aware of it after its commencements) from continuing

For example, a landowner on whose land advertising activity takes place will be able to avoid liability if he or she proves that the activity occurred without his or her knowledge. Likewise, the manager of a company to whose products advertising activity

² The definition of 'advertisement' in section 336 of the Town and Country Planning Act 1990 does not, for example, include sounds or costumes, both of which are included in the proposed definition of "advertisement" in our regulations.

relates will avoid liability if he or she proves that he or she took all reasonable steps to prevent the activity from occurring.

Specific exceptions set out in the regulations

In crafting specific exceptions to the proposals described above, we have sought to exempt both activity that does not conflict with the underlying aims of the regulations and people who are only unknowingly involved in advertising activity.

For example, we propose that activity intended to demonstrate support for, or opposition to a person's or body's views should be exempt from the regulations as long as that activity does not promote or advertise a good, a service or a commercial supplier of goods and services. Likewise, activity intended to publicise a belief, cause or campaign or to mark or commemorate an event should also be exempt (again, if it does not promote a product or supplier).

We also propose that people who wear costumes and clothing on which advertisements are displayed will be exempt from the regulations unless they are knowingly taking part in an ambush marketing campaign. However, others involved in an ambush marketing campaign – for example those who distribute clothing bearing an advertisement specifically to advertise in an event zone – will remain liable.

We have proposed a range of exceptions that are based on the existing legislation regulating advertising. As with that legislation, these exceptions are subject to detailed requirements as to the size and placement of advertisements and other conditions.

For example, we have proposed an exception for certain advertisements on business premises (such as standard shop signs) which do not require express consent from local planning authorities under the existing law. To qualify for this exception, an advertisement must meet the detailed size and other conditions referred to in the regulations. Similarly we propose that advertisements on vehicles not principally being used to display advertisements (such as taxis and buses operating in the normal way) also be exempt.

Other exceptions based on existing advertising legislation include:

- Advertisements displayed inside buildings, except railway and bus stations and sports stadiums and other buildings in which Games events take place
- Advertisements incorporated into the fabric of buildings as at the date the regulations come into force
- Small, non-illuminated advertisements displayed on articles for sale or containers in which or from which, articles are sold. (This exception applies only to advertisements that refer to the article for sale.)
- Functional advertisements of government departments and their agencies, local authorities, local planning authorities, public transport undertakers, statutory undertakers and Transport for London
- Small, non-illuminated identification, direction or warning advertisements displayed on the premises to which they relate
- Small advertisements relating to people or companies carrying on a business at premises on which the advertisement is displayed
- Advertisements relating to hotels, hostels, Bed & Breakfasts etc. displayed on the premises to which they relate

- Advertisements announcing local events of a religious, educational, cultural, political, social or recreational character, not being an event or activity promoted or carried on for a commercial purpose
- Advertisements displayed on business premises or the forecourt of business premises wholly with reference to the business carried on, the goods sold or services provided, or details about the person providing the goods or service
- Small advertisements directing potential buyers and others to residential developments

There are also a number of miscellaneous exceptions which include the distribution or provision of newspapers or periodicals, advertising as part of a condition of an authorisation to trade at Games time, and the displaying of advertisements relating to the manufacturer or operator on an item of street furniture.

Each of these exceptions and the others modelled on existing legislation regulating advertising are subject to detailed conditions as to, for example, size, location, height above ground etc. A full list of the exceptions set out in the regulations, including descriptions of the conditions to which they are subject, is included in section 9. The combined effect of these exceptions is that permanent signage typically employed by businesses and other 'business as usual' advertising on commercial premises will not be restricted by the regulations.

Competition

Because we are limiting the full range of buyers of advertising space in a particular area during particular periods, there will inevitably be an impact on competition. However, the regulations will apply to relatively small areas for short periods of time and, accordingly, the impact on competition will not be substantial, widespread or long-lasting.

Authorisation

Advertising activity to which the regulations apply and which is not covered by a specific exception may be undertaken only with the authorisation of LOCOG, which is identified by the draft regulations as the designated body to authorise advertising. LOCOG has indicated that it intends to permit advertising which does not conflict with the aims of the regulations. Details of LOCOG's authorisation considerations can be found in section 6.

Question 1: Have we got the definition of advertising right?

Yes/no/partially – please give your views

Question 2: Have we made the right exceptions? Yes/no/partially – please give your views

Question 3: Have we got the balance right between protecting sponsors and allowing businesses to operate as usual? Yes/no/partially – please give your views

Section 4: Trading in open public places

The Local Government (Miscellaneous Provisions) Act 1982 (LG(MP)A) provides local authorities in England and Wales with the option of adopting powers to regulate street trading. Those councils which adopt the powers can designate streets in their area as prohibited, consent or licence streets for street trading purposes. Councils can then require street traders to apply for licences in order to trade in designated streets and apply the consequent penalties for not being licensed for trading in those streets. A person guilty of an offence under the Act is liable to prosecution in the magistrates' court and to a fine. Street trading for the purposes of the LG(MP)A is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. Thus, street trading under the LG(MP)A regulates the sale of goods only. The London Local Authorities Act 1990 (as amended) has been adopted by all 32 London boroughs. This gives bespoke powers in respect of licensing, enforcement, seizure, retention and forfeiture of goods.

In Scotland, street trading is regulated under the Civic Government (Scotland) Act 1982. Local authorities may resolve to apply a licensing scheme in their area and can choose to restrict it to particular forms of street trading or particular geographical areas. The 1982 Act provides for a street trader's licence to be required for trading by a person whether on his or her own account or as an employee. There are certain exceptions set out in the Act, for example for the sale of goods such as newspapers, milk and coal and for any activity in respect of which a pedlar's certificate has been granted.

Some local authorities have obtained private Acts of Parliament and others are promoting private Bills. These contain provisions to extend their regulation of street trading to the provisions of services as well as trade in goods. They have also sought additional powers in relation to enforcement against illegal street trading (fixed penalties and seizure of goods).

As with the existing legislation controlling advertising, general street trading rules were not framed with the 2012 Games in mind and, consequently, they do not entirely achieve the aims underlying our policy for trading in open public places around Games events. It is for that reason that the London Olympic Games and Paralympic Games Act 2006 requires the Secretary of State and Ministers in the devolved administrations to make regulations about trading in open public places in the vicinity of Olympic and Paralympic events.

Those regulations will apply despite any licences or consents currently in existence under which a person is otherwise authorised to trade. This means that a person will need to be authorised under the 2012 Games regulations (as well as under the existing law) in order to trade in the areas where the regulations apply, during the periods when they apply.

In crafting our proposed trading regulations we have adopted a similar approach to that proposed for the advertising regulations: a broad definition of 'street trading' subject to specific exceptions on the face of the regulations. Any forms of trading in open public

places not excepted on the face of the regulations will be permitted only if authorised by, or on behalf of, the ODA.

Definition

Under the 2006 Act, the regulations may apply only to trading which takes place:

- On a highway; or
- In another place to which the public has access and which is not in a building (except a car park building)

In the draft regulations we have called these places 'open public places'. An open public place may be public or private land – private land will amount to an open public place where the public has access to the land, whether generally or for the purpose of the trading. So, for example, trading in private front gardens or on other private land onto which the public is invited for the purposes of trading, will be covered. Trading in temporary structures like tents or portable sheds will also be covered. Trading in places other than open public places (such as inside shops, malls, covered markets, railway stations and other buildings) will not be affected by the regulations.

We propose that the definition of street trading in the regulations includes the following activities where they take place in an open public place:

- Selling an article or supplying a service
- Trading as a pedlar under a pedlar's certificate issued under the relevant legislation
- Conducting a regulated street collection or public charitable collection pursuant to other legislation
- Trading as an ice cream vendor
- Providing public entertainment for gain or reward (e.g. busking)

For these purposes 'selling' an article or 'supplying' a service includes offering to sell or supply or exposing an article for sale. Consequently a person will be treated as trading if they are offering goods for sale, even if they do not actually sell any goods.

We propose that activity will amount to street trading whether or not gain or reward accrues to the person actually carrying out the trading activity. This will ensure, for example, that trading undertaken by unpaid volunteers is covered by the regulations even though the volunteers do not obtain any economic benefit from it.

In addition, we propose that the following matters should be disregarded when determining whether particular activity amounts to street trading for the purposes of the regulations:

- The fact that either party was not in an open public place when a transaction or part of a transaction (such as an offer) took place
- The fact that a transaction was completed elsewhere than in a public open place (where the offer or exposure of the article for sale took place in an open public place)
- The fact that an article sold or service provided is different from those offered or exposed for sale

As with the advertising regulations, we propose that the street trading regulations apply to all those who are directly or indirectly responsible for trading. This includes people who undertake trading or arrange for it to take place. It also includes people who are responsible for businesses that trade (such as owners, directors or managers of trading

companies) and people who own, occupy or manage land (whether directly or indirectly) on which trading takes place.

Specific exceptions on the face of the regulations

As with the advertising regulations, we propose that a number of specific street trading exceptions appear on the face of the regulations. These will permit forms of trading that do not undermine our three aims for the regulations – ensuring Games events have a consistent celebratory look and feel, preventing people from engaging in ambush marketing, and ensuring people can easily access Games venues. In addition, some exceptions will ensure that people who should not be held responsible for unlawful trading (for example, land owners who take steps to prevent trading taking place on their land) escape liability. Where a trader does not benefit from a specific exception they must apply for authorisation from the ODA to trade in an event zone during the event period.

We propose that exceptions for the following forms of trading appear on the face of the regulations:

- Trading as a newsvendor (provided that the only articles sold are current newspapers or periodicals and that the trader should comply with rules about any receptacles used for the papers or periodicals)
- Trading from milk floats and other vehicles used for the delivery of perishable goods
- Providing various motor vehicle-related services on private land generally used for those purposes – such as selling cars from a car sale yard, operating an established car wash business, and providing parking services in a car park building
- Trading on private land adjacent to shops, cafés and related premises, and petrol stations, provided that the trading forms part of the usual business of the shop, café, etc.
- Supplying public transport service
- Providing a public sanitary convenience, such as a public toilet

In addition, we propose that the regulations include a defence for people who have an interest in, or are responsible for, a trading business or who own, occupy or manage land on which trading takes place. We propose that such people should avoid liability under the regulations where they prove that the trading took place without their knowledge or that they took all reasonable steps to prevent the trading taking place, continuing or recurring.

Competition

Because we are limiting both the number and range of traders who are able to conduct their business in a particular area during particular periods, there will inevitably be an impact on competition. However, the regulations will apply to relatively small areas for short periods of time and, accordingly, the impact on competition will not be substantial, widespread or long-lasting.

Authorisation

Traders who wish to trade in an open public place within an event zone during the event period will be able to rely on a specific exception only if their trade fits within the description of that exception. If it does not, they will need to apply to be authorised by the ODA, even if they hold an existing trading licence or other authorisation under the general law.

The Government is committed to minimising the burdens on small businesses caused by these regulations and maximising the wider benefits of the Games. Accordingly, in developing these regulations we have considered all viable alternatives to preventing traders from conducting their business.

These regulations do not expressly deal with counterfeiting. However, it is likely that authorisations granted by, or on behalf of, the ODA will be subject to a condition that the trader does not deal in counterfeit goods. This means that, in addition to facing punishment under existing anti-counterfeiting legislation, a trader may forfeit their right to trade in an event zone under our regulations if they sell in counterfeit goods. Details of ODA's authorisation considerations can be found in section 6.

Question 4a: Have we got the definition of trading in open public places right?

Yes/no/partially – please give your views

Question 4b: Have we made the right exceptions?

Yes/no/partially – please give your views

Question 5a: Are we impacting on specific groups through these regulations?

Yes/no/partially – please give your views

Question 5b: How can we limit that impact? please give your views

Section 5: Event Zones & Event Periods

Definition of event zones

Officials have worked extensively with LOCOG, the Greater London Authority and the ODA, and have discussed ministers' proposals with the International Olympic Committee and International Paralympic Committee, London 2012 sponsors and experts in local authorities to develop the policy which has shaped the draft regulations.

The 2006 Act allows ministers to make advertising and trading regulations in respect of a wide range of events that form part of the 2012 Games – it refers to any such event, whether or not a sporting event and whether or not held in London. Accordingly, ministers had to make a number of choices about the types of events to which the regulations should apply and, in particular, whether they should apply to the Torch Relay and other Cultural Olympiad events, events at 'livesites', and test events held in the run up to the Games.

For a number of reasons including the nature of the events, the timescales to which the different projects are working to and the lower risk of ambush marketing ministers decided to focus only on the sporting events to be held during the Games themselves as it is crucial that those events are protected to ensure a fantastic spectator experience and protect sponsors' investments. Other Games events will continue to be protected under existing laws.

As well as in London, Olympic and Paralympic events will take place from Glasgow in the north to Weymouth in the south, from Cardiff in the west to Essex in the east. Accordingly, there will be event zones in England, Scotland and Wales.

All sporting events (moving and static) have been identified in the draft regulations. Maps showing how far we propose the regulations to extend are attached. There are two exceptions: Paralympic road cycling and the Olympic cycling time trial, both of which will be announced later in the year. DCMS, LOCOG and the ODA will look to consult with affected stakeholders once these events are announced and before the regulations are laid before Parliament.

Once ministers decided which events would be covered by the regulations, they considered what areas around those events would be covered. Again, the 2006 Act provides ministers with flexibility on this point, providing only that the regulations be about advertising and trading in the 'vicinity' of events and that the regulations themselves must specify or provide criteria for determining what is or is not to be treated as being in the vicinity of a place.

During the passage of the 2006 Act through Parliament, ministers committed that, in making the regulations, they would take a reasonable and proportionate approach. Accordingly, they have proposed relatively small event zones and limited event periods during which the regulations will apply.

In most cases, the proposed event zone is limited to the venue and the area a few hundred metres around the perimeter of the venue (for road events, such as the marathon and road cycling, the event zone extends only a few metres either side of the road). In a few cases the proposed event zone goes slightly further so that we can meet our primary policy objectives, for example to protect places through which spectators will walk from a major transport hub and other places where there is a particularly strong opportunity to ambush market the Games.

Each event zone is tailored to take account of the diversity of venues. For example, some venues are in rural settings, while others are in the centre of major cities. We have adapted the proposed zones to take account of the particular space surrounding each venue and we have tried to ensure that the edge of the event zone aligns with natural boundaries.

Details of sports venues, including the road events, are based on the best available information at the time of publication, but are subject to change.

Private Land/Parking

As we have noted above, we have proposed that the regulations apply to trading which takes place in an open public place. Land, whether public or private, will be regarded as an open public place where the public have access to it, whether generally or for the purpose of the trading.

We are aware, for example, that some trading takes place on open residential land during sporting events such as the Wimbledon Championships. These regulations will prevent that happening unless the trading is specifically excepted on the face of the regulations or is authorised by the ODA. The regulations will not affect the use of that land for its primary residential purpose but will regulate trading on that land in order to achieve our primary objectives.

Water

London is built around a major river of which there are numerous tributaries. Outside London numerous waterways come within close proximity of Games venues. Where an event zone encompasses a river, the regulations will apply to activity on that river. In the case of the London 2012 sailing events at Weymouth and Portland, the event zone will extend onto the territorial sea.

Airspace

The regulations will apply to the airspace above the land within each event zone. This is primarily intended to regulate aerial advertising activity.

Event periods

During the passage of the 2006 Act through Parliament, ministers said that the regulations would only be in place for a maximum period of two weeks before the start of the Olympic opening ceremony and would apply only for as long as necessary to meet the Host City Contract and other commitments to the International Olympic Committee. This ministerial commitment is reflected in provisions on the face of the 2006 Act.

The 2006 Act powers allow the regulations to apply during different periods for different places. Accordingly, we have tailored our proposals so that there is a specific event period (or periods) for each venue. For a few venues the regulations will be in effect for just a couple of days to cover the event itself and the day before¹. The longest period that the regulations will apply to any one place is 35 days (for the Olympic Park zone). This period is made up of two phases (one of 22 days for the Olympic Games, and another of 13 days for the Paralympic Games) separated by a period of two weeks during which the regulations will not apply. The regulations will cease to have any effect on the day after the closing ceremony of the Paralympic Games.

The event period for each event zone can be found on each of the maps at section 8. The dates listed are based on the best available information at time of publication, but are subject to change.

Question 6: Do our event timings allow us to adequately deal with rogue trading or advertising? *Yes/no/partially – please give your views*

Question 7: The event zone will extend to the water and up into the air. Have we got this right? *Yes/no/partially – please give your views*

¹ With the exception of the Olympic Park at Olympic Games time where the regulations will be in force four days beforehand to take account of the range of activity around the Park prior to the opening ceremony.

Section 6: Implementation

The 2006 Act imposes a number of obligations in relation to the regulations on the Olympic Delivery Authority (ODA), a statutory corporation created by the Act. It is required to:

- Make arrangement to have the effect of the regulations brought to the attention of persons likely to be affected or interested, including by giving notice of the nature and content of the regulations before they come into force
- Act as the authorisation body for trading (unless it delegates that responsibility to another person)
- Provide advice (and it may provide assistance) to those affected by the regulations
- Enforce the regulations

Notification of the effect of the regulations

In complying with its duty to bring the effect of the regulations to the attention of affected and interested persons, the ODA was obliged to give two years' notice of the general nature of the regulations. The ODA achieved this by publishing information about the likely contents of the regulations in June 2009. That information is available here: <http://www.london2012.com/publications/advertising-and-street-trading-regulations-strategy.php>

The ODA is further required to give six months' notice of the detailed provisions of the regulations. The ODA will do this by alerting stakeholders including traders and advertisers with details of the respective authorisation processes including application procedures, decision timeframes, the internal review process and any other relevant information on how the ODA can assist.

Authorisation

Advertising

Advertising activity to which the regulations apply and which is not covered by a specific exception may only be undertaken with LOCOG's authorisation. LOCOG will retain absolute discretion as to whether or not to grant an authorisation. However LOCOG has indicated that it proposes to authorise advertising activity which is consistent with the aims of the regulations and has identified the following types of activity which it therefore anticipates authorising:

- (i) advertising activity undertaken by London 2012 sponsors for products within their sponsor product category, including displaying advertisements on outdoor advertising spaces in the event zones
- (ii) the display of London 2012 'Look' (i.e. decorative Games-related street dressing) displayed by local authorities and other organisations, with LOCOG's agreement

- (iii) Advertising activity undertaken by non-commercial partners (including the Greater London Authority, local authorities and government departments) which is non-commercial in nature
- (iv) Permanent or customary advertising which is not specifically excepted by the regulations but which does not suggest that the brand advertised is associated with the Games and does not seek to gain advantage for the brand advertised by reason of its proximity to a Games venue (examples may include some large permanent illuminated signage on the forecourt of petrol stations or illuminated signage for films advertised outside a cinema). LOCOG does not anticipate there being many authorisations granted of this nature

When considering an application for authorisation, the image and presentation of the Games will also be considered. During the Olympic Games, IOC rules against advertising being visible from the field of play will also be taken into consideration. This means advertising, whether by sponsors or third parties, will generally not be authorised if visible from the field of play (note that this does not apply to road races).

Wherever possible, LOCOG will utilise existing approval processes and mechanisms to grant authorisation under the regulations. These include processes that are or will be in place to approve sponsor advertising and the display of 'Look and Feel' materials by local authorities. In relation to advertising of the type described at (iv) above, a public application process will apply. There will be a right of internal review for advertisers who are not granted an authorisation.

We propose that any authorisation granted by LOCOG be subject to a number of conditions imposed by the regulations. These include:

- That the person engaging in the activity hold any other licence or authorisation (in addition to authorisation from LOCOG) that is required before the person may advertise
- That any advertisement be sited and displayed in a safe manner (e.g. so as not to obscure traffic signs)
- That any advertisement be maintained so as not to impair visual amenity or endanger the public

Trading in open public places

The 2006 Act provides for the ODA (or a person appointed by the ODA) to authorise people to trade in the areas affected by the regulations.

The ODA will look to the three main aims of the regulations when considering authorisation. The focus will be ensuring that existing business can continue to operate, or operate with conditions attached, without compromising the main aims.

Traders will need to apply for authorisation to the ODA. No fees will be attached to this application. Not all traders will be eligible for authorisation. ODA will give consideration to a range of issues when deciding whether to grant authorisation. These may include but are not limited to:

- Whether a trader's pitch is particularly close to a venue and is likely to interfere with main spectator flows or pose a security risk because of its location
- The overall number of traders within an event zone and the consideration of flow of people
- Whether a trader has a history of failing to comply with existing regulations or trading conditions

Each application will be considered against these and other criteria and the trader will be notified of the decision. There will be a right of internal review for traders who are not granted an authorisation. The authorisation criteria are currently being developed and will be available once the regulations are made.

The 2006 Act permits trading authorisations to be subject to terms and conditions which may be inconsistent with, or more onerous than, the terms and conditions of any other licence/certificate held by the person in respect of trading (e.g. a local authority street trading licence). At Games times it may be necessary for additional restrictions to be placed on trading times or the sale of certain types of goods. However, the ODA will be reasonable and proportionate when determining whether to impose any conditions. Conditions will be imposed where they are deemed necessary for reasons of safety and security, where they are necessary to meet obligations to the International Olympic Committee under the Host City Contract or otherwise, or where there is a risk of ambush marketing.

Traders with an existing licence, authorisation or consent to trade in an event zone who are not authorised by the ODA to carry out their habitual trading activities may be entitled to assistance from the ODA to help them identify acceptable alternatives. The form of this assistance is currently being considered and in some limited cases may be financial.

Advice and Assistance

The ODA must provide advice and may provide assistance (including financial assistance) to those affected by the regulations. To that end information will be provided on the London 2012 website about the regulations and their implications with a dedicated email address for specific queries as well as a section of frequently asked questions. The ODA is working with local authorities, trade associations, etc. to ensure that its advice reaches those people directly affected by the regulations, as well as a wider audience.

Enforcement

The regulations may be enforced by the police or enforcement officers designated by the ODA. It is only right that the police focus on safety and security matters at Games time and therefore the ODA is looking to designate enforcement officers from local authorities, who are familiar with street trading and advertising offences, to enforce the regulations on its behalf. (i.e. trading standards officers, street trading enforcement officers). These officers will largely be drawn from local authority staff employed by the local authorities local to where the venue or event is taking place. Officers from these authorities will be familiar with the local traders, will know the local area and will be able to use their existing powers if necessary to deal with other offences. Where appropriate it may also be necessary to bring in officers supplied by neighbouring authorities. Discussions are underway with local authorities to secure this resource. Designated ODA officers are not constrained by borough boundaries – they can operate in any of the event zones making ODA's enforcement capability more flexible and efficient. Local authority officers who have the relevant experience and skills to do this work will be fully trained before enforcing the regulations on behalf of the ODA. Our aim is to test, informally, the regulations at an event towards the end of 2011.

The ODA will adopt a risk-based approach to enforcement in line with existing better regulation strategies. A light touch approach will be adopted for minor infringements

that can easily be rectified. Persistent offenders could face having offending items seized, removed or destroyed. More serious deliberate marketing ambush offences will be dealt with using the full enforcement powers conferred on designated officers to secure compliance. These serious offences could also potentially be reported for prosecution.

Whilst the 2006 Act confers significant powers on ODA designated officers to deal with offences, including the power to apply to the Magistrates' Courts for a warrant to access dwellings, these powers will be used as a last resort and only when it is deemed necessary to deal with a serious and deliberate attempt to ambush market the Games.

Question 8: Is the ODA approach to street trading authorisation reasonable and transparent? *Yes/no/partially – please give your views*

Question 9: Is the LOCOG approach to advertising authorisation reasonable and transparent? *Yes/no/partially – please give your views*

Question 10: Is the ODA approach to enforcement reasonable and proportionate? *Yes/no/partially – please give your views*

Section 7: How to respond

How to respond

This consultation opened on 7 March 2011. The last date for responses is 30 May 2011.

When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation response form and, where applicable, how the views of members were assembled.

We would prefer responses by email, but hard copy is also acceptable:

Email: adtradeconsultation@culture.gsi.gov.uk

Please send your hard copy to:

Helen Anderson
Operations Team, Government Olympic Executive
Department for Culture, Media and Sport
2-4 Cockspur Street, London, SW1Y 5DH

Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), Freedom of Information (Scotland) Act 2002 (FOISA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004) or the Environmental Information (Scotland) Regulations 2004, as relevant. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department. If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA or FOISA as relevant, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

Responses will be shared with the Scottish Government and the Welsh Government.

In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and, in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Copies of responses will be published after the consultation closing date on the Department's website: www.culture.gov.uk

Help with queries

For enquiries about the handling of this consultation please contact the DCMS Public Engagement and Recognition Unit (PERU) at the above address or email using the form at www.culture.gov.uk/contact_us, heading your communication 'Consultation on the Advertising and Trading Regulations'.

Complaints

If you have any comments or complaints about the way this consultation has been conducted, please use the form on the weblink below:

http://www.culture.gov.uk/contact_us/default.aspx

Section 8: Regulations (England, Wales, Scotland)

Draft Regulations laid before Parliament under sections 20(2) and 26(2) of the London Olympic Games and Paralympic Games Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

OLYMPIC GAMES AND PARALYMPIC GAMES, ENGLAND

The London Olympic Games and Paralympic Games (Advertising and Street Trading &c.) (England) Regulations 2011

Made - - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1(1)(b)

These Regulations are made in exercise of the powers conferred by sections 19, 20, 22(8), 25, 26 and 28(6) of the London Olympic Games and Paralympic Games Act 2006¹.

The Secretary of State has consulted in accordance with sections 20(3) and 26(3) and has had regard to the matters referred to in sections 19(2) and 25(2) of that Act.

A draft of these Regulations has been approved by both Houses of Parliament in accordance with sections 20(2) and 26(2) of that Act.

Accordingly, the Secretary of State makes the following Regulations:

¹ 2006 c. 12. Sections 19, 20, 25 and 26 were amended by paragraph 6 of the Schedule to S.I. 2007/2129 and paragraph 8 of the Schedule to S.I. 2010/1551.

PART 1

Introductory

Citation, commencement and duration

1.—(1) These Regulations may be cited as the London Olympic Games and Paralympic Games (Advertising and Street Trading &c.) (England) Regulations 2011.

(2) They come into force on the day after the day on which they are made.

(3) They cease to have effect on 11th September 2012.

Application

2.—(1) These Regulations apply only to—

(a) places in, and

(b) things done in or in respect of,

England including the territorial sea adjacent to England².

(2) The following provisions apply to the Crown—

(a) regulations 4 to 10, and

(b) the other provisions of these Regulations to the extent that they relate to advertising.

General interpretation

3.—(1) In these Regulations—

“the Act” means the London Olympic Games and Paralympic Games Act 2006,

“advertisement” means any word, letter, image, mark, sound, light, model, sign, placard, board, notice, screen, awning, blind, flag, device, costume or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purpose of, promotion, advertisement, announcement or direction,

“advertiser” means a person who engages in advertising activity including a person to whom regulation 5(3) or (4) applies,

“advertising activity” has the meaning given in regulation 4,

“advertising attire” means—

(a) a costume that is an advertisement, or

(b) clothing on which an advertisement is displayed,

“ambush marketing campaign” means a campaign (whether consisting of one act or a series of acts) intended specifically to advertise one or more of the following within an event zone during the relevant event period or periods—

(a) a good or service,

(b) a person who provides a good or service,

“article” includes a living thing,

“building” means a permanent building and excludes any other kind of structure or erection,

“current newspaper or periodical” does not include a newspaper or periodical intended specifically to advertise one or more of the following within an event zone during the relevant event period or periods—

(a) a good or service,

(b) a person who provides a good or service,

“event zone” has the meaning given in Schedule 1,

² Under section 1(5) of the Territorial Sea Act 1987 (1987 c. 49), the reference to the territorial sea adjacent to England in regulation 2(1) is to be construed in accordance with section 1 of that Act.

“itinerant ice cream trading” means selling articles consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle,

“motor vehicle” has the same meaning as in section 185 of the Road Traffic Act 1988³,

“not-for-profit body” means a body which, by virtue of its constitution or any enactment—

- (a) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes, and
- (b) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes),

“performance of a play” means performance of any dramatic piece, whether involving improvisation or not—

- (a) which is given wholly or in part by one or more persons actually present and performing, and
- (b) in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role.

“promotional material” means a document or article distributed or provided wholly or partly for the purpose of promotion, advertisement, announcement or direction,

“public entertainment” means entertainment of one of the following descriptions provided for members of the public—

- (a) a performance of live music,
- (b) any playing of recorded music,
- (c) a performance of dance,
- (d) a performance of a play,
- (e) entertainment of a similar description to that falling within sub-paragraphs (a) to (d),

“railway station” includes all of the following types of station—

- (a) a London Underground station,
- (b) a Greater Manchester Metrolink station,
- (c) a Tyne and Wear Metro station,

“receptacle” means anything which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article, including—

- (a) any vehicle, trailer or barrow, or
- (b) any basket, bag, box, vessel, stall, stand, easel, board, or tray,

“relevant event period” means, in relation to an event zone, a period of time indicated in column (2) of the table in Schedule 2 that is adjacent to the event zone in column (1) of that table,

“street trading” has the meaning given in regulation 11, and

“the Town and Country Planning Regulations” means the Town and Country Planning (Control of Advertisements) (England) Regulations 2007⁴.

(2) A reference to selling an article includes a reference to exposing or offering an article for sale.

(3) A reference to supplying a service includes a reference to offering to supply a service.

³ 1988 c. 52.

⁴ S.I. 2007/783, amended by S.I. 2007/1739.

PART 2

Advertising Activity

Meaning of “advertising activity”

- 4.—(1) In these Regulations—
- “advertising activity” means—
- (a) displaying an advertisement, or
 - (b) distributing or providing promotional material.
- (2) For this purpose “displaying an advertisement” includes all of the following activities—
- (a) projecting, emitting, screening or exhibiting an advertisement,
 - (b) carrying or holding an advertisement or an apparatus by which an advertisement is displayed,
 - (c) providing for—
 - (i) an advertisement to be displayed on an animal, or
 - (ii) an apparatus by which an advertisement is displayed to be carried or held by an animal,
 - (d) wearing advertising attire as part of an ambush marketing campaign.

Control of advertising activity

5.—(1) A person may not engage in advertising activity in an event zone during the relevant event period or periods.

(2) A person is to be treated as engaging in advertising activity (without prejudice to the generality of that expression) if paragraph (3) or (4) applies to that person.

- (3) This paragraph applies to a person who—
- (a) undertakes advertising activity,
 - (b) maintains an advertisement, or
 - (c) arranges for advertising activity to take place.
- (4) This paragraph applies to a person where advertising activity—
- (a) relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
 - (b) takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.
- (5) Without prejudice to the generality of paragraph (4)—
- (a) a person is to be treated as having an interest in or responsibility for a business or other concern if the person is a director, manager, secretary or other similar officer of the business or concern,
 - (b) a person is to be treated as having an interest in or responsibility for a good or service if the person is a director, manager, secretary or other similar officer of a business or other concern that has an interest in or is responsible for the good or service,
 - (c) a person is to be treated as having responsibility for the management of land, premises or other property if the person is a director, manager, secretary or other similar officer of a business or other concern that owns, occupies or has responsibility for the management of the land, premises or other property.

(6) This regulation applies in relation to advertising activity whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

Exception for demonstrations, &c

6.—(1) Regulation 5 does not apply to advertising activity that consists of an act, public assembly or public procession intended to—

- (a) demonstrate support for or opposition to the views or actions of any person or body of persons,

- (b) publicise a belief, cause or campaign, or
 - (c) mark or commemorate an event.
- (2) But this exception does not apply to advertising activity that promotes or advertises—
- (a) a good or service, or
 - (b) a person or body (excluding a not-for-profit body) that provides a good or service.

(3) In this regulation, “public assembly” and “public procession” have the same meanings as in section 16 of the Public Order Act 1986⁵ as that section applies in England and Wales.

Exception for certain wearers of costumes and clothing

7.—(1) Regulation 5 does not apply to a person who engages in advertising activity only by wearing advertising attire, unless the person knows or has reasonable cause to believe that he or she is participating in an ambush marketing campaign.

(2) The fact that this exception applies to a person does not affect the application of regulation 5 to any other person (whether in respect of the same advertising activity or otherwise).

Exceptions modelled on the Town and Country Planning Regulations

8.—(1) Regulation 5 does not apply to advertising activity that consists of the display of an advertisement—

- (a) to which Parts 2 and 3 of the Town and Country Planning Regulations (consent for the display of advertisements) do not apply by virtue of regulation 1(3) of those Regulations, or
 - (b) for which consent is granted by regulation 6(1) of those Regulations (deemed consent for the display of advertisements) subject to the conditions and limitations referred to in paragraph (1)(a) and (b) of that regulation.
- (2) But this exception does not apply to the display of an advertisement—
- (a) within Class A (advertisements displayed on enclosed land) if the enclosed land on which the advertisement is displayed is—
 - (i) a railway station (and its yards) or bus station (together with its forecourt, whether enclosed or not), or
 - (ii) enclosed land (including a sports stadium or other building) on which a London Olympic Event⁶ is taking place or to take place,
 - (b) within Class C (advertisements incorporated in the fabric of buildings) which was not in existence on the date on which these Regulations came into force,
 - (c) within Class I (advertisements displayed inside buildings) if the building in which the advertisement is displayed—
 - (i) is or forms part of a railway station or bus station, or
 - (ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,
 - (d) within Class 1B (advertisements displayed by local planning authorities) that—
 - (i) is not displayed wholly for the purpose of announcement or direction in relation to any of the functions of the local planning authority by which it is displayed, and
 - (ii) is not reasonably required to be displayed for the safe or efficient performance of those functions,
 - (e) within Class 3D (advertisements announcing local events and activities) if the advertisement promotes or advertises—
 - (i) a good or service, or
 - (ii) a person or body (excluding a not-for-profit body) that provides a good or service,
 - (f) within Class 7B (flags on residential development sites) that does not relate to the development or to a person carrying out the development or an aspect of the development,

⁵ 1986 c. 64. The definition of “public assembly” so far as it relates to England and Wales was amended by section 57 of the Anti-social Behaviour Act 2003 (2003 c. 38).

⁶ “London Olympic Event” is defined in section 1(3)(b) of the Act.

- (g) within Class 8 (advertisements on hoardings),
 - (h) within Class 9 (advertisements on highway structures),
 - (i) within Class 12 (advertisements displayed inside buildings) if the building in which the advertisement is displayed—
 - (i) is or forms part of a railway station or bus station, or
 - (ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,
 - (j) within Class 13 (advertisements on sites used for preceding ten years for display of advertisements without express consent),
 - (k) within Class 14 (advertisements displayed after expiry of express consent),
 - (l) within Class 15 (advertisements on balloons),
 - (m) within Class 16 (advertisements on telephone kiosks).
- (3) In this regulation—
- (a) a reference to a “Class” of advertisement is a reference to the corresponding Class of advertisement in Schedule 1 or 3 to the Town and Country Planning Regulations⁷, and
 - (b) “forecourt” has the same meaning as in Schedule 3 to the Town and Country Planning Regulations⁸.
- (4) For the purposes of this regulation—
- (a) a reference to a building in Schedule 1 or 3 to the Town and Country Planning Regulations is to be construed in accordance with the definition of building in regulation 3(1), and
 - (b) a reference to a vehicle in Schedule 1 to the Town and Country Planning Regulations includes a bicycle.

Other exceptions

9.—(1) Regulation 5 does not apply to advertising activity of a description falling within paragraphs (2) to (7).

- (2) Displaying an advertisement that is employed wholly as—
 - (a) a memorial, or
 - (b) a railway signal,
- (3) Distributing or providing a current newspaper or periodical, either without a receptacle or with a receptacle that does not—
 - (a) exceed 1 metre in length or width or 2 metres in height,
 - (b) occupy a ground area exceeding 0.25 square metre,
 - (c) stand on the carriageway of a street, or
 - (d) cause undue interference or inconvenience to persons using the street, and
- (4) Advertising activity undertaken in accordance with a condition attached to an authorisation granted under regulation 14 (street trading authorised by the Olympic Delivery Authority &c.).
- (5) Displaying an advertisement on an aircraft for one or more of the following purposes—
 - (a) complying with the law of the United Kingdom or any other country, being law in force in relation to the aircraft,
 - (b) securing the safety of the aircraft or any person or property therein,
 - (c) the furtherance, by or on behalf of a Government department, by a person acting under any public duty or by a person providing ambulance or rescue facilities by air, of measures in connection with circumstances, existing or imminent at the time the aircraft is used, which may cause danger to persons or property,
 - (d) civil defence, military or police purposes.

⁷ Class 5 in Schedule 3 to the Town and Country Planning Regulations was amended by regulation 2 of S.I. 2007/1739.

⁸ See paragraph 1(1) of Part 2 to Schedule 3 to the Town and Country Planning Regulations.

(6) Displaying a mark or inscription (other than an illuminated sign) on the body of an aeroplane or helicopter.

(7) Displaying an advertisement on an item of street furniture provided that the advertisement—

- (a) is not illuminated,
- (b) bears only the name, contact details and device (or any one or more of those things) of the manufacturer, owner or operator of the street furniture, and
- (c) is not displayed as part of an ambush marketing campaign.

Advertising undertaken or authorised by the London Organising Committee

10.—Regulation 5 does not apply to advertising activity undertaken or controlled by—

- (a) the London Organising Committee⁹, or
- (b) any person authorised by the Committee (whether or not subject to terms and conditions imposed by the Committee and whether or not in accordance with a sponsorship or other commercial agreement with the Committee).

(2) Subject to these Regulations, the Committee has an absolute discretion in respect of each application to it for authorisation.

(3) The Committee must have regard to the provisions of the Host City Contract¹⁰ before engaging in advertising activity or granting an authorisation under this regulation.

(4) The Committee's right to engage in advertising activity pursuant to this regulation and any authorisation granted by it are subject to all of the following conditions—

- (a) that the advertiser hold any licence which, in addition to authorisation by or under this regulation, is required before a person may engage in advertising activity (whether in a particular place or generally),
- (b) that no advertisement be sited or displayed so as to—
 - (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military),
 - (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air, or
 - (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle,
- (c) that the advertiser maintain any advertisement in a condition that does not—
 - (i) impair the visual amenity of the site, or
 - (ii) endanger the public.

(5) In this regulation, “licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

⁹ “the London Organising Committee” is defined in section 1(3)(d) of the Act. Since the passing of the Act, the London Organising Committee has changed its registered name to The London Organising Committee of the Olympic Games and Paralympic Games Limited.

¹⁰ “Host City Contract” is defined in section 1(3)(e) of the Act.

PART 3

Street Trading

Meaning of “street trading”

11.—(1) In these Regulations, “street trading” means carrying out one or more of the following activities in an open public place—

- (a) selling an article,
- (b) supplying a service,
- (c) trading as a pedlar under a pedlar’s certificate under the Pedlars Act 1871¹¹,
- (d) doing anything authorised by regulations made under section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916¹² (regulation of street collections),
- (e) conducting a public charitable collection that—
 - (i) is conducted in accordance with sections 48 or 49 of the Charities Act 2006¹³ (restrictions on conducting collections in a public place and door to door), or
 - (ii) is an exempt collection by virtue of section 50 of that Act (exemption for local, short-term collections),
- (f) itinerant ice cream trading,
- (g) providing public entertainment for gain or reward.

(2) For this purpose “open public place” means—

- (a) a highway, or
- (b) another place—
 - (i) to which the public have access (whether generally or only for the purpose of the trading), and
 - (ii) which is not in a building other than one designed or generally used for the parking of cars.

(3) In determining whether activity amounts to street trading for the purposes of these Regulations the following matters are to be disregarded—

- (a) the fact that gain or reward arising from the activity does not accrue to the person actually carrying out the activity,
- (b) the fact that either party to a transaction is not in an open public place when one of the following activities occurs—
 - (i) an offer or exposure of an article for sale,
 - (ii) an offer to supply a service,
 - (iii) the completion of the transaction,
- (c) the fact that a transaction is not completed in an open public place, if one of the following activities occurs in such a place—
 - (i) an offer or exposure of an article for sale,
 - (ii) an offer to supply a service,
- (d) the fact that an article actually sold or service actually supplied is different from that offered or exposed for sale.

¹¹ 1871 c. 96.

¹² 1916 c. 31. Section 5 was amended by section 3 of the Statute Law Revision Act 1927 (c. 42), paragraph 22 of Schedule 29 to the Local Government Act 1972 (c.70), section 31(5) and (6) of the Criminal Law Act 1977 (c. 45), Schedule 4 to the Civic Government (Scotland) Act 1982 (c. 45), section 46 of the Criminal Justice Act 1982 (c. 48), section 78(2)(f) of the Police (Northern Ireland) Act 2000 (c. 32), paragraph 15 of Schedule 8 and Schedule 9 to the Charities Act 2006 (c. 50), and paragraph 1 of the Schedule to S.I. 2006/2951.

¹³ 2006 c. 50.

Control of street trading

12.—(1) A person may not engage in street trading in an event zone during the relevant event period or periods.

(2) A person is to be treated as engaging in street trading (without prejudice to the generality of that expression) if paragraph (3) or (4) applies to that person.

(3) This paragraph applies to a person who—

- (a) undertakes street trading, or
- (b) arranges for street trading to take place.

(4) This paragraph applies to a person where street trading—

- (a) is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
- (b) takes place on land that the person owns or occupies or of which the person has responsibility for the management.

(5) But paragraph (4) does not apply to a person who proves that—

- (a) the street trading took place without their knowledge, or
- (b) they took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.

(6) Without prejudice to the generality of paragraph (4)—

- (a) a person is to be treated as having an interest in or responsibility for a business or other concern if the person is a director, manager, secretary or other similar officer of the business or concern,
- (b) a person is to be treated as having responsibility for the management of land if the person is a director, manager, secretary or other similar officer of a business or other concern that owns, occupies or has responsibility for the management of the land.

(7) This regulation applies in relation to street trading whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

Exceptions

13.—(1) Regulation 12 does not apply to street trading of a description falling within paragraphs (2) to (8).

(2) Trading as a newsvendor, provided that—

- (a) the only articles sold are current newspapers or periodicals, and
- (b) they are sold either without a receptacle or with a receptacle that does not—
 - (i) exceed 1 metre in length or width or 2 metres in height,
 - (ii) occupy a ground area exceeding 0.25 square metre,
 - (iii) stand on the carriageway of a street, or
 - (iv) cause undue interference or inconvenience to persons using the street.

(3) Selling an article to an occupier of premises adjoining any highway from a vehicle which is used only for the regular delivery of milk or other perishable goods to that person.

(4) Selling a motor vehicle on private land generally used for the sale of motor vehicles.

(5) Supplying motor vehicle cleaning services on private land generally used for the supply of those services.

(6) Supplying motor vehicle parking services in a building designed or generally used for the parking of motor vehicles.

(7) Providing a public sanitary convenience.

(8) Supplying public transport services.

(9) Street trading on private land adjacent to exempt premises provided that the trading—

- (a) forms part of the usual business of the owner of the premises or a person assessed for uniform business rate in respect of the premises, and

- (b) takes place during the period during which the premises are open to the public for business.
- (10) Paragraph (3) does not apply to itinerant ice cream trading.
- (11) In this regulation—
 - “exempt premises” means—
 - (a) a shop,
 - (b) a restaurant, bar, or other premises used for the supply of meals, refreshments or alcohol, or
 - (c) a petrol filling station,
 - “sanitary convenience” has the meaning given in section 126 of the Building Act 1984¹⁴.

Street trading authorised by the Olympic Delivery Authority &c.

14.—(1) Regulation 12 does not apply to street trading undertaken in accordance with an authorisation granted by the Authority¹⁵.

(2) Subject to these Regulations, the Authority has an absolute discretion in respect of each application for authorisation.

(3) The Authority must have regard to the provisions of the Host City Contract before granting an authorisation under this regulation.

(4) An authorisation granted under this regulation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence which, in addition to authorisation under this regulation, is required before the person may engage in street trading (whether in a particular place or generally).

(5) In this regulation—

“Authority” means—

- (a) the Olympic Delivery Authority, or
- (b) a person to whom the function of granting authorisations for the purpose of this regulation is delegated by the Olympic Delivery Authority, and

“licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

PART 4

Rights of review

Interpretation of this Part

15. In this Part—

“applicant” has the meaning given in regulation 16(1),

“authorisation” means an authorisation granted—

- (a) under regulation 10(1)(b) in relation to advertising activity, or
- (b) under regulation 14 in relation to street trading, and

“authoriser” means—

- (a) in relation to an application for an authorisation under regulation 10(1)(b), the London Organising Committee, or

¹⁴ 1984 c. 55. There are amendments to section 126 that are not relevant to these Regulations.

¹⁵ Under section 25(7) of the Act, an authorisation granted by the Authority under regulation 13 may be subject to terms and conditions.

- (b) in relation to an application for an authorisation under regulation 14—
 - (i) the Olympic Delivery Authority, or
 - (ii) a person to whom the function of granting authorisations for the purpose of regulation 14 is delegated by the Olympic Delivery Authority.

Right to seek review

16.—(1) A person who has applied for an authorisation (an “applicant”) and is dissatisfied with the decision of the authoriser may request the authoriser to review its decision.

(2) Such a request must—

- (a) be in writing,
- (b) include or be accompanied by such information or evidence as the applicant considers relevant, and
- (c) be made within 14 days of the date on which the authoriser’s decision was communicated to the applicant.

(3) Within 14 days of the date on which an authoriser receives such a request, it must review its decision.

(4) On reviewing its decision, the authoriser may—

- (a) confirm its original decision, or
- (b) substitute a new decision for its original decision.

(5) The authoriser must send a written notice to the applicant informing him or her of its decision on the review and the reasons for that decision.

PART 5

Compensation

Interpretation of this Part

17. In this Part—

“claimant” has the meaning given in regulation 19(1),

“decision notice” means a notice issued by a relevant authority under regulation 21(2)(b) or (3),

“enforcement officer” means a person designated for the purpose of section 22 or 28 of the Act (enforcement powers) by the Olympic Delivery Authority,

“notice of claim” has the meaning given in regulation 19(1),

“police authority” and “police force” have the meanings given in section 101 of the Police Act 1996¹⁶, and

“relevant authority”, in relation to the exercise or purported exercise of a power under section 22 or 28 of the Act, means—

- (a) if the exercise or purported exercise of the power was by an enforcement officer, the Olympic Delivery Authority, or
- (b) if the exercise or purported exercise of the power was by a constable, the police authority for the police force of which the constable is a member,

Entitlement to compensation for damage to property

18.—(1) A person whose property is damaged in the course of the exercise or purported exercise of a power under section 22 or 28 of the Act is entitled to compensation from the relevant authority in accordance with this Part.

¹⁶ 1996 c.16. The definition of “police authority” in section 101 was amended by section 312 of the Greater London Authority Act 1999 (c.29). There are other amendments to section 101 which are not relevant to these Regulations.

(2) But a person who is responsible for a contravention of these Regulations is not entitled to compensation.

(3) The amount of compensation payable is the total of—

- (a) the value of the property damaged, and
- (b) any other loss which flowed directly from the damage to the property.

Notice of claim

19.—(1) A person who claims to be entitled to compensation under this Part (a “claimant”) may send a written notice (a “notice of claim”) to the relevant authority claiming that compensation.

(2) A notice of claim must be sent within—

- (a) 30 days of the date on which damage occurred, or
- (b) such longer period as agreed by the relevant authority in writing.

(3) A notice of claim must include or be accompanied by all of the following information and evidence—

- (a) the claimant’s full name,
- (b) the date on which the damage occurred,
- (c) the address or location at which the damage occurred,
- (d) the amount of compensation claimed (in accordance with regulation 18(3)),
- (e) a description of—
 - (i) the property damaged,
 - (ii) the nature of the damage, and
 - (iii) the nature of any further loss which flowed from the damage for which compensation is claimed,
- (f) photographs, receipts, quotations or other evidence as to the matters referred to in subparagraphs (a) to (e).

Initial consideration of claim

20.—(1) Within 14 days of the date on which the relevant authority receives a notice of claim it must determine whether it has received sufficient information and evidence to enable it to decide the following matters—

- (a) whether the claimant is entitled to compensation under this Part,
- (b) where the claimant is entitled, the amount of the compensation.

(2) If the authority determines that it has not received sufficient information or evidence, it must send the claimant a written notice stating the further information or evidence that it requires.

(3) The claimant must send the authority the information or evidence stated in such a notice within—

- (a) 14 days of the date on which a claimant receives the notice, or
- (b) such longer period as agreed by the relevant authority in writing.

(4) Within 7 days of the date on which the authority receives any further information or evidence, it must make the determination referred to in paragraph (1) again (and the other paragraphs of this regulation apply to that new determination).

Authority’s decision on a claim

21.—(1) If a relevant authority determines under regulation 20 that it has received sufficient information and evidence it must, within 14 days of the date of that determination, decide the matters referred to in regulation 20(1)(a) and (b).

(2) If the authority decides that the claimant is entitled to compensation it must—

- (a) pay to the claimant the amount of compensation stated in the notice of claim, or

- (b) if it decides that the claimant is entitled to a lesser amount of compensation than that stated in the notice of claim, send a written notice to the claimant—
 - (i) offering that lesser amount to him or her, and
 - (ii) stating the reasons for its decision.
- (3) If the authority decides that the claimant is not entitled to compensation it must send a written notice to the claimant—
 - (i) declining the claim, and
 - (ii) stating the reasons for its decision.
- (4) A claimant who receives a decision notice offering a lesser amount of compensation than that stated in the notice of claim may agree, in writing, to accept that lesser amount (in which case the authority must pay that amount to the claimant).
- (5) A decision notice must contain particulars of the claimant's rights to—
 - (a) request a review of the decision, under regulation 22, and
 - (b) appeal a decision on a review, under regulation 23.

Review of decision on a claim

22.—(1) A claimant who receives a decision notice may request the relevant authority to review its decision.

- (2) Such a request must—
 - (a) be in writing,
 - (b) be made within—
 - (i) 14 days of the date on which the decision notice was received, or
 - (ii) such longer period agreed by the relevant authority in writing, and
 - (c) include or be accompanied by such information or evidence as the claimant considers relevant.
- (3) Within 14 days of the date on which a relevant authority receives such a request it must review its decision under regulation 21.
- (4) On reviewing its decision, the authority may—
 - (a) confirm the original decision, or
 - (b) substitute a new decision for the original decision.
- (5) But where the authority decided under regulation 21(2)(b) that the claimant was entitled to a lesser amount of compensation than that stated in the notice of claim, on reviewing its decision it may not substitute a lesser amount of compensation for that stated in the decision notice.
- (6) The authority must send a written notice to the claimant informing him or her of its decision on the review and the reasons for that decision.
- (7) A notice under paragraph (6) must contain particulars of the claimant's right to appeal a decision on a review under regulation 23.

Appeal to the county court

23.—(1) A claimant that is dissatisfied with a decision of the relevant authority on a review under regulation 22 may appeal to the county court.

- (2) An appeal must be brought within 21 days of the date on which the claimant was notified of the authority's decision on review.
- (3) The court may give permission for an appeal to be brought after the end of that period, but only if it is satisfied—
 - (a) where permission is sought before the end of that period, that there is a good reason for the claimant to be unable to bring the appeal in time, or
 - (b) where permission is sought after the end of that period, that there was a good reason for the claimant's failure to bring the appeal in time and for any delay in applying for permission.

(4) An appeal under this regulation is to be by way of rehearing and the court may make such order confirming, quashing or varying the decision as it thinks fit.

Hugh Robertson
Parliamentary Under Secretary of State

SCHEDULE 1 Regulation 3

Meaning of “event zone”

1. In these Regulations, “event zone” means each of the following zones, being, in each case, the area shown on the relevant map bounded externally by a black line and edged internally by a stippled band, including the airspace above the land or water in that area—

- (a) the Broxbourne zone,
- (b) the Coventry Stadium zone,
- (c) the Earls Court zone,
- (d) the Eton Dorney zone,
- (e) the ExCEL zone,
- (f) the Greenwich Park zone,
- (g) the Hadleigh Farm zone,
- (h) the Horse Guards Parade zone,
- (i) the Hyde Park zone,
- (j) the Lord’s Cricket Ground zone,
- (k) the North Greenwich Arena 1 zone,
- (l) the Old Trafford zone,
- (m) the Olympic marathon zone,
- (n) the Olympic Park zone,
- (o) the Olympic race walk zone,
- (p) the Olympic road cycling zone,
- (q) the Olympic time trial zone.
- (r) the Olympic triathlon run zone,
- (s) the Paralympic marathon zone,
- (t) the Paralympic road cycling zone,
- (u) the Royal Artillery Barracks zone,
- (v) the St James’s Park zone,
- (w) the Wembley Arena zone,
- (x) the Wembley Stadium zone,
- (y) the Weymouth and Portland zone,
- (z) the Wimbledon zone.

2. In this Schedule, “the relevant map” means, in relation to each event zone, the map bearing the name of the event zone and the title of these Regulations, of which prints signed by a Director in the Department for Culture, Media and Sport are deposited and available for inspection at the offices of—

- (a) the Department for Culture, Media and Sport,
- (b) the Olympic Delivery Authority, and
- (c) a local authority indicated in column (2) of the following table that is adjacent to the event zone in column (1) of that table.

(1) <i>Event zone</i>	(2) <i>Local authority or authorities</i>
Broxbourne zone	Broxbourne Borough Council
Coventry Stadium zone	Coventry City Council
Earls Court zone	Royal Borough of Kensington and Chelsea
Eton Dorney zone	Royal Borough of Windsor and Maidenhead
ExCEL zone	London Borough of Newham
Greenwich Park zone	London Borough of Greenwich
Hadleigh Farm zone	Castle Point Borough Council
Horse Guards Parade zone	Westminster City Council
Hyde Park zone	Westminster City Council
Lord's Cricket Ground zone	Westminster City Council
North Greenwich Arena 1 zone	London Borough of Greenwich
Old Trafford zone	Trafford Metropolitan Borough Council
Olympic marathon zone	(a) Westminster City Council
	(b) City of London Corporation
Olympic Park zone	(a) London Borough of Hackney
	(b) London Borough of Newham
	(c) London Borough of Tower Hamlets
	(d) London Borough of Waltham Forest
Olympic race walk zone	Westminster City Council
Olympic road cycling zone	(a) Westminster City Council
	(b) Royal Borough of Kensington and Chelsea
	(c) London Borough of Hammersmith and Fulham
	(d) London Borough of Wandsworth
	(e) London Borough of Richmond upon Thames
	(f) Royal Borough of Kingston upon Thames
	(g) Elmbridge Borough Council
	(h) Reigate and Banstead Borough Council
	(i) Mole Valley District Council
	(j) Guildford Borough Council
Olympic time trial zone	(k) Woking Borough Council unknown

<i>(1)</i> <i>Event zone</i>	<i>(2)</i> <i>Local authority or authorities</i>
Olympic triathlon run zone	Westminster City Council
Paralympic marathon zone	(a) Westminster City Council (b) City of London Corporation
Paralympic road cycling zone	unknown
Royal Artillery Barracks zone	London Borough of Greenwich
St James's Park zone	Newcastle City Council
Wembley Arena zone	London Borough of Brent
Wembley Stadium zone	London Borough of Brent
Weymouth and Portland zone	Weymouth and Portland Borough Council
Wimbledon zone	London Borough of Merton

3. All parts of a railway station (whether on, above or under the ground and whether within or outside an event zone) are to be taken as being within an event zone if any part of the station is on or above the ground within the event zone.

SCHEDULE 2

Regulation 3

Relevant event period or periods

<i>(1)</i> <i>Event zone</i>	<i>(2)</i> <i>Relevant event period of periods</i>
the Broxbourne zone	From the beginning of 28th July 2012 to the end of 2nd August 2012
the Coventry Stadium zone	(a) From the beginning of 24th July 2012 to the end of 3rd August 2012 (b) From the beginning of 8th August 2012 to the end of 9th August 2012
the Earls Court zone	From the beginning of 28th July 2012 to the end of 12th August 2012
the Eton Dorney zone	(a) From the beginning of 27th July 2012 to the end of 11th August 2012 (b) From the beginning of 30th August 2012 to the end of 2nd September 2012
the ExCEL zone	(a) From the beginning of 27th July 2012 to the end of 12th August 2012 (b) From the beginning of 29th August 2012 to the end of 8th September 2012
the Greenwich Park zone	(a) From the beginning of 27th July 2012 to the end of 12th August 2012

<i>(1)</i> <i>Event zone</i>	<i>(2)</i> <i>Relevant event period of periods</i>
the Hadleigh Park zone	(b) From the beginning of 29th August 2012 to the end of 4th September 2012 From the beginning of 10th August 2012 to the end of 12th August 2012
the Horse Guards Parade zone	From the beginning of 27th July 2012 to the end of 9th August 2012
the Hyde Park zone	From the beginning of 8th August 2012 to the end of 10th August 2012
the Lord's Cricket Ground zone	From the beginning of 26th July 2012 to the end of 3rd August 2012
the North Greenwich Arena 1 zone	(a) From the beginning of 27th July 2012 to the end of 12th August 2012
the Old Trafford zone	(b) From the beginning of 29th August 2012 to the end of 8th September 2012 (a) From the beginning of 25th July 2012 to the end of 26th July 2012
the Olympic marathon zone	(b) From the beginning of 28th July 2012 to the end of 1st August 2012 (c) From the beginning of 3rd August 2012 to the end of 7th August 2012
the Olympic Park zone	(a) From the beginning of 5th August 2012 to the end of that day (b) From the beginning of 12th August 2012 to the end of that day (a) From the beginning of 23rd July 2012 to the end of 13th August 2012 (b) From the beginning of 28th August 2012 to the end of 9th September 2010
the Olympic race walk zone	(a) From the beginning of 4th August 2012 to the end of that day (b) From the beginning of 11th August 2012 to the end of that day
the Olympic road cycling zone	From the beginning of 28th July 2012 to the end of 29th July 2012
the Olympic time trial zone	From the beginning of 1st August 2012 to the end of that day
the Olympic triathlon run zone	(a) From the beginning of 4th August 2012 to the end of that day

(1) <i>Event zone</i>	(2) <i>Relevant event period of periods</i>
the Paralympic marathon zone	(b) From the beginning of 7th August 2012 to the end of that day From the beginning of 9th September 2012 to the end of that day
the Paralympic road cycling zone	From the beginning of 5th September 2012 to the end of 8th September 2012
the Royal Artillery Barracks zone	(a) From the beginning of 27th July 2012 to the end of 5th August 2012 (b) From the beginning of 29th August 2012 to the end of 5th September 2012
the St James's Park zone	(a) From the beginning of 25th July 2012 to the end of 26th July 2012 (b) From the beginning of 28th July 2012 to the end of 4th August 2012
the Wembley Arena zone	(a) From the beginning of 27th July 2012 to the end of 5th August 2012 (b) From the beginning of 8th August 2012 to the end of 12th August 2012
the Wembley Stadium zone	(a) From the beginning of 28th July 2012 to the end of 1st August 2012 (b) From the beginning of 3rd August 2012 to the end of 11th August 2012
the Weymouth and Portland zone	(a) From the beginning of 28th July 2012 to the end of 12th August 2012 (b) From the beginning of 31st August 2012 to the end of 7th September 2012
the Wimbledon zone	From the beginning of 27th July 2012 to the end of 6th August 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations control advertising activity and street trading in areas around London 2012 Olympic and Paralympic Games events in England (“event zones”) during the period or periods when those events take place (the “relevant event period or periods”).

There are 26 event zones. They are defined in Schedule 1 by reference to maps that are available for inspection at the offices of the Department for Culture, Media and Sport, the Olympic Delivery Authority (“ODA”), and the relevant local authority or authorities set out in the table following paragraph 2 of Schedule 1. The relevant event period or periods for each event zone are set out in Schedule 2.

Regulation 5(1) prohibits a person from engaging in advertising activity in an event zone during the relevant event period or periods (the “advertising prohibition”).

Regulation 4 defines “advertising activity” to mean displaying an advertisement or distributing or providing promotional material. “Advertisement” is defined in regulation 3(1) and “displaying an advertisement” includes the activities described in regulation 4(2). “Promotional material” is defined in regulation 3(1).

A person is to be treated as engaging in advertising activity if the person undertakes advertising activity, maintains an advertisement or arranges for advertising activity to take place (see regulation 5(2) and (3)). Under regulation 5(2) and (4), a person is also to be treated as engaging in advertising activity where advertising activity:

- relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.

Regulation 5(5) specifies people who are to be treated as satisfying these criteria.

Under section 21(2) of the London Olympic Games and Paralympic Games Act 2006 (the “2006 Act”), a person charged with an offence of contravening the advertising prohibition has a defence if the person proves that the contravention occurred without his or her knowledge or despite his or her taking all reasonable steps to prevent it from occurring or (where he or she became aware of it after its commencement) from continuing.

In addition, regulations 6 to 9 specify exceptions to the advertising prohibition. The exception in regulation 6 is for acts, public assemblies, or public processions intended to demonstrate support for or opposition to the views or actions of a person or body of persons, publicise a belief, cause or campaign, or mark or commemorate an event. The exception does not apply to advertising activity that promotes or advertises a good, service, or person or body (excluding a not-for-profit body as defined in regulation 3(1)) that provides a good or service.

The exception in regulation 7 is for a person who engages in advertising activity only by wearing “advertising attire” (defined in regulation 3(1) to mean a costume that is an advertisement or clothing on which an advertisement is displayed). For the exception to apply, the person must not know or have reasonable cause to believe that he or she is participating in an ambush marketing campaign (also defined in regulation 3(1)). The application of this exception to a person does not affect the application of the advertising prohibition to any other person (whether in respect of the same advertising activity or otherwise).

The exception in regulation 8 is modelled on provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the “Town and Country Planning Regulations”). Under regulation 8(1)(a) the advertising prohibition does not apply to the display of an advertisement which is exempt from the requirement for deemed or express consent under Part 2 or 3 of the Town and Country Planning Regulations (i.e. the display of an advertisement of a description set out in column (1) of Schedule 1 to those Regulations, provided that the relevant conditions and limitations set out in that Schedule are complied with). Under regulation 8(1)(b) the advertising prohibition does not apply to the display of an advertisement for which “deemed consent” is granted by regulation 6(1) of those Regulations (i.e. any Class of advertisement specified in Part 1 of Schedule 3 to those Regulations, subject to the conditions and limitations

referred to in regulation 6(1) of those Regulations). But the exception in regulation 8 does not apply to the display of an advertisement of a description set out in regulation 8(2) (which specifies certain advertisements by reference to the Classes of advertisement in Schedules 1 and 3 to the Town and Country Planning Regulations).

Regulation 9 specifies other exceptions to the advertising prohibition.

In addition to the defence set out in section 21 of the 2006 Act and the exceptions specified in regulations 6 to 9, regulation 10 provides that the advertising prohibition does not apply to advertising activity undertaken or controlled by:

- the London Organising Committee of the Olympic Games and Paralympic Games Limited (“LOCOG”), or
- a person authorised by LOCOG.

LOCOG’s right to engage in advertising activity under regulation 10 and any authorisation granted by it are subject to the conditions specified in regulation 10(4), including that the advertiser hold any licence (as defined in regulation 10(5)) which, in addition to authorisation by or under regulation 10, is required before a person may engage in advertising activity (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with LOCOG’s decision may request LOCOG to review its decision (see regulation 16).

Regulation 12 prohibits a person from engaging in street trading in an event zone during the relevant event period or periods (the “street trading prohibition”).

Regulation 11 defines street trading as carrying out one or more of the activities specified in that regulation in an open public place. “Open public place” is defined in regulation 11(2) to mean a highway or another place to which the public have access and which is not in a building (other than one designed or generally used for the parking of cars). The matters specified in regulation 11(3) are to be disregarded when determining whether activity amounts to street trading.

A person is to be treated as engaging in street trading if the person undertakes street trading or arranges for street trading to take place (see regulation 12(2) and (3)). Under regulation 12(2) and (4), a person (a “business or land owner”) is also to be treated as engaging in street trading where street trading:

- is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land that the person owns or occupies or of which the person has responsibility for the management.

Regulation 12(6) specifies people who are to be treated as satisfying these criteria. But Regulation 12(5) provides that a business or land owner is not to be treated as engaging in street trading if he or she proves that the street trading took place without his or her knowledge or that he or she took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.

Regulation 13 specifies exceptions to the street trading prohibition.

In addition, regulation 14 provides that the street trading prohibition does not apply to street trading undertaken in accordance with an authorisation granted by the ODA or a person to whom the function of granting authorisations is delegated by the ODA. The ODA (or its delegate, as the case may be) may impose terms and conditions on any authorisation under section 25(7) of the 2006 Act. Under regulation 14(4) an authorisation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence (as defined in regulation 14(5)) which, in addition to authorisation under regulation 14, is required before the person may engage in street trading (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with the ODA’s (or its delegate’s) decision may request ODA (or its delegate) to review its decision (see regulation 16).

Part 5 provides for compensation for a person whose property is damaged in course of the exercise or purported exercise of an enforcement power under section 22 or 28 of the 2006 Act. Under regulation 18(2) a person who is responsible for a contravention of the regulations is not entitled to compensation. The amount of compensation payable is specified in regulation 18(3).

Draft Regulations laid before the National Assembly for Wales on xx xxx 2011 under sections 20(2) and 26(2) of the London Olympic Games and Paralympic Games Act 2006, for approval by resolution of the National Assembly for Wales.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2011 No. (W.)

**OLYMPIC GAMES AND PARALYMPIC GAMES,
WALES**

Made - - - - - ***

Coming into force in accordance with regulation 1(2)

The Welsh Ministers, in exercise of the powers conferred by sections 19, 20, 22(8), 25, 26 and 28(6) of the London Olympic Games and Paralympic Games Act 2006¹, and now vested in them², make the following Regulations.

The Welsh Ministers have consulted in accordance with sections 20(3) and 26(3) and have had regard to the matters referred to in sections 19(2) and 25(2) of that Act.

A draft of these Regulations was laid before, and approved by a resolution of, the National Assembly for Wales in accordance with sections 20(2) and 26(2) of that Act.

PART 1

Introductory

Title, commencement and duration

1.—(1) The title of these Regulations is the London Olympic Games and Paralympic Games (Advertising and Street Trading &c.) (Wales) Regulations 2011.

(2) They come into force on the day after the day on which they are made.

(3) They cease to have effect on 14 August 2012.

Application

2.—(1) These Regulations apply in relation to Wales.

(2) The following provisions apply to the Crown—

(a) regulations 5 to 11, and

(b) the other provisions of these Regulations to the extent that they relate to advertising.

¹ 2006 c. 12. Sections 19, 20, 25 and 26 were amended by paragraph 6 of the Schedule to S.I. 2007/2129 and paragraph 8 of the Schedule to S.I. 2010/1551.

² By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32), functions of the National Assembly for Wales transferred to the Welsh Ministers.

Interpretation

3.—(1) In these Regulations—

“the Act” means the London Olympic Games and Paralympic Games Act 2006,

“advertisement” means any word, letter, image, mark, sound, light, model, sign, placard, board, notice, screen, awning, blind, flag, device, costume or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purpose of, promotion, advertisement, announcement or direction,

“advertiser” means a person who engages in advertising activity including a person to whom regulation 6(3) or (4) applies,

“advertising activity” has the meaning given in regulation 5,

“advertising attire” means—

- (a) a costume that is an advertisement, or
- (b) clothing on which an advertisement is displayed,

“ambush marketing campaign” means a campaign (whether consisting of one act or a series of acts) intended specifically to advertise one or more of the following within an event zone during the event periods—

- (c) a good or service,
- (d) a person who provides a good or service,

“article” includes a living thing,

“building” means a permanent building and excludes any other kind of structure or erection,

“current newspaper or periodical” does not include a newspaper or periodical intended specifically to advertise one or more of the following within an event zone during the event periods—

- (e) a good or service,
- (f) a person who provides a good or service,

“event periods” means each of the following periods of time—

- (a) from the beginning of 24 July 2012 to the end of 28 July 2012,
- (b) from the beginning of 30 July 2012 to the end of 4 August 2012, and
- (g) from the beginning of 9 August 2012 to the end of 10 August 2012,

“event zone” means the area specified in regulation 4,

“itinerant ice cream trading” means selling articles consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle,

“motor vehicle” has the same meaning as in section 185 of the Road Traffic Act 1988³,

“not-for-profit body” means a body which, by virtue of its constitution or any enactment—

- (h) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes, and
- (i) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes).

“performance of a play” means performance of any dramatic piece, whether involving improvisation or not—

- (j) which is given wholly or in part by one or more persons actually present and performing, and
- (k) in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role.

“promotional material” means a document or article distributed or provided wholly or partly for the purpose of promotion, advertisement, announcement or direction,

“public entertainment” means entertainment of one of the following descriptions provided for members of the public—

³ 1988 c. 52.

- (l) a performance of live music,
 - (m) any playing of recorded music,
 - (n) a performance of dance,
 - (o) a performance of a play,
 - (p) entertainment of a similar description to that falling within sub-paragraphs (a) to (d),
- “receptacle” means anything which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article, including—
- (q) any vehicle, trailer or barrow, or
 - (r) any basket, bag, box, vessel, stall, stand, easel, board, or tray,
- “street trading” has the meaning given in regulation 12, and
- “the Town and Country Planning Regulations” means the Town and Country Planning (Control of Advertisements) Regulations 1992⁴.
- (2) A reference to selling an article includes a reference to exposing or offering an article for sale.
 - (3) A reference to supplying a service includes a reference to offering to supply a service.

Event Zone

4.—(1) In these Regulations, “event zone” means the Millennium Stadium zone, being the area shown on the map bounded externally by a black line and edged internally by a stippled band, including the airspace above that area.

(2) In paragraph (1) “the map” means the map entitled “Map of the Millennium Stadium zone—The London Olympic Games and Paralympic Games (Advertising and Street Trading &c.) (Wales) Regulations 2011” which is deposited and available for inspection at the offices of the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ, and at the offices of Cardiff Council.

PART 2

Advertising Activity

Meaning of “advertising activity”

- 5.—(1) In these Regulations—
- “advertising activity” means—
- (a) displaying an advertisement, or
 - (b) distributing or providing promotional material.
- (2) For this purpose “displaying an advertisement” includes all of the following activities—
- (a) projecting, emitting, screening or exhibiting an advertisement,
 - (b) carrying or holding an advertisement or an apparatus by which an advertisement is displayed,
 - (c) providing for—
 - (i) an advertisement to be displayed on an animal, or
 - (ii) an apparatus by which an advertisement is displayed to be carried or held by an animal,
 - (d) wearing advertising attire as part of an ambush marketing campaign.

Control of advertising activity

6.—(1) A person may not engage in advertising activity in the event zone during the event periods.

(2) A person is to be treated as engaging in advertising activity (without prejudice to the generality of that expression) if paragraph (3) or (4) applies to that person.

⁴ S.I. 1992/666, amended by S.I. 1994/2351.

- (3) This paragraph applies to a person who—
- (a) undertakes advertising activity,
 - (b) maintains an advertisement, or
 - (c) arranges for advertising activity to take place.
- (4) This paragraph applies to a person where advertising activity—
- (a) relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
 - (b) takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.
- (5) Without prejudice to the generality of paragraph (4)—
- (a) a person is to be treated as having an interest in or responsibility for a business or other concern if the person is a director, manager, secretary or other similar officer of the business or concern,
 - (b) a person is to be treated as having an interest in or responsibility for a good or service if the person is a director, manager, secretary or other similar officer of a business or other concern that has an interest in or is responsible for the good or service,
 - (c) a person is to be treated as having responsibility for the management of land, premises or other property if the person is a director, manager, secretary or other similar officer of a business or other concern that owns, occupies or has responsibility for the management of the land, premises or other property.
- (6) This regulation applies in relation to advertising activity whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

Exception for demonstrations, &c

- 7.—(1) Regulation 6 does not apply to advertising activity that consists of an act, public assembly or public procession intended to—
- (a) demonstrate support for or opposition to the views or actions of any person or body of persons,
 - (b) publicise a belief, cause or campaign, or
 - (c) mark or commemorate an event.
- (2) But this exception does not apply to advertising activity that promotes or advertises—
- (a) a good or service, or
 - (b) a person or body (excluding a not-for-profit body) that provides a good or service.
- (3) In this regulation “public assembly” and “public procession” have the same meanings as in section 16 of the Public Order Act 1986⁵ as that section applies in England and Wales.

Exception for certain wearers of costumes and clothing

- 8.—(1) Regulation 6 does not apply to a person who engages in advertising activity only by wearing advertising attire, unless the person knows or has reasonable cause to believe that he or she is participating in an ambush marketing campaign.
- (2) The fact that this exception applies to a person does not affect the application of regulation 6 to any other person (whether in respect of the same advertising activity or otherwise).

Exceptions modelled on the Town and Country Planning Regulations

- 9.—(1) Regulation 6 does not apply to advertising activity that consists of the display of an advertisement—
- (a) to which Parts 2 and 3 of the Town and Country Planning Regulations (consent for the display of advertisements) do not apply by virtue of regulation 3(2) of those Regulations, or

⁵ 1986 c. 64. The definition of “public assembly” so far as it relates to England and Wales was amended by section 57 of the Anti-social Behaviour Act 2003 (2003 c. 38).

- (b) for which consent is granted by regulation 6(1) of those Regulations (deemed consent for the display of advertisements) subject to the conditions and limitations referred to in paragraph (1)(a) and (b) of that regulation.
- (2) But this exception does not apply to the display of an advertisement—
- (a) within Class A (advertisements on balloons),
 - (b) within Class B (advertisements displayed on enclosed land) if the enclosed land on which the advertisement is displayed is—
 - (i) a railway station (and its yards) or bus station (together with its forecourt, whether enclosed or not), or
 - (ii) enclosed land (including a sports stadium or other building) on which a London Olympic Event⁶ is taking place or to take place,
 - (c) within Class D (advertisements incorporated in the fabric of buildings) which was not in existence on the date on which these Regulations came into force,
 - (d) within Class J (advertisements displayed inside buildings) if the building in which the advertisement is displayed—
 - (i) is or forms part of a railway station or bus station, or
 - (ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,
 - (e) within Class 1B (advertisements displayed by local planning authorities) that—
 - (i) is not displayed wholly for the purpose of announcement or direction in relation to any of the functions of the local planning authority by which it is displayed, and
 - (ii) is not reasonably required to be displayed for the safe or efficient performance of those functions,
 - (f) within Class 3D (advertisements announcing local events and activities) if the advertisement promotes or advertises—
 - (i) a good or service, or
 - (ii) a person or body (excluding a not-for-profit body) that provides a good or service,
 - (g) within Class 7B (flags on residential development sites) that does not relate to the development or to a person carrying out the development or an aspect of the development,
 - (h) within Class 8 (advertisements on hoardings),
 - (i) within Class 9 (advertisements on highway structures),
 - (j) within Class 12 (advertisements displayed inside buildings) if the building in which the advertisement is displayed—
 - (i) is or forms part of a railway station or bus station, or
 - (ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,
 - (k) within Class 13 (advertisements on sites used on and since 1st April 1974 for the display of advertisements without express consent),
 - (l) within Class 14 (advertisements displayed after expiry of express consent).
- (3) In this regulation—
- (a) a reference to a “Class” of advertisement is a reference to the corresponding Class of advertisement in Schedule 2 or 3 to the Town and Country Planning Regulations, and
 - (b) “forecourt” has the same meaning as in Schedule 3 to the Town and Country Planning Regulations⁷.
- (4) For the purposes of this regulation-
- (a) a reference to a building in Schedule 2 or 3 to the Town and Country Planning Regulations is to be construed in accordance with the definition of building in regulation 3(1), and
 - (b) a reference to a vehicle in Schedule 2 to the Town and Country Planning Regulations includes a bicycle.

⁶ “London Olympic Event” is defined in section 1(3)(b) of the Act.

⁷ See paragraph 1(1) of Part 2 to Schedule 3 to the Town and Country Planning Regulations.

Other exceptions

10.—(1) Regulation 6 does not apply to advertising activity of a description falling within paragraphs (2) to (7).

(2) Displaying an advertisement that is employed wholly as—

- (a) a memorial, or
- (b) a railway sign.

(3) Distributing or providing a current newspaper or periodical, either without a receptacle or with a receptacle that does not—

- (a) exceed 1 metre in length or width or 2 metres in height,
- (b) occupy a ground area exceeding 0.25 square metre,
- (c) stand on the carriageway of a street, or
- (d) cause undue interference or inconvenience to persons using the street.

(4) Advertising activity undertaken in accordance with a condition attached to an authorisation granted under regulation 15 (street trading authorised by the Olympic Delivery Authority &c.).

(5) Displaying an advertisement on an aircraft for one or more of the following purposes—

- (a) complying with the law of the United Kingdom or any other country, being law in force in relation to the aircraft,
- (b) securing the safety of the aircraft or any person or property therein,
- (c) the furtherance, by or on behalf of a Government department, by a person acting under any public duty or by a person providing ambulance or rescue facilities by air, of measures in connection with circumstances, existing or imminent at the time the aircraft is used, which may cause danger to persons or property,
- (d) civil defence, military or police purposes.

(6) Displaying a mark or inscription (other than an illuminated sign) on the body of an aeroplane or helicopter.

(7) Displaying an advertisement on an item of street furniture provided that the advertisement—

- (a) is not illuminated,
- (b) bears only the name, contact details and device (or any one or more of those things) of the manufacturer, owner or operator of the street furniture, and
- (c) is not displayed as part of an ambush marketing campaign.

Advertising undertaken or authorised by the London Organising Committee

11.—(1) Regulation 6 does not apply to advertising activity undertaken or controlled by—

- (a) the London Organising Committee⁸, or
- (b) any person authorised by the Committee (whether or not subject to terms and conditions imposed by the Committee and whether or not in accordance with a sponsorship or other commercial agreement with the Committee).

(2) Subject to these Regulations, the Committee has an absolute discretion in respect of each application to it for authorisation.

(3) The Committee must have regard to the provisions of the Host City Contract⁹ before engaging in advertising activity or granting an authorisation under this regulation.

(4) The Committee's right to engage in advertising activity pursuant to this regulation and any authorisation granted by it are subject to all of the following conditions—

- (a) that the advertiser hold any licence which, in addition to authorisation by or under this regulation, is required before a person may engage in advertising activity (whether in a particular place or generally),

⁸ "the London Organising Committee" is defined in section 1(3)(d) of the Act. Since the passing of the Act, the London Organising Committee has changed its registered name to The London Organising Committee of the Olympic Games and Paralympic Games Limited.

⁹ "Host City Contract" is defined in section 1(3)(e) of the Act.

- (b) that no advertisement be sited or displayed so as to—
 - (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military),
 - (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air, or
 - (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle, and
- (c) that the advertiser maintain any advertisement in a condition that does not—
 - (i) impair the visual amenity of the site, or
 - (ii) endanger the public.

(5) In this regulation, “licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

PART 3

Street Trading

Meaning of “street trading”

12.—(1) In these Regulations, “street trading” means carrying out one or more of the following activities in an open public place—

- (a) selling an article,
- (b) supplying a service,
- (c) trading as a pedlar under a pedlar’s certificate under the Pedlars Act 1871¹⁰,
- (d) doing anything authorised by regulations made under section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916¹¹ (regulation of street collections),
- (e) conducting a public charitable collection that—
 - (i) is conducted in accordance with sections 48 or 49 of the Charities Act 2006¹² (restrictions on conducting collections in a public place and door to door), or
 - (ii) is an exempt collection by virtue of section 50 of that Act (exemption for local, short-term collections),
- (f) itinerant ice cream trading,
- (g) providing public entertainment for gain or reward.

(2) For this purpose “open public place” means—

- (a) a highway, or
- (b) another place—
 - (i) to which the public have access (whether generally or only for the purpose of the trading), and
 - (ii) which is not in a building other than one designed or generally used for the parking of cars.

(3) In determining whether activity amounts to street trading for the purposes of these Regulations the following matters are to be disregarded—

- (a) the fact that gain or reward arising from the activity does not accrue to the person actually carrying out the activity,

¹⁰ 1871 c. 96.

¹¹ 1916 c. 31. Section 5 was amended by section 3 of the Statute Law Revision Act 1927 (c. 42), paragraph 22 of Schedule 29 to the Local Government Act 1972 (c.70), section 31(5) and (6) of the Criminal Law Act 1977 (c. 45), Schedule 4 to the Civic Government (Scotland) Act 1982 (c. 45), section 46 of the Criminal Justice Act 1982 (c. 48), section 78(2)(f) of the Police (Northern Ireland) Act 2000 (c. 32), paragraph 15 of Schedule 8 and Schedule 9 to the Charities Act 2006 (c. 50), and paragraph 1 of the Schedule to S.I. 2006/2951.

¹² 2006 c. 50.

- (b) the fact that either party to a transaction is not in an open public place when one of the following activities occurs—
 - (i) an offer or exposure of an article for sale,
 - (ii) an offer to supply a service,
 - (iii) the completion of the transaction,
- (c) the fact that a transaction is not completed in an open public place, if one of the following activities occurs in such a place—
 - (i) an offer or exposure of an article for sale,
 - (ii) an offer to supply a service,
- (d) the fact that an article actually sold or service actually supplied is different from that offered or exposed for sale.

Control of street trading

- 13.**—(1) A person may not engage in street trading in the event zone during the event periods.
- (2) A person is to be treated as engaging in street trading (without prejudice to the generality of that expression) if paragraph (3) or (4) applies to that person.
- (3) This paragraph applies to a person who—
- (a) undertakes street trading, or
 - (b) arranges for street trading to take place.
- (4) This paragraph applies to a person where street trading—
- (a) is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
 - (b) takes place on land that the person owns or occupies or of which the person has responsibility for the management.
- (5) But paragraph (4) does not apply to a person who proves that—
- (a) the street trading took place without their knowledge, or
 - (b) they took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.
- (6) Without prejudice to the generality of paragraph (4)—
- (a) a person is to be treated as having an interest in or responsibility for a business or other concern if the person is a director, manager, secretary or other similar officer of the business or concern,
 - (b) a person is to be treated as having responsibility for the management of land if the person is a director, manager, secretary or other similar officer of a business or other concern that owns, occupies or has responsibility for the management of the land.
- (7) This regulation applies in relation to street trading whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

Exceptions

- 14.**—(1) Regulation 13 does not apply to street trading of a description falling within paragraphs (2) to (9).
- (2) Trading as a newsvendor, provided that—
- (a) the only articles sold are current newspapers or periodicals, and
 - (b) they are sold either without a receptacle or with a receptacle that does not—
 - (i) exceed 1 metre in length or width or 2 metres in height,
 - (ii) occupy a ground area exceeding 0.25 square metre,
 - (iii) stand on the carriageway of a street, or
 - (iv) cause undue interference or inconvenience to persons using the street.

- (3) Selling an article to an occupier of premises adjoining any highway from a vehicle which is used only for the regular delivery of milk or other perishable goods to that person.
- (4) Selling a motor vehicle on private land generally used for the sale of motor vehicles.
- (5) Supplying motor vehicle cleaning services on private land generally used for the supply of those services.
- (6) Supplying motor vehicle parking services in a building designed or generally used for the parking of motor vehicles.
- (7) Providing a public sanitary convenience.
- (8) Supplying public transport services.
- (9) Street trading on private land adjacent to exempt premises provided that the trading—
 - (a) forms part of the usual business of the owner of the premises or a person assessed for uniform business rate in respect of the premises, and
 - (b) takes place during the period during which the premises are open to the public for business.
- (10) Paragraph (3) does not apply to itinerant ice cream trading.
- (11) In this regulation—
 - “exempt premises” means—
 - (a) a shop,
 - (b) a restaurant, bar, or other premises used for the supply of meals, refreshments or alcohol, or
 - (c) a petrol filling station, and
 - “sanitary convenience” has the meaning given in section 126 of the Building Act 1984¹³.

Street trading authorised by the Olympic Delivery Authority &c.

- 15.**—(1) Regulation 13 does not apply to street trading undertaken in accordance with an authorisation granted by the Authority¹⁴.
- (2) Subject to these Regulations, the Authority has an absolute discretion in respect of each application for authorisation.
- (3) The Authority must have regard to the provisions of the Host City Contract before granting an authorisation under this regulation.
- (4) An authorisation granted under this regulation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence which, in addition to authorisation under this regulation, is required before the person may engage in street trading (whether in a particular place or generally).
- (5) In this regulation—
 - “Authority” means—
 - (a) the Olympic Delivery Authority, or
 - (b) a person to whom the function of granting authorisations for the purpose of this regulation is delegated by the Olympic Delivery Authority, and
 - “licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

¹³ 1984 c.55

¹⁴ Under section 25(7) of the Act, an authorisation granted by the Authority under regulation 15 may be subject to terms and conditions.

PART 4

Rights of review

Interpretation of this Part

16. In this Part—

“applicant” has the meaning given in regulation 17(1),

“authorisation” means an authorisation granted—

- (a) under regulation 11(1)(b) in relation to advertising activity, or
- (b) under regulation 15 in relation to street trading, and

“authoriser” means—

- (c) in relation to an application for an authorisation under regulation 11(1)(b), the London Organising Committee, or
- (d) in relation to an application for an authorisation under regulation 15—
 - (i) the Olympic Delivery Authority, or
 - (ii) a person to whom the function of granting authorisations for the purpose of regulation 15 is delegated by the Olympic Delivery Authority.

Right to seek review

17.—(1) A person who has applied for an authorisation (an “applicant”) and is dissatisfied with the decision of the authoriser may request the authoriser to review its decision.

(2) Such a request must—

- (a) be in writing,
- (b) include or be accompanied by such information or evidence as the applicant considers relevant, and
- (c) be made within 14 days of the date on which the authoriser’s decision was communicated to the applicant.

(3) Within 14 days of the date on which an authoriser receives such a request, it must review its decision.

(4) On reviewing its decision, the authoriser may—

- (a) confirm its original decision, or
- (b) substitute a new decision for its original decision.

(5) The authoriser must send a written notice to the applicant informing him or her of its decision on the review and the reasons for that decision.

PART 5

Compensation

Interpretation of this Part

18. In this Part—

“claimant” has the meaning given in regulation 20(1),

“decision notice” means a notice issued by a relevant authority under regulation 22(2)(b) or (3),

“enforcement officer” means a person designated for the purpose of section 22 or 28 of the Act (enforcement powers) by the Olympic Delivery Authority,

“notice of claim” has the meaning given in regulation 20(1),

“police authority” and “police force” have the meanings given in section 101 of the Police Act 1996¹⁵, and

¹⁵ 1996 c.16.

“relevant authority”, in relation to the exercise or purported exercise of a power under section 22 or 28 of the Act, means—

- (a) if the exercise or purported exercise of the power was by an enforcement officer, the Olympic Delivery Authority, or
- (b) if the exercise or purported exercise of the power was by a constable, the police authority for the police force of which the constable is a member,

Entitlement to compensation for damage to property

19.—(1) A person whose property is damaged in the course of the exercise or purported exercise of a power under section 22 or 28 of the Act is entitled to compensation from the relevant authority in accordance with this Part.

(2) But a person who is responsible for a contravention of these Regulations is not entitled to compensation.

(3) The amount of compensation payable is the total of—

- (a) the value of the property damaged, and
- (b) any other loss which flowed directly from the damage to the property.

Notice of claim

20.—(1) A person who claims to be entitled to compensation under this Part (a “claimant”) may send a written notice (a “notice of claim”) to the relevant authority claiming that compensation.

(2) A notice of claim must be sent within—

- (a) 30 days of the date on which damage occurred, or
- (b) such longer period as agreed by the relevant authority in writing.

(3) A notice of claim must include or be accompanied by all of the following information and evidence—

- (a) the claimant’s full name,
- (b) the date on which the damage occurred,
- (c) the address or location at which the damage occurred,
- (d) the amount of compensation claimed (in accordance with regulation 19(3)),
- (e) a description of—
 - (i) the property damaged,
 - (ii) the nature of the damage, and
 - (iii) the nature of any further loss which flowed from the damage for which compensation is claimed,
- (f) photographs, receipts, quotations or other evidence as to the matters referred to in subparagraphs (a) to (e).

Initial consideration of claim

21.—(1) Within 14 days of the date on which the relevant authority receives a notice of claim it must determine whether it has received sufficient information and evidence to enable it to decide the following matters—

- (a) whether the claimant is entitled to compensation under this Part,
- (b) where the claimant is entitled, the amount of the compensation.

(2) If the authority determines that it has not received sufficient information or evidence, it must send the claimant a written notice stating the further information or evidence that it requires.

(3) The claimant must send the authority the information or evidence stated in such a notice within—

- (a) 14 days of the date on which a claimant receives the notice, or
- (b) such longer period as agreed by the relevant authority in writing.

(4) Within 7 days of the date on which the authority receives any further information or evidence, it must make the determination referred to in paragraph (1) again (and the other paragraphs of this regulation apply to that new determination).

Authority's decision on a claim

22.—(1) If a relevant authority determines under regulation 21 that it has received sufficient information and evidence it must, within 14 days of the date of that determination, decide the matters referred to in regulation 21(1)(a) and (b).

(2) If the authority decides that the claimant is entitled to compensation it must—

- (a) pay to the claimant the amount of compensation stated in the notice of claim, or
- (b) if it decides that the claimant is entitled to a lesser amount of compensation than that stated in the notice of claim, send a written notice to the claimant—
 - (i) offering that lesser amount to him or her, and
 - (ii) stating the reasons for its decision.

(3) If the authority decides that the claimant is not entitled to compensation it must send a written notice to the claimant—

- (i) declining the claim, and
- (ii) stating the reasons for its decision.

(4) A claimant who receives a decision notice offering a lesser amount of compensation than that stated in the notice of claim may agree, in writing, to accept that lesser amount (in which case the authority must pay that amount to the claimant).

(5) A decision notice must contain particulars of the claimant's rights to—

- (a) request a review of the decision, under regulation 23, and
- (b) appeal a decision on a review, under regulation 24.

Review of decision on a claim

23.—(1) A claimant who receives a decision notice may request the relevant authority to review its decision.

(2) Such a request must—

- (a) be in writing,
- (b) be made within—
 - (i) 14 days of the date on which the decision notice was received, or
 - (ii) such longer period agreed by the relevant authority in writing, and
- (c) include or be accompanied by such information or evidence as the claimant considers relevant.

(3) Within 14 days of the date on which a relevant authority receives such a request it must review its decision under regulation 22.

(4) On reviewing its decision, the authority may—

- (a) confirm the original decision, or
- (b) substitute a new decision for the original decision.

(5) But where the authority decided under regulation 22(2)(b) that the claimant was entitled to a lesser amount of compensation than that stated in the notice of claim, on reviewing its decision it may not substitute a lesser amount of compensation for that stated in the decision notice.

(6) The authority must send a written notice to the claimant informing him or her of its decision on the review and the reasons for that decision.

(7) A notice under paragraph (6) must contain particulars of the claimant's right to appeal a decision on a review under regulation 24.

Appeal to the county court

24.—(1) A claimant that is dissatisfied with a decision of the relevant authority on a review under regulation 23 may appeal to the county court.

(2) An appeal must be brought within 21 days of the date on which the claimant was notified of the authority's decision on review.

(3) The court may give permission for an appeal to be brought after the end of that period, but only if it is satisfied—

- (a) where permission is sought before the end of that period, that there is a good reason for the claimant to be unable to bring the appeal in time, or
- (b) where permission is sought after the end of that period, that there was a good reason for the claimant's failure to bring the appeal in time and for any delay in applying for permission.

(4) An appeal under this regulation is to be by way of rehearing and the court may make such order confirming, quashing or varying the decision as it thinks fit.

Jane Davidson
Minister for Environment, Sustainability and Housing,
one of the Welsh Ministers

Draft Regulations laid before the National Assembly for Wales on xx xxx 2011 under sections 20(2) and 26(2) of the London Olympic Games and Paralympic Games Act 2006, for approval by resolution of the National Assembly for Wales.

S T A T U T O R Y I N S T R U M E N T S

2011 No. (W.)

**OLYMPIC GAMES AND PARALYMPIC GAMES,
WALES**

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations control advertising activity and street trading in the area around London 2012 Olympic and Paralympic Games events being held in Wales (the “event zone”) during the periods when those events are taking place (the “event periods”).

There is a single event zone in Wales (the Millennium Stadium zone) defined in regulation 4 by reference to the map available for inspection at the offices of the Welsh Assembly Government and Cardiff Council. The event periods for the event zone are set out in regulation 3(1).

Regulation 6(1) prohibits a person from engaging in advertising activity in the event zone during the event period (the “advertising prohibition”).

Regulation 5 defines “advertising activity” to mean displaying an advertisement or distributing or providing promotional material. “Advertisement” is defined in regulation 3(1) and “displaying an advertisement” includes the activities described in regulation 5(2). “Promotional material” is defined in regulation 3(1).

A person is to be treated as engaging in advertising activity if the person undertakes advertising activity, maintains an advertisement or arranges for advertising activity to take place (see regulation 6(2) and (3)). Under regulation 6(2) and (4), a person is also to be treated as engaging in advertising activity where advertising activity:

- relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.

Regulation 6(5) specifies people who are to be treated as satisfying these criteria.

Under section 21(2) of the London Olympic Games and Paralympic Games Act 2006 (the “2006 Act”), a person charged with an offence of contravening the advertising prohibition has a defence if the person proves that the contravention occurred without his knowledge or despite his taking all reasonable steps to prevent it from occurring or (where he became aware of it after its commencement) from continuing.

In addition, regulations 7 to 10 specify exceptions to the advertising prohibition. The exception in regulation 7 is for acts, public assemblies, or public processions intended to demonstrate support for or opposition to the views or actions of a person or body of persons, publicise a belief, cause or campaign, or mark or commemorate an event. The exception does not apply to advertising activity that promotes or advertises a good, service, or person or body (excluding a not-for-profit body as defined in regulation 3(1)) that provides a good or service.

The exception in regulation 8 is for a person who engages in advertising activity only by wearing

“advertising attire” (defined in regulation 3(1) to mean a costume that is an advertisement or clothing on which an advertisement is displayed). For the exception to apply, the person must not know or have reasonable cause not to believe that he is participating in an ambush marketing campaign (also defined in regulation 3(1)). The application of this exception to a person does not affect the application of the advertising prohibition to any other person (whether in respect of the same advertising activity or otherwise).

The exception in regulation 9 is modelled on provisions of the Town and Country Planning (Control of Advertisements) Regulations 1992 (the “Town and Country Planning Regulations”). Under regulation 9(1)(a) the advertising prohibition does not apply to the display of an advertisement which is exempt from the requirement for deemed or express consent under Parts 2 or 3 of the Town and Country Planning Regulations (i.e. the display of an advertisement of a description set out in column (1) of Schedule 2 to those Regulations, provided that the relevant conditions and limitations set out in that Schedule are complied with). Under regulation 9(1)(b) the advertising prohibition does not apply to the display of an advertisement for which “deemed consent” is granted by regulation 6(1) of those Regulations (i.e. any Class of advertisement specified in Part 1 of Schedule 3 to those Regulations, subject to the conditions and limitations referred to in regulation 6(1) of those Regulations). But the exception in regulation 9 does not apply to the display of an advertisement of a description set out in regulation 9(2) (which specifies certain advertisements by reference to the Classes of advertisement in Schedules 2 and 3 to the Town and Country Planning Regulations).

Regulation 10 specifies other exceptions to the advertising prohibition.

In addition to the defence set out in section 21 of the 2006 Act and the exceptions specified in regulations 7 to 10, regulation 11 provides that the advertising prohibition does not apply to advertising activity undertaken or controlled by:

- the London Organising Committee of the Olympic Games and Paralympic Games Limited (“LOCOG”), or
- a person authorised by LOCOG.

LOCOG’s right to engage in advertising activity under regulation 11 and any authorisation granted by it are subject to the conditions specified in regulation 11(4), including that the advertiser hold any licence (as defined in regulation 11(5)) which, in addition to authorisation by or under regulation 11, is required before a person may engage in advertising activity (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with LOCOG’s decision may request LOCOG to review its decision (see regulation 17).

Regulation 13(1) prohibits a person from engaging in street trading in the event zone during the event period (the “street trading prohibition”).

Regulation 12 defines street trading as carrying out one or more of the activities specified in that regulation in an open public place. “Open public place” is defined in regulation 12(2) to mean a highway or another place to which the public have access and which is not in a building (other than one designed or generally used for the parking of cars). The matters specified in regulation 12(3) are to be disregarded when determining whether activity amounts to street trading.

A person is to be treated as engaging in street trading if the person undertakes street trading or arranges for street trading to take place (see regulation 13(2) and (3)). Under regulation 13(2) and (4), a person (a “business or land owner”) is also to be treated as engaging in street trading where street trading:

- is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land that the person owns or occupies or of which the person has responsibility for the management.

Regulation 13(6) specifies people who are to be treated as satisfying these criteria. But regulation 13(5) provides that a business or land owner is not to be treated as engaging in street trading if he proves that the street trading took place without his knowledge or that he took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.

Regulation 14 specifies exceptions to the street trading prohibition.

In addition, regulation 15 provides that the street trading prohibition does not apply to street trading undertaken in accordance with an authorisation granted by the Olympic Delivery Authority (“ODA”) or a person to whom the function of granting authorisations is delegated by the ODA. The ODA (or its delegate, as the case may be) may impose terms and conditions on any authorisation under section 25(7) of the 2006 Act. Under regulation 15(4) an authorisation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence (as defined in regulation 15(5)) which, in addition to authorisation under regulation 15, is required before the person may engage in street trading (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with the ODA’s (or its delegate’s) decision may request ODA (or its delegate) to review its decision (see regulation 17).

Part 5 provides for compensation for a person whose property is damaged in the course of the exercise or purported exercise of an enforcement power under section 22 or 28 of the 2006 Act. Under regulation 19(2) a person who is responsible for a contravention of the Regulations is not entitled to compensation. The amount of compensation payable is specified in regulation 19(3).

Draft Regulations laid before the Scottish Parliament under sections 20(2) and 26(2) of the London Olympic Games and Paralympic Games Act 2006, for approval by resolution.

SCOTTISH STATUTORY INSTRUMENTS

2011 No.

**SPORTS GROUNDS AND SPORTING EVENTS
SCOTLAND**

Made - - - - - ***

Coming into force in accordance with regulation 1(1)(b)

The Scottish Ministers make these Regulations in exercise of powers conferred by sections 19, 20(1), 22(8), 25, 26(1), 28(6) and 37 of the London Olympic Games and Paralympic Games Act 2006¹, and all other powers enabling them to do so.

In accordance with sections 20(3) and 26(3) of that Act, and jointly with the Secretary of State, the Scottish Ministers have consulted [bodies and persons as considered appropriate]

The Scottish Ministers have had regard to the matters referred to in sections 19(2) and 25(2) of that Act.

In accordance with sections 20(2) and 26(2) of that Act as modified by section 37(8)(b), a draft has been laid before and approved by resolution of the Scottish Parliament.

PART 1

Introductory

Citation, commencement and duration

1. These Regulations—

- (a) may be cited as the London Olympic Games and Paralympic Games (Advertising and Street Trading) (Scotland) Regulations 2011;
- (b) come into force on the day after the day on which they are made; and
- (c) cease to have effect on 11th September 2012.

Application

2.—(1) These Regulations apply only to—

- (a) places in Scotland and;
- (b) things done in or in respect of Scotland.

(2) The following provisions apply to the Crown—

- (a) regulations 4 and 5 to 10; and
- (b) any other provisions of these Regulations to the extent that they relate to advertising.

¹ 2006 c.12. Sections 19, 20, 25, 26 and 37 were amended by paragraph 6(1) of the Schedule to the Transfer of Functions (Olympics and Paralympics) Order 2007 (S.I. 2007/2129).

General interpretation

3.—(1) In these Regulations—

“the Act” means the London Olympic Games and Paralympic Games Act 2006;

“advertisement” means any word, letter, image, mark, sound, light, model, sign, placard, board, notice, screen, awning, blind, flag, device, [costume] or representation—

- (a) whether illuminated or not; and
- (b) in the nature of, and employed wholly or partly for the purpose of, advertisement, promotion, announcement or direction;

“advertiser” means a person who engages in or is treated as engaging in advertising activity under these Regulations;

“advertising activity” has the meanings given in regulation 4;

“advertising attire” means—

- (c) a costume that is an advertisement; or
- (d) clothing on which an advertisement is displayed;

“ambush marketing campaign” means a campaign (whether consisting of one act or a series of acts) intended specifically to advertise within an event zone during the relevant event period one or more of the following—

- (e) a good or service;
- (f) a person who provides a good or service;

“article” includes a living thing;

“building” means a permanent building and excludes any other kind of structure or erection;

“current newspaper or periodical” excludes a newspaper or periodical intended specifically to advertise within an event zone during the relevant event period one or more of the following—

- (g) a good or service;
- (h) a person who provides a good or service;

“event zone” has the meaning given in the Schedule;

“ice cream trading” means selling articles consisting wholly or mainly of ice cream, frozen confectionery or similar commodities from a vehicle;

“motor vehicle” has the same meaning as in section 185 of the Road Traffic Act 1988²;

“not-for-profit body” means a body which, by virtue of its constitution or any enactment—

- (i) is required (after payment of outgoings) to apply the whole of its income and any capital which it expends, for charitable or public good purposes; and
- (j) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes);

“performance of a play” means performance of any dramatic piece, whether improvisational or not—

- (k) given wholly or in part by one or more persons actually present and performing; and
- (l) in which the whole or a major proportion of what is done by the person performing, whether by way of speech, singing or action, involves the playing of a role.

“promotional material” means a document or article distributed or provided wholly or partly for the purposes of promotion, advertisement, announcement or direction;

“public entertainment” means entertainment of one of the following descriptions provided for members of the public—

- (m) a performance of live music;
- (n) any playing of recorded music;
- (o) a performance of dance;
- (p) a performance of a play;

² 1988 c.52.

- (q) any entertainment of a similar description to that in sub-paragraphs (a) to (d);
 “railway station” includes a subway station;
 “receptacle” means—
- (r) any vehicle, trailer or barrow; or
- (s) any basket, bag, box, vessel, stall, stand, easel, board or tray used (whether or not constructed or adapted for such use) as a container for or for the display of any article;
- “relevant event period” means, in relation to the event zone, 28th August to 14th September 2012 ;
- “road” has the meaning given in the Roads (Scotland) Act 1984³;
- “street trading” has the meaning given in regulation 11; and
- “the Planning (Control of Advertisement) Regulations” means the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984⁴.
- (2) In these Regulations—
- (a) a reference to selling an article includes a reference to offering or exposing an article for sale; and.
- (b) a reference to supplying a service includes a reference to offering to supply a service.

PART 2

Advertising

Meaning of “advertising activity”

- 4.—(1) In this Part—
 “advertising activity” means—
- (a) displaying an advertisement; or
- (b) distributing or providing promotional material.
- (2) “Displaying an advertisement” includes—
- (a) projecting, emitting, screening or exhibiting an advertisement;
- (b) carrying or holding an advertisement or an apparatus by which an advertisement is displayed;
- (c) providing for an advertisement to be displayed—
- (i) on an animal; or
- (ii) on apparatus which is carried or held by an animal;
- (d) wearing advertising attire as part of an ambush marketing campaign.

Control of advertising activity

- 5.—(1) A person must not engage in advertising activity in the event zone during the relevant event period.
- (2) A person is to be treated as engaging in advertising activity if that person—
- (a) undertakes advertising activity;
- (b) maintains an advertisement;
- (c) arranges for advertising activity to take place; or
- (d) allows or permits advertising activity to take place on land, premises or other property which that person owns, occupies or for which that person has responsibility or management.

³ 1984 c.54.

⁴ S.I. 1984/467 as amended by S.I. 1992/1763, regulation 2.

(3) A person is to be treated as engaging in advertising activity where that person is a director, manager, secretary or other similar officer of a company, business or concern which—

- (a) is the subject of advertising activity; or
- (b) provides a good or service which is the subject of advertising activity.

(4) For the purposes of regulation 5(1)(d) a person is to be treated as engaging in advertising activity if the person is a director, manager, secretary or other similar officer of a company, business or concern that owns, occupies or has responsibility for the management of the land, premises or other property.

(5) This regulation applies in relation to advertising even if it is the continuation of advertising activity that commenced before these Regulations came into force.

Exception for demonstrations, &c.

6.—(1) Regulation 5 does not apply to advertising activity consisting of an act, public assembly or public procession intended to—

- (a) demonstrate support for or opposition to the views or actions of any person;
- (b) publicise a belief, cause or campaign; or
- (c) mark or commemorate an event.

(2) The exception in paragraph (1) does not apply to advertising activity that promotes or advertises—

- (a) a good or service; or
- (b) a person or body (excluding a not-for-profit body) that provides a good or service.

(3) In this regulation—

- (a) “public assembly” has the meaning given by section 16 of the Public Order Act 1986 as that section applies to Scotland; being an assembly of 20 or more persons in a public place wholly or partly open to the air;
- (b) “public procession” has the meaning given by Civic Government (Scotland) Act 1982⁵.

Exception for certain wearers of costumes and clothing

7.—(1) Regulation 5 does not apply to a person who engages in advertising activity only by wearing advertising attire unless the person knows or ought to have reasonably known that the person is participating in an ambush marketing campaign.

(2) [This exception does not affect the application of regulation 5 to any other person (whether in respect of the same advertising activity or otherwise).]

Exceptions modelled on the Planning (Control of Advertisement) Regulations

8.—(1) Regulation 5 does not apply to advertising activity that consists of the display of an advertisement—

- (a) to which the Planning (Control of Advertisement) Regulations do not apply, by virtue regulation 3(1) and (3) (consent for the display of advertisements) of those Regulations;
- (b) for which consent is granted by regulation 10(1) (deemed consent for display of advertisement) of those Regulations, subject to the conditions to set out in Schedule 1 and the conditions set out in Schedule 4 to those Regulations.

(2) The exception in paragraph (1) does not apply to advertising activity in accordance with—

- (a) regulation 3(1)(d), if the enclosed land on which the advertisement is displayed is—
 - (i) a railway station (and its yards);
 - (ii) a bus station (together with its forecourt whether enclosed or not); or
 - (iii) enclosed land (including a sports stadium or other building) in which a London Olympic Event⁶ is taking place or will take place;

⁵ 1982 c.45.

⁶ “London Olympics Event” is defined in section 1(3) of the Act.

- (b) regulation 3(1)(c) (advertisements incorporated in the fabric of a building) of the Planning (Control of Advertisement) Regulations if the advertisement was not in existence at the date these Regulations came into force;
 - (c) regulation 3(1)(f) or regulation 3(3) of the Planning (Control of Advertisement) Regulations in relation to a balloon;
 - (d) regulation 13(1) and (3) (advertisements on sites used for the display of advertisements on 16th August 1948);
 - (e) regulation 19 (display of advertisements after expiry of express consent) of the Planning (Control of Advertisement) Regulations;
 - (f) Class I(2) if the advertisement—
 - (i) is not displayed wholly for the purpose of announcement or direction in relation to the functions of the planning authority by which it is displayed; and
 - (ii) is not reasonably required to be displayed for the safe or efficient performance of those functions;
 - (g) Class III(3) (certain advertisements of a temporary nature) if the advertisement promotes or advertises—
 - (i) a good or service;
 - (ii) a person or body (excluding a not-for-profit body) that provides a good or service;
 - (h) Class V (advertisements within buildings) if the building—
 - (i) is or forms part of a railway station or bus station; or
 - (ii) is a sports stadium or other building in which a London Olympic is taking place or to take place.
- (3) In this regulation—
- (a) a reference to “Class of advertisement” within these Regulations is a reference to the corresponding Class of advertisement in Schedule 4 to the Planning (Control of Advertisement) Regulations;
 - (b) a reference to a building in Schedule 4 to the Planning (Control of Advertisements) Regulations is to be construed in accordance with the definition of building in regulation 3(1) of these Regulations;
 - (c) “forecourt” includes any fence, wall or similar screen or structure enclosing a forecourt and not forming part of the fabric of a building constituting business premises.

Other exceptions

- 9.—(1) Regulation 5 does not apply to advertising activity described in paragraphs (2) to (7).
- (2) Displaying an advertisement employed wholly as—
- (a) a memorial; or
 - (b) as a railway sign.
- (3) Distributing or providing a current newspaper or periodicals either—
- (a) without a receptacle; or
 - (b) with a receptacle which does not—
 - (i) exceed 1 metre in length or 2 metres in height;
 - (ii) occupy a ground area exceeding 0.25 square metre;
 - (iii) stand on the carriageway of a street;
 - (iv) cause undue influence or inconvenience to people using the street.
- (4) Advertising activity undertaken in accordance with a condition attached to an authorisation granted under regulation 14 (street trading authorised by the Olympic Delivery Authority &c).
- (5) Displaying an advertisement on an aircraft for one or more of the following purposes—
- (a) complying with the law of the United Kingdom or any other country, being law in force in relation to the aircraft;

- (b) securing the safety of the aircraft or any person or property;
 - (c) the furtherance, by or on behalf of a Government department, by a person acting under any public duty or by a person providing ambulance or rescue services by air, of measures in connection with circumstances existing or imminent at the time the aircraft is used which may cause danger to persons or property;
 - (d) civil defence, military or police purposes.
- (6) Displaying a mark or inscription (other than an illuminated sign) on the body of an aeroplane or helicopter.
- (7) Displaying an advertisement on street furniture provided that the advertisement
- (a) is not illuminated;
 - (b) bears only the name, contact details and device (or any one or more of those things) of the manufacturer, owner or operator of the street furniture; and
 - (c) is not displayed as part of an ambush marketing campaign.

Advertising undertaken, controlled or authorised by the London Organising Committee

10.—(1) Regulation 5 does not apply to advertising undertaken or controlled by—

- (a) the London Organising Committee⁷; or
- (b) any person authorised by the London Organising Committee (whether or not subject to terms and conditions imposed by the Committee and whether or not in accordance with a sponsorship or other commercial agreement with the Committee).

(2) Subject to these Regulations, the Committee has an absolute discretion in respect of each application for authorisation.

(3) The Committee must have regard to the provisions of the Host City Contract⁸ before engaging in advertising activity or granting an authorisation under this regulation.

(4) The Committee's right to engage in advertising activity and any authorisation granted by it under this regulation are subject to all the following conditions—

- (a) that the advertiser hold any licence which, in addition to authorisation by or under this regulation is required before a person may engage in advertising activity (whether in a particular place or generally);
- (b) that no advertisement be sited or displayed so as to—
 - (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle;
- (c) that the advertiser maintain any advertisement in a condition that does not—
 - (i) impair the visual amenity of the site; or
 - (ii) endanger the public.

(5) In this regulation, “licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

⁷ “the London Organising Committee” is defined in section 1(3)(d) of the Act. Since the passing of the Act, the London Organising Committee has changed its registered name to the London Organising Committee of the Olympic Games and Paralympic Games Limited.

⁸ “Host City Contract is defined in section 1(3) of the Act.

PART 3

Street Trading

Meaning of “street trading”

11.—(1) In these Regulations, “street trading” means carrying out one or more of the following activities in an open public place—

- (a) selling an article;
- (b) supplying a service;
- (c) trading as a pedlar under a pedlar’s certificate under the Pedlars Act 1871⁹;
- (d) doing anything authorised by regulations made under section 13 of the Civic Government (Scotland) Act 1982¹⁰ (regulation of street collections);
- (e) conducting a public charitable collection that is—
 - (i) conducted in accordance with [section XX] of the Civic Government (Scotland) Act 1982]; or
 - (ii) an exempt collection by virtue of [Public Charitable Collections (Scotland) Regulations 1984/1988]
- (f) ice cream trading;
- (g) providing public entertainment for gain or reward.

(2) In this regulation “open public place” means—

- (a) a road; or
- (b) another place—
 - (i) to which the public have access (whether generally or only for the purpose of the trading); and
 - (ii) which is not in a building except one designed or generally used for the parking of cars.

(3) In determining whether an activity is street trading for the purposes of these Regulations, the following matters are disregarded—

- (a) any gain or reward arising from the activity does not accrue to the person actually carrying out the activity;
- (b) either party to a transaction is not in an open public place when one of the following activities occurs—
 - (i) an offer or exposure of an article for sale;
 - (ii) an offer to supply a service;
 - (iii) the completion of a transaction;
- (c) a transaction was not completed in an open public place, if one of the following activities occurs in such a place—
 - (i) an offer or exposure of an article for sale;
 - (ii) an offer to supply a service;
- (d) an article actually sold or service actually supplied was different from that originally offered or exposed for sale.

Control of street trading

12.—(1) A person must not engage in street trading in an event zone during the relevant event period.

(2) A person is to be treated as engaging in street trading if that person—

- (a) undertakes street trading, or
- (b) arranges for street trading to take place.

⁹ 1871 c. 96.

¹⁰ 1982 (c.45).

- (3) A person is to be treated as engaging in street trading if the street trading—
- (a) is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
 - (b) takes place on land that the person owns or occupies or of which the person has responsibility for the management.
- (4) Paragraphs (2) and (3) will not apply if the person proves that—
- (a) the street trading took place without the person's knowledge; or
 - (b) the person took all reasonable steps to prevent the street trading taking place or, if it has taken place, to prevent it continuing or recurring.
- (5) For the purposes of regulation 12(3) a person is to be treated as engaging in street trading if the person is a director, manager, secretary or other similar officer of a company, business or concern that owns, occupies or has responsibility for the management of the land, premises or other property.
- (6) This regulation applies to street trading even if it is the continuation of street that commenced before the Regulations came into force.

Exceptions

- 13.—**(1) Regulation 12 does not apply to street trading as described in paragraphs (2) to (9).
- (2) Trading as a news-vendor, provided that—
- (a) the only articles sold are current newspapers or periodicals; and
 - (b) such articles are sold either without a receptacle or with a receptacle that does not—
 - (i) exceed 1 metre in length or width or 2 metres in height;
 - (ii) occupy a ground area exceeding 0.25 square metre;
 - (iii) stand on the carriageway of a street; or
 - (iv) cause undue interference or inconvenience to persons using the street.
- (3) Selling an article to an occupier of premises adjoining any road from a vehicle which is used for the regular delivery of milk or other perishable goods to that person [but not including ice cream trading].
- (4) Selling a motor vehicle on private land generally used for the sale of motor vehicles.
- (5) Supplying motor vehicle cleaning services on private land generally used for the supply of those services.
- (6) Supplying motor vehicle parking services in [an area] or building designed or generally used for the parking of motor vehicles.
- (7) Providing a public sanitary convenience.
- (8) Supplying public transport services.
- (9) Trading on private land adjacent to exempt premises provided that the trading—
- (a) forms part of the usual business of the owner of the premises or a person assessed for uniform business rate in respect of the premises; and
 - (b) takes place during the period during which the premises are [normally] open to the public for business.
- (10) Paragraph (3) does not apply to ice cream trading.
- (11) In this regulation, “exempt premises” means—
- (a) a shop;
 - (b) a restaurant, bar or other premises used for the supply of meals, refreshments or alcohol; or
 - (c) a petrol filling station.
- “sanitary convenience” means water closet or urinal.

Street trading authorised by the Olympic Delivery Authority.

14.—(1) Regulation 12 does not apply to street trading undertaken in accordance with an authorisation granted by the Authority¹¹.

(2) Subject to these Regulations, the Authority has an absolute discretion in respect of each application for authorisation.

(3) The Authority must have regard to the provisions of the Host City Contract before granting an authorisation under this regulation.

(4) An authorisation granted under this regulation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence which, in addition to authorisation under this regulation, is required before the person may engage in street trading (whether in a particular place or generally).

(5) In this regulation—

“Authority” means—

- (a) the Olympic Delivery Authority; or
- (b) a person to whom the function of granting authorisations for the purpose of this regulation is delegated by the Olympic Delivery Authority; and

“licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

PART 4**Rights of review****Interpretation of this Part**

15. In this Part—

“applicant” has the meaning given in regulation 16 (right to seek review);

“authorisation” means an authorisation granted—

- (a) under regulation 10(1)(b) (advertising undertaken, controlled or authorised by the London Organising Committee); or
- (b) under regulation 14 (street trading authorised by the Olympic Delivery Authority);

“authoriser” means—

- (c) in relation to an application for an authorisation under regulation 10(1)(b), the London Organising Committee, or
- (d) in relation to an application for an authorisation under regulation 14—
 - (i) the Olympic Delivery Authority; or
 - (ii) a person to whom the function of granting authorisations for the purpose of regulation 14 is delegated by the Olympic Delivery Authority.

Right to seek review

16.—(1) A person who has applied for an authorisation (“an applicant”) and is dissatisfied with the decision of the authoriser may request the authoriser to review its decision.

(2) Such a request must—

- (a) be in writing;
- (b) include or be accompanied by such information or evidence as the applicant considers relevant; and
- (c) be made within 14 days of the date on which the authoriser’s decision was communicated to the applicant.

¹¹ Under section 25(7) of the Act, an authorisation granted by the Authority under regulation 13 may be subject to terms and conditions.

- (3) An authoriser must review its decision within 14 days of receiving a request for review.
- (4) On reviewing its decision, the authoriser may—
- (a) confirm the original decision; or
 - (b) substitute a new decision for the original decision.
- (5) The authoriser must send a written notice informing its decision on the review to the applicant and the reasons for that decision [within 7 days].

PART 5

Compensation

Interpretation of this Part

17. In this Part—

“claimant” has the meaning given in regulation 19(1);

“decision notice” means a notice issued by a relevant authority under regulation 21(2)(b) or (3);

“enforcement officer” means a person designated for the purposes of section 22 or 28 of the Act by the Olympic Delivery Authority;

“notice of claim” has the meaning given in regulation 20(1);

“police authority” and “police force” have the same meaning as in sections 2 and 3 of the Police (Scotland) Act 1967¹² and includes a joint police board constituted under an amalgamation scheme made under section 19 of the Police (Scotland) Act 1967;

“relevant authority”, in relation to the exercise or purported exercise of a power under section 22 or 28 of the Act means—

- (a) if the exercise or purported exercise of the power was by an enforcement officer, the Olympic Delivery Authority;
- (b) if the exercise or purported exercise of the power was by a constable, the police authority for the police force of which the constable is a member.

Entitlement to compensation for damage to property

18.—(1) A person whose property is damaged in the course of the exercise or purported exercise of a power under section 22 or 28 of the Act is entitled to compensation from the relevant authority in accordance with this Part.

(2) A person responsible for contravention of these Regulations is not entitled to compensation.

(3) The amount of the compensation payable is the total of—

- (a) the value of the property damaged; and
- (b) any further loss which flowed from the damage to the property.

Notice of claim

19.—(1) A person claiming entitlement to compensation under this Part (a “claimant”) must send a written notice (a “notice of claim”) to the relevant authority claiming that compensation.

(2) A notice of claim must be sent within—

- (a) 30 days of the date on which damage occurred; or
- (b) such longer period as agreed by the relevant authority in writing.

(3) A notice of claim must include or be accompanied by the following information and evidence—

- (a) the claimant’s full name;
- (b) the date on which the damage occurred;

¹² 1967 (c.77). The definition of “police authority” in section 2 was amended by 1994 c.29, s. 180(1), Sch. 13 para 71(3); S.I. 1996/323, art. 4(1)(b). Section 3 was amended by section 47(1) of 1994 c.29; S.I. 1995/3003, art. 2, Sch.

- (c) the address or location at which the damage occurred;
- (d) the amount of compensation claimed (in accordance with regulation 19(3)) [and the basis of the calculation of the amount claimed];
- (e) a description of—
 - (i) the property damaged;
 - (ii) the nature of the damage; and
 - (iii) the nature of any further loss which flowed from the damage for which compensation is claimed; and
- (f) photographs, receipts, quotations or other evidence as to the matters referred to in subparagraphs (a) to (e).

Initial consideration of claim

20.—(1) Within 14 days of the date on which a relevant authority receives notice of a claim, the authority must determine whether it has received sufficient information and evidence to enable it to decide—

- (a) whether the claimant is entitled to compensation under this Part; and
- (b) if the claimant is entitled, the amount of compensation.

(2) If the authority determines that it has not received sufficient information or evidence, it must send the claimant a written notice stating the further information or evidence that the authority requires.

(3) The claimant must send the authority the information or evidence stated in the notice within—

- (a) 14 days of the date on which a claimant receives a notice under paragraph (2); or
- (b) such longer period as agreed by the relevant authority in writing.

(4) Within 7 days of the date on which the authority receives any such additional information or evidence, the authority must make the determination referred to in paragraph 1 again (and the other paragraphs of this regulation apply to that new determination).

Authority's decision on a claim

21.—(1) If a relevant authority determines under regulation 20 that it has received sufficient information and evidence it must, within 14 days of the date of that determination, decide the matters referred to in regulation 20(1)(a) and (b).

(2) If the authority decides that the claimant is entitled to compensation it must—

- (a) pay to the claimant the amount of compensation stated in the notice of claim; or
- (b) if it decides that the claimant is entitled to a lesser amount of compensation than that stated in the notice of claim, send a notice to the claimant—
 - (i) offering that lesser amount to the claimant; and
 - (ii) stating the reasons for its decision.

(3) If the authority decides that the claimant is not entitled to compensation it must send a notice to the claimant—

- (i) declining the claim; and
- (ii) stating the reasons for its decision.

(4) A claimant who receives a decision notice offering a lesser amount of compensation than stated in the notice of claim may agree, in writing, to accept that lesser amount (in which case the authority must pay that amount to the claimant).

(5) A decision notice must contain particulars of the claimant's rights to—

- (a) request a review of the decision under regulation 22; and
- (b) appeal a decision on a review under regulation 23.

Review of decision on a claim

22.—(1) A claimant who receives a decision notice may request the relevant authority to review its decision.

(2) Such a request must—

- (a) be in writing;
- (b) be made within—
 - (i) 14 days of the date on which the decision notice was received; or
 - (ii) such longer period agreed by the relevant authority in writing, and

(c) include or be accompanied by such information or evidence as the claimant considers relevant.

(3) Within 14 days of the date on which a relevant authority receives such a request it must review its decision under regulation 21.

(4) On reviewing its decision, the authority may—

- (a) confirm the original decision; or
- (b) substitute a new decision for the original decision.

(5) On reviewing its decision the authority may not substitute a lesser amount of compensation than that stated in the decision notice.

(6) The authority must send a written notice informing of its decision on the review to the claimant and the reasons for that decision.

(7) A notice under paragraph (6) must contain particulars of the claimant's right to appeal a decision on review under regulation 23.

Appeal to the sheriff court in Scotland

23.—(1) A claimant dissatisfied with the decision of the relevant authority on a review under regulation 22 may appeal to the sheriff court in Scotland.

(2) An appeal must be brought within 21 days of the date of notification [issuing] to the claimant of the authority's decision on review.

(3) The court may give permission for an appeal to be brought after the end of that period, but only if it is satisfied—

- (a) if permission is sought before the end of that period, that there is a good reason for the claimant to be unable to bring the appeal in time; or
- (b) if permission is sought after that time, that there was a good reason for the claimant's failure to bring the appeal in time and for any delay in applying for permission.

(4) On appeal under this regulation, the court may make such order confirming, quashing or varying the decision as it thinks fit.

A member of the Scottish Executive

Date

SCHEDULE

Regulation 3

Meaning of “event zone”

24. In these Regulations, “event zone” means the Hampden zone, being the area shown on the relevant map bounded externally by a black line and edged internally by a stippled band, including the airspace above the land in that area.

25. In paragraph (1), “relevant map” means, in relation to the event zone, the map entitled “Hampden Map” referred to in the London Olympic Games and Paralympic Games (Advertising and Street Trading) (Scotland) Regulations 2011, of which prints signed by [xx] in the Scottish Government are deposited and available for inspection at the offices of—

- (a) the Scottish Ministers, Edinburgh;
- (b) Glasgow City Council.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations control advertising activity and street trading in designated areas in Glasgow in respect of the London 2012 Olympic and Paralympic Games events at Hampden Park (“the event zone”) during the period when those events take place (the “relevant event period”). The event zone is set out by reference to a map that is available for inspection at the offices of the Scottish Government, the Olympic Delivery Authority (“ODA”), and Glasgow City Council.

Regulation 5(1) prohibits a person from engaging in advertising activity in the event zone during the relevant event period (the “advertising prohibition”).

Regulation 4 defines “advertising activity” to mean displaying an advertisement or distributing or providing promotional material. “Advertisement” is defined in regulation 3(1) and “displaying an advertisement” includes the activities described in regulation 4(1). “Promotional material” is defined in regulation 3(1).

A person is to be treated as engaging in advertising activity if the person undertakes advertising activity, maintains an advertisement or arranges for advertising activity to take place (see regulation 5(2) and (3)). Under regulation 5(3) a person is to be treated as engaging in advertising activity where advertising activity:

- relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.

Regulation 5(4) specifies when a person is to be treated as having an interest or responsibility.

Under section 21(2) of the London Olympic Games and Paralympic Games Act 2006 (the “2006 Act”), a person charged with an offence of contravening the advertising prohibition has a defence if the person proves that the contravention occurred without his or her knowledge or despite his or her taking all reasonable steps to prevent it from occurring or (where he or she became aware of it after its commencement) from continuing.

In addition, regulations 6 to 9 specify exceptions to the advertising prohibition. The exception in regulation 6 is for acts, public assemblies, or public processions intended to demonstrate support for or opposition to the views or actions of a person or body of persons, publicise a belief, cause or campaign, or mark or commemorate an event. The exception does not apply to advertising activity that promotes or advertises a good, service, or person or body (excluding a not-for-profit body as defined in regulation 3(1) that provides a good or service.

The exception in regulation 7 is for a person who engages in advertising activity only by wearing “advertising attire” (defined in regulation 3(1) to mean a costume that is an advertisement or clothing on which an advertisement is displayed). For the exception to apply, the person must not know or have reasonable cause to believe that he or she is participating in an ambush marketing campaign (also defined in regulation 3(1)). The application of this exception to a person does not

affect the application of the advertising prohibition to any other person (whether in respect of the same advertising activity or otherwise).

The exception in regulation 8 is modelled on provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1982 (the “Planning (Control of Advertisements) Regulations”). Under regulation 8(1)(a) the advertising prohibition does not apply to the display of an advertisement which is exempt from the requirement for deemed or express consent under Part 2 or 3 of the Planning (Control of Advertisements) Regulations (i.e. the display of an advertisement of a description set out in column (1) of Schedule 4 to those Regulations, provided that the relevant conditions and limitations set out in that Schedule are complied with). Under regulation 8(1)(b) the advertising prohibition does not apply to the display of an advertisement for which “deemed consent” is granted by regulation 6(1) of those Regulations (i.e. any Class of advertisement specified in Part 1 of Schedule 4 to those Regulations, subject to the conditions and limitations referred to in regulation 6(1) of those Regulations). But the exception in regulation 8 does not apply to the display of an advertisement of a description set out in regulation 8(2) (which specifies certain advertisements by reference to the Classes of advertisement in Schedules 1 and 3 to the Planning (Control of Advertisements) Regulations).

Regulation 9 specifies other exceptions to the advertising prohibition.

In addition to the defence set out in section 21 of the 2006 Act and the exceptions specified in regulations 6 to 9, regulation 10 provides that the advertising prohibition does not apply to advertising activity undertaken or controlled by:

- the London Organising Committee of the Olympic Games and Paralympic Games Limited (“LOCOG”), or
- a person authorised by LOCOG.

LOCOG’s right to engage in advertising activity under regulation 10 and any authorisation granted by it are subject to the conditions specified in regulation 10(4), including that the advertiser hold any licence (as defined in regulation 10(5) which, in addition to authorisation by or under regulation 10, is required before a person may engage in advertising activity (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with LOCOG’s decision may request LOCOG to review its decision (see regulation 16).

Regulation 12 prohibits a person from engaging in street trading in an event zone during the relevant event period or periods (the “street trading prohibition”).

Regulation 11 defines street trading as carrying out one or more of the activities specified in that regulation in an open public place. “Open public place” is defined in regulation 11(2) to mean a highway or another place to which the public have access and which is not in a building (other than one designed or generally used for the parking of cars). The matters specified in regulation 11(3) are to be disregarded when determining whether activity amounts to street trading.

A person is to be treated as engaging in street trading if the person undertakes street trading or arranges for street trading to take place (see regulation 12(3) and (3)). Under regulation 12(2) and (4), a person (a “business or land owner”) is also to be treated as engaging in street trading where street trading:

- is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land that the person owns or occupies or of which the person has responsibility for the management.

Regulation 12(6) specifies people who are to be treated as satisfying these criteria. But Regulation 12(5) provides that a business or land owner is not to be treated as engaging in street trading if he or she proves that the street trading took place without his or her knowledge or that he or she took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.

Regulation 13 specifies exceptions to the street trading prohibition.

In addition, regulation 14 provides that the street trading prohibition does not apply to street trading undertaken in accordance with an authorisation granted by the ODA or a person to whom the

function of granting authorisations is delegated by the ODA. The ODA (or its delegate, as the case may be) may impose terms and conditions on any authorisation under section 25(7) of the 2006 Act. Under regulation 14(4) an authorisation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence (as defined in regulation 14(5) which, in addition to authorisation under regulation 14, is required before the person may engage in street trading (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with the ODA's (or its delegate's) decision may request ODA (or its delegate) to review its decision (see regulation 16).

Part 5 provides for compensation for a person whose property is damaged in course of the exercise or purported exercise of an enforcement power under section 22 or 28 of the 2006 Act. Under regulation 18(2) a person who is responsible for a contravention of the regulations is not entitled to compensation. The amount of compensation payable is specified in regulation 18(3).

Section 9: Exceptions to the Advertising Activity Regulations

Exception for demonstrations and related activities

We have proposed an exception to the prohibition of advertising activity for demonstrations and related activity. This includes any act, public assembly or procession intended to demonstrate support for, or opposition to, the views or actions of a person or body. It also includes acts etc. intended to publicise a belief, cause or campaign or to mark or commemorate an event. Examples would be carrying placards during a protest march, displaying posters promoting a particular religious belief, or distributing flyers in support of a political party.

The exception does not include activity that promotes or advertises a good or service. Nor does it include an activity that promotes or advertises a person or body that provides a good or service, unless the body is a not-for-profit body. A not-for-profit body is a body that is required to use its funds for charitable or public purposes and is prohibited from distributing its assets to members (otherwise than for charitable or public purposes).

Exceptions for some wearers of costumes and clothing

We have proposed an exception for people who wear costumes that are advertisements or clothing on which an advertisement is displayed, without knowing that they are participating in an ambush marketing campaign.

An example would be a person who, on their way into a Games event, is handed a t-shirt that advertises a soft drink. The person will be able to rely on the exception if they do not know, or have reasonable cause to believe, that, by wearing the t-shirt, they are participating in a campaign intended to advertise the soft drink at the Games.

This exception does not prevent others involved in the ambush marketing campaign from remaining liable under the regulations. For example, a person handing out the soft drink t-shirts would not be able to rely on this exception. Nor would such a person be able to say that they should not be held liable because the person wearing the t-shirt is not liable.

Exceptions based on the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the "2007 Regulations")

As we have said above, we have proposed a number of exceptions to the prohibition, in our regulations, of advertising activity which are based on existing legislation. Those exceptions are modelled on:

- (a) exemptions, for some types of advertisement, to the requirement for consent under the 2007 Regulations; and

(b) provisions in the 2007 Regulations that grant “deemed consent” for other types of advertisement.

Where the objectives underlying our regulations require, we have proposed a different approach from that taken in the 2007 Regulations. For the same reason, we have not proposed exceptions for the following Classes of advertisement (for which “deemed consent” is granted in the 2007 Regulations):

- Class 3F – advertisements announcing the visit of a travelling circus, fair or similar travelling entertainment
- Class 8 – advertisements on hoardings
- Class 9 – advertisements on highway structures
- Class 13 – advertisements displayed on the same site for the preceding ten years
- Class 14 – advertisements displayed after expiry of express consent
- Class 15 – advertisements on balloons
- Class 16 – advertisements on telephone kiosks

Below are explanations of the exceptions included in our regulations.

Class A: an advertisement displayed on enclosed land and not readily visible from outside the enclosure, or from any part of it over which the public has a right of access. This includes an advertisement displayed in a shopping mall or arcade, but not in an historic shopping arcade which is defined as a group of buildings of which more than 50 per cent are listed buildings or within a conservation area, and where at least 75 per cent of the ground floor of more than 50 per cent of the buildings in the group is used predominantly for retail purposes. It also does not include an advertisement displayed in a railway station (including its yards), a bus station (including its forecourt) or any enclosed land (including a sports stadium or other building) in which a Games event is to take place.

This exception does not apply to advertisements displayed in public parks, public gardens or open space used by the public.

Class B: an advertisement displayed on or in any vehicle normally employed as a moving vehicle. This includes boats (any vessel on any inland waterway or in coastal waters), trains, aeroplanes and bicycles. This does not include vehicles used principally for the display of advertisements e.g. stationary vehicles, mobile billboards, or trailers in fields or lay-bys used for advertising purposes.

Class C: an advertisement incorporated in the fabric of a building¹ which is in existence on the day that the regulations come into force e.g. incised stonework lettering. It does not include an advertisement fixed to, or painted on, a building. It does not allow hoardings or similar structures to be part of the building.

Class D: an advertisement which refers to, and is displayed on, an article (including a gas or liquid) for sale, or on its container or dispenser, provided the advertisement is not illuminated and does not exceed 0.1 square metres.

Class E: an advertisement relating specifically to a pending parliamentary, European Assembly or local government election, or to a referendum (to be removed within 14 days after the close of the poll).

Class F: an advertisement required by Standing Orders of either House of Parliament or by any enactment or statutory condition.

¹ “Building” means a permanent building and excludes any other kind of structure or erection.

Class G: a traffic sign, as defined in section 64(1) of the Road Traffic Regulation Act 1984.

Class H: the national flag of any country, and/or the European Union flag, the Commonwealth flag, or the flag of the United Nations may be flown, provided nothing is added to the design of the flag or any advertising material is added to the flagstaff. The flag of any saint may be flown in the county with which the saint is associated.

Class I: an advertisement displayed inside a building,² and not within one metre of any external door, window, or other opening through which it is visible from outside. The advertisement must not be illuminated. This exception does not include an advertisement displayed in a railway station (including its yards), a bus station (including its forecourt) or a sports stadium or other building in which a Games event takes place.

All advertisements falling within Classes A to I above are subject to the following additional conditions:

- 1 No advertisement may be displayed without the permission of the owner of the site or any other person entitled to grant permission.
- 2 No advertisement may be sited or displayed so as to:
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or civil or military aerodrome;
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
- 3 Any advertisement displayed, and any site used for the display of advertisements, must be maintained in a condition that does not impair the visual amenity of the site.
- 4 Any structure or hoarding erected or used principally for the display of advertisements must be maintained in a condition that does not endanger the public.
- 5 Where an advertisement is required under the regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Class 1: Functional advertisements of government departments and their agencies, local authorities, statutory undertakers and public transport undertakers

Class 1A includes government departments and agencies of government departments so that their functional advertisements are treated in the same way as those of local authorities, giving information or directions about the services they provide. Statutory undertakers and public transport undertakers (including Transport for London) may display functional advertisements required for the operation of their services. Illumination is only allowed where it is reasonably required for the purpose of the advertisement (e.g. where it is necessary to enable information or directions to be read in hours of darkness). A condition limits the size of advertisements within Class 1A to 1.55 square metres in area.

Class 1B allows local planning authorities to display their functional advertisements on land in their local authority area. Conditions apply to areas of special control designated under the 2007 Regulations where the functional advertisement may be displayed only if the local planning authority could have granted express consent for its display.

² "Building" means a permanent building and excludes any other kind of structure or erection

Class 2: Miscellaneous advertisements relating to the premises on which they are displayed

Class 2A permits notices or signs to be displayed on buildings or land as means of identification, direction or warning. These include the number or name of a house, a sign saying 'please shut the gate', and a warning notice saying 'beware of the dog'. The conditions and limitations are that illumination is not permitted and the overall size limit is 0.3 square metres. The height above ground level at which the advertisement may be displayed is limited so that no part of the advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control designated under the 2007 Regulations. The size of characters or symbols on the advertisement is limited to no more than 0.75 metres in height, or 0.3 metres in an area of special control.

Class 2B permits notices or signs to be displayed on any premises in order to advertise the fact that a person, partnership or company is carrying out a profession, business or trade at those premises.

Illumination is not permitted unless the advertisement states that medical or pharmaceutical services or supplies are available on the premises. These include doctors' surgeries, dental practices, chiropractors, chiropractors, opticians, osteopaths, physiotherapists and veterinary services. Illumination is only allowed where it is reasonably required to fulfil the purpose of the advertisement (e.g. if it is necessary to enable the information to be read in hours of darkness) and no moving parts or flashing lights are permitted. The level of illumination is limited to 600 candela per square metre (where the illuminated area does not exceed 10 square metres) or 300 candela per square metre in any other case. In calculating the area each advertisement (or each side in the case of a double-sided advertisement) is to be taken separately and no unilluminated part is to be taken into account.

Only one advertisement may be displayed per person, partnership or company, but if there is more than one entrance to the premises on different road frontages, one advertisement per person may be displayed at each entrance on two different frontages. The overall size limit is 0.3 square metres per advertisement. The height above ground level at which advertisements may be displayed is limited so that no part of an advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control designated under the 2007 Regulations. The size of characters or symbols on the advertisement is limited to no more than 0.75 metres in height, or 0.3 metres in an area of special control.

Class 2C permits advertisements relating to institutions of religious, educational, cultural, recreational or medical or similar character; or to any hotel, inn or public house, block of flats, club, boarding house, hostel or bed and breakfast establishment, at the premises where it is displayed.

Illumination is not permitted unless the advertisement states that medical or pharmaceutical services or supplies are available on the premises. Illumination is only allowed where it is reasonably required to fulfil the purpose of the advertisement (e.g. if it is necessary to enable the information to be read in hours of darkness) and no moving parts or flashing lights are permitted. The level of illumination is limited to 600 candela per square metre (where the illuminated area does not exceed 10 square metres) or 300 candela per square metre in any other case. In calculating the area each advertisement (or each side in the case of a double-sided advertisement) is to be taken separately and no unilluminated part is to be taken into account.

The other conditions and limitations are that the overall size limit is 1.2 square metres but if there is more than one entrance to the premises on different road frontages, one advertisement of up to 1.2 square metres may be displayed at each entrance on two different frontages. The height above ground level at which the advertisement may be displayed is limited so that no part of the advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control designated under the 2007 Regulations. The size of characters or symbols on the advertisement is limited to no more than 0.75 metres in height, or 0.3 metres in an area of special control.

Class 3: Miscellaneous temporary advertisements

This Class applies to a wide variety of notices and signs which are used to publicise a forthcoming event, or to advertise a short-term use of the advertisement site. There are six separate categories. If a Class 3 advertisement relates to a sale (other than Class 3A advertisements) or event (other than Class F advertisements), it must not be displayed more than 28 days before the sale or event begins and must be removed within 14 days after it ends. In areas of special control designated under the 2007 Regulations there are stricter limits to the height above ground level at which advertisements may be displayed and on the size of characters or symbols on the advertisement.

Class 3A permits the display of a single board or two joined boards to be displayed (usually by estate surveyors, chartered surveyors, auctioneers and valuers), advertising that the residential, agricultural, industrial or commercial land or premises on which they are displayed are for sale or to let, or that the land on which they are displayed is to be sold or let for development for residential, agricultural, industrial or commercial use. Illumination is not permitted. Where the advertisement consists of more than a single board or two joined boards only the first advertisement to be displayed will benefit from the exception.

Size limits apply. If the sale or letting is for agricultural, industrial or commercial use or development, the advertisement board must not exceed 2 square metres, unless two boards are joined together to form a single advertisement, in which case a total surface area of 2.3 square metres is permitted. If the sale or letting is for residential use or development, the advertisement board must not exceed 0.5 square metres, or a total area of 0.6 square metres for two joined boards. No advertisement board is allowed to extend outwards from the wall of a building by more than 1 metre. The height above ground level at which the advertisement may be displayed is limited so that no part of the advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control designated under the 2007 Regulations, or where the sale or letting is for only part of a building, the lowest level of that part of the building on which display of the advertisement board is reasonably practicable. The size of characters or symbols on the board is limited to no more than 0.75 metres in height, or 0.3 metres in an area of special control.

The only permitted additions to the board(s) are statements saying that the sale or letting has been agreed, or that land or premises have been sold or let, subject to contract. Boards must be removed no later than 14 days after the sale has been completed or the tenancy has been granted.

Class 3B permits advertisements announcing the sale of goods or livestock on land or premises which are not normally used for goods or livestock sales. Advertisements within this category include those advertising an auction of house contents at the house, and a sale of livestock on farm premises. Illumination is not permitted. Only one advertisement is allowed at any one time. Where more than one advertisement is

displayed at the same time only the first will benefit from the exception. Size limits apply. The height above ground level at which the advertisement may be displayed is limited so that no part of the advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control designated under the 2007 Regulations. The size of characters or symbols on the advertisement is limited to no more than 0.75 metres in height, or 0.3 metres in an area of special control. The advertisement must not be displayed more than 28 days before the sale is due to begin and must be removed not later than 14 days after it ends or, if it is cancelled or postponed, after it was due to begin.

Class 3C permits firms or individuals who are carrying out building, engineering or construction work to advertise the fact at the site only for as long as the work is being carried out. The land must not normally be used, whether at regular intervals or otherwise for building, engineering or construction work.

One person, partnership, or company (whether incorporated or not) may display their own advertisement board provided it does not exceed 3 square metres, if displayed more than 10 metres from a highway, or 2 square metres in any other case. But if all those engaged on the contract rely on a single advertisement board, it can have a total area of three square metres, plus a further 0.6 square metres for each additional firm or person mentioned on the board, if displayed more than 10 metres from a highway; or 2 square metres, plus a further 0.4 square metres for each additional firm etc. in any other case. Additionally, if the development project is known by a particular name, the size of the advertisement board may be increased by a further 20 per cent to enable the name to be displayed.

Only one advertisement is permitted to be displayed at any one time on each road frontage to the site of each separate development project (and where more than one advertisement is displayed only the first to be displayed will benefit from the exception). However, where a board is already being displayed (so that it is impracticable or inconvenient to add another name to it) any other individual, firm or contractor working at the site may display a separate board for up to three months. Such a board cannot be larger than 0.5 square metres on each road frontage to the site of the project.

Illumination is not permitted. The height above ground level at which the advertisement may be displayed is limited so that no part of the advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control designated under the 2007 Regulations. The size of characters or symbols on the advertisement is limited to no more than 0.75 metres in height, or 0.3 metres in an area of special control.

Class 3D permits temporary advertisements advertising any local event or activity being held for charitable purposes. The event or activity may be religious, educational, cultural, political, social or recreational, but cannot be an event or activity promoted or carried on for any commercial purpose. Class 3D advertisements include advertisements for a church bazaar, a fete for parent-teacher association, a sponsored marathon in aid of charity, an amateur sports event, but not any sporting event organised for commercial purposes. The advertisement may not promote or advertise a good, service or commercial supplier of goods or services.

Illumination is not permitted. Size limits apply. No advertisement may exceed 0.6 square metres in area. The height above ground level at which it may be displayed is limited so that no part of the advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control designated under the 2007 Regulations. The size of characters or symbols on the advertisement is limited to no

more than 0.75 metres in height, or 0.3 metres in an area of special control. The advertisement must not be displayed more than 28 days before the event or activity is due to begin and must be removed not later than 14 days after it ends.

Class 3E permits temporary advertisements advertising that a demonstration of agricultural methods or processes is taking place on the land where the advertisements are being displayed. The advertisements may not be displayed on any land for more than six months in any period of 12 months. Illumination is not permitted. Size limits apply. The maximum area of all the displayed advertisements must not exceed 1.2 square metres and no individual advertisement is to exceed 0.4 square metres. The height above ground level at which it may be displayed is limited so that no part of the advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control designated under the 2007 Regulations. The size of characters or symbols on the advertisement is limited to no more than 0.75 metres in height, or 0.3 metres in an area of special control. The advertisement must not be displayed more than 28 days before the demonstration is due to begin and must be removed not later than 14 days after it ends.

Class 4: Illuminated advertisements on business premises

Class 4 allows advertisements on business premises to be displayed with either internally illuminated letters or characters on an unilluminated background or lit by 'halo illumination'. 'Halo illumination' means that the background (rather than the letters or characters) is illuminated by a light source that is not directly visible from any angle. The level of illumination is limited to 600 candela per square metre (where the illuminated area does not exceed 10 square metres) or 300 candela per square metre in any other case. In calculating the area each advertisement (or each side in the case of a double-sided advertisement) is to be taken separately and no unilluminated part is to be taken into account. Intermittent light sources, flashing lights, moving parts or features, exposed cold cathode tubing, or animation are not allowed. The use of retroflective material which reflects light from vehicles' headlights is not allowed. Illumination is only allowed where it is reasonably required to fulfil the purpose of the advertisement (e.g. if it is necessary to enable the information to be read in hours of darkness). Class 4 advertisements are not allowed in conservation areas designated under the Planning (Listed Buildings and Conservation Areas) Act 1990, areas of outstanding natural beauty designated under the Countryside and Rights of Way Act 2000, National Parks or the Broads.

Class 4A permits internally or 'halo' illuminated advertisements on premises within a retail park but only on a frontage which faces or overlooks a communal car park within the boundaries of the retail park. The advertisement must refer wholly to the business or name or qualification of the person carrying on the business, or the goods sold or services provided on the premises. Only one advertisement parallel to the wall and one projecting at right angles from the wall are allowed.

Size limits apply to advertisements projecting from the wall. No such advertisement may exceed 1 square metre in area. The distance the sign can project from the wall of a building is limited to no more than 1 metre and it may not be more than 1.5 metres high.

The height above ground level at which any advertisement (whether parallel to or projecting from a wall) may be displayed is subject to conditions. The lowest part of the advertisement must be at least 2.5 metres above ground level. But no part of the advertisement may be more than either 4.6 metres above ground level, or the bottom level of any first floor window in the wall on which the advertisement is displayed,

whichever is the lower. The size of characters or symbols on any advertisement is limited to no more than 0.75 metres in height.

Class 4B permits illuminated advertisements on business premises (other than those in Class 4A) provided they refer wholly to the business or name or qualification of the person carrying on the business, or the goods sold or services provided on the premises. Only one advertisement parallel to the wall and one projecting at right angles from the wall are allowed.

Size limits apply to advertisements projecting from the wall. The surface of any such advertisement may not exceed 0.75 square metres in area. The distance the sign can project from the wall of a building is limited to no more than 1 metre, or two thirds of the width of any footway or pavement below (whichever is the lesser). It may not be more than 1 metre high and may not project over any road.

The lowest part of any advertisement (whether parallel to or projecting from a wall) must be at least 2.5 metres above ground level. But no part of the advertisement may be more than either 4.6 metres above ground level, or the bottom level of any first floor window in the wall on which the advertisement is displayed, whichever is the lower.

No surface of the advertisement may be more than one sixth of the frontage on which it is displayed. This is measured up to a height of 4.6 metres from ground level, or one fifth of the frontage measured to the top of the advertisement (whichever is the lesser).

The size of characters or symbols on any advertisement is limited to no more than 0.75 metres in height.

Advertisements on shops may only be displayed on a wall containing a shop window.

As well as illumination by internal or 'halo' means, the advertisement may be illuminated by a built-up box containing the light source. In this case the distance between the face of the advertisement and any wall parallel to which it is displayed at the point where it is fixed is limited to no more than 0.25 metres. This is also the limit for the distance between the two faces of an advertisement projecting from a wall.

Class 5: Other advertisements on business premises

Class 5 allows specific advertisements which are not covered by Classes 4A or 4B to be displayed on business premises. It permits a wide variety of notices, signs and other advertisements to draw attention to the business carried out on the premises, any commercial services, goods for sale, or any other services available at the business premises where the advertisement is being displayed. It also allows the name or qualifications of the person carrying on the business, or supplying the goods or services, on those premises, to be displayed. There is no limit to the number of advertisements which may be displayed but there are maximum size limits for each advertisement in an area of special control designated under the 2007 Regulations and for those in other areas.

'Business premises' means any building (being a permanent building and not any other kind of structure or erection) in which a professional, commercial or industrial undertaking is being carried on, or any commercial services are being provided for the public. Examples of business premises include: office buildings; banks and building societies; shops, supermarkets and hypermarkets; theatres, cinemas and night clubs; bingo halls and amusement arcades; vehicle showrooms and garages; privately owned factories and works; restaurants and cafés. It does not include a building designed for use as one or more separate dwellings unless that building has normally been used in the preceding 10 years for any professional, commercial or industrial business or for

providing services to the public or any association; or the building has been adapted by the construction of a shop front. It also does not include a building used as a religious, educational, cultural, recreational or medical institution; any forecourt or other land forming part of the curtilage of a building; or any fence, wall or similar structure unless it forms part of the fabric of a building.

Class 5 is not intended to permit all forms of outdoor advertising on any business premises. It only permits advertisements relating to the goods or services available at the particular premises or the supplier operating from those premises. This means advertisements which refer to the business or other activity on the premises; the goods for sale or the services available; and/or the name and qualifications of the firm or person providing the goods or services on the premises.

If the business premises is a shop, no advertisement may be displayed except on a wall containing a shop window. In an area of special control designated under the 2007 Regulations there are size and height restrictions. The space occupied by the advertisement may not exceed one tenth of the area of the face of the building on which it is displayed up to a height of 3.6 metres from ground level. Even if the advertisement is not displayed flat against the face of the building its overall area is calculated as though it were. The advertisement may not be displayed higher than 3.6 metres above ground level or the bottom level of any first floor window in the wall on which the advertisement is displayed, whichever is lower. No character or symbol on the advertisement may be more than 0.75 metres in height, or 0.3 metres in an area of special control.

Illumination is not permitted unless the advertisement is for medical, pharmaceutical or veterinary services available on the premises, or medical or veterinary supplies which are available there. The premises include doctors' or dental surgeries, chiropractors, osteopaths, opticians and veterinary services. Illumination is by static means – intermittent light sources, flashing lights, moving parts or features, exposed cold cathode tubing, or animation are not allowed. The use of retroflective material which reflects light from vehicles' headlights is not allowed. Illumination is only allowed where it is reasonably required to fulfil the purpose of the advertisement (e.g. if it is necessary to enable the information to be read in hours of darkness). The level of illumination is limited to 600 candela per square metre (where the illuminated area does not exceed 10 square metres) or 300 candela per square metre in any other case. In calculating the area each advertisement (or each side in the case of a double-sided advertisement) is to be taken separately and no unilluminated part is to be taken into account.

Where an advertisement consists of a single placard or poster, the maximum size is 1.554 square metres.

Outside an area of special control, the height above ground level at which the advertisement may be displayed is limited so that no part of the advertisement may be higher than 4.6 metres above ground level, or the bottom level of any first floor window in the wall on which the advertisement is displayed, whichever is lower. The size of characters or symbols on the advertisement may be no more than 0.75 metres in height.

Class 6: An advertisement on a forecourt of business premises

Class 6 gives business premises with a forecourt (or more than one), further consent to display the type of advertisement permitted by Class 5. It gives consent for notices, signs and other advertisements to draw attention to the business carried out on the premises, any commercial services, goods for sale, or any other services available at the

business premises. It also allows the name or qualifications of the person carrying on the business, or supplying the goods or services, on those premises, to be displayed.

The 'forecourt' of a building, or part of a building, is an area of land, whether it is enclosed or not, within the curtilage of the building or part of it, to which the public may have access with the permission of the owner. It includes any fence, wall, screen or other structure that defines the boundaries of that area. A forecourt would include: the enclosed area in front of a newsagent's shop; the area at a petrol filling station where pumps are situated; a terrace in front of a restaurant or café. Forecourt does not include the area of pavement in front of business premises which forms part of the highway.

A condition limits the maximum area for all advertisements on forecourts to 4.6 square metres, but no single advertisement can exceed 1.55 square metres. Therefore a building which has two or more frontages with forecourts may display an advertisement on each forecourt, as long as no individual advertisement is more than 1.55 square metres and the maximum area of all the advertisements on the forecourts does not exceed 4.6 square metres. This allows a non-illuminated 'four sheet' display but not a 'six sheet' display.

Illumination is not permitted. The height above ground level at which the advertisement may be displayed is limited so that no part of the advertisement may be more than 4.6 metres above ground level, or 3.6 metres in an area of special control designated under the 2007 Regulations. The size of characters or symbols on the advertisement is limited to no more than 0.75 metres in height, or 0.3 metres in an area of special control.

Class 7: Flag advertisements

Class 7 permits some flag advertisements (in addition to those flags permitted by Class H – see above).

Class 7A permits an advertisement in the form of a flag to be flown on a single flagstaff projecting vertically from the roof of a building. There is no height limit.

The flag may only have on it the name or device (such as the emblem or trademark) of the company or person occupying the building, or refer to a specific event of a limited duration taking place in the building. In the latter case the flag may only be flown for the duration of this event. This exception does not cover flags that advertise goods or products. The size of characters or symbols on the flag is limited to no more than 0.75 metres in height, or 0.3 metres in an area of special control designated under the 2007 Regulations.

Class 7B permits the display of flag advertisements flown from a single vertical flagstaff at residential, or predominantly residential, development sites. Flags may be flown during construction works and for as long as at least one of the new houses or flats remains available for sale, up to the date which is one year after building operations have been substantially completed.

The flags must relate to the development or to a person carrying out the development or an aspect of it. They may not be flown in any conservation area designated under the Planning (Listed Buildings and Conservation Areas) Act 1990, area of outstanding natural beauty designated under the Countryside and Rights of Way Act 2000, National Park, the Broads or an area of special control designated under the 2007 Regulations.

The number of flag advertisements is limited by the total number of houses and/or flats constructed or to be constructed. Up to 10 houses/flats means that only one flag may be flown. Between 10 and 100 houses/flats means that two flags may be flown. More than 100 houses/flats means that three flags may be flown.

However, there is a condition making special provision for developments that are carried out in phases. This allows the land on which the different phases are being undertaken to be treated separately for the purposes of the exception, even though all of the land is subject to one planning permission. Likewise, there is a condition for developments carried out by different people, each undertaking part of the development on discrete parts of the land. The discrete parts of land can be treated separately for the purposes of this exception.

The maximum size of each flag is limited to 2 square metres. No part of the flagstaff may be more than 4.6 metres above ground level.

Class 10: Advertisements for Neighbourhood Watch and similar schemes

Class 10 enables an advertisement displayed on or near highway land (but not in the window of a building) to give notice that a Closed Circuit Television (CCTV), neighbourhood watch or similar scheme, jointly established by a local committee and the police authority, is in operation in the area. This includes Home Watch, Crime Watch, Farm Watch and Industrial Watch set up jointly with the police authority. These CCTV signs are associated with CCTV schemes for general crime prevention purposes, not for traffic offences which are covered by road traffic legislation. The CCTV signs are often fitted to lampposts.

At least 14 days before any sign is put up, the local planning authority must be notified in writing where it is to be displayed and assured that it is properly authorised by the police, and where it is displayed on highway land, that the consent of the highway authority has been given. If the police or highway authority withdraw their approval or the scheme ceases to operate, the signs must be removed within 14 days. Illumination is not permitted.

Size limits apply. No advertisement may exceed 0.2 square metres. The height above ground level at which the advertisement may be displayed is limited so that no part of the advertisement may be higher than 3.6 metres above ground level. The size of characters or symbols on the advertisement is limited to no more than 0.75 metres in height, or 0.3 metres in an area of special control designated under the 2007 Regulations.

Class 11: Directional advertisements

Class 11 permits temporary directional signs, on a single flat surface, telling potential house buyers and other visitors how to reach a site where new residential development is taking place. At least 14 days before any sign is put up, the local planning authority must be notified in writing where it is to be displayed and from what date. No sign may continue to be displayed after development of the house building site is completed, or for more than two years in total.

The sign must not look like a traffic sign. The sign must be on land adjacent to but not on highway land, so that the sign is reasonably visible to an approaching driver, but may not be within 50 metres of a traffic sign which is intended to be seen by anyone approaching from the same direction. No sign may be more than two miles from the main entrance for the development site. Illumination and retroflective material are not permitted.

Size limits apply. No advertisement may exceed 0.15 square metres. No character or symbol on the advertisement may be less than 0.04 metres high or more than 0.25 metres high. The height above ground level at which it may be displayed is limited so

that no part of the advertisement may be higher than 4.6 metres above ground level or 3.6 metres in an area of special control designated under the 2007 Regulations.

Class 12: Advertisements inside buildings

Class 12 permits advertisements which do not fall within Class I (see above) to be displayed inside a building. 'Building' means a permanent building and excludes any other kind of structure or erection. This exception does not include an advertisement displayed in a railway station, a bus station or a sports stadium or other building in which a Games event is taking place. Class 12 includes: advertisements which are illuminated, for example, a sign in the window of a chemist's shop; and advertisements within one metre of any window or other external opening through which they can be seen from outside the building.

Other exceptions

We have proposed a number of 'miscellaneous' exceptions to the prohibition on advertising activity in the Regulations.

There is an exception for advertisements that are memorials and railway signs. This mirrors the position under the 2007 Regulations.

There is an exception for the distribution or provision of a current newspaper or periodical. This does not include a newspaper or periodical that is specifically intended to advertise a good, service or supplier around the Games. There are rules about the size of any receptacle for the newspaper or periodical. It may not exceed 1 metre in length or width or 2 metres in height; occupy a ground area exceeding 0.25 square metres; stand on the carriageway of a street; interfere with or inconvenience people using the street. A 'receptacle' is anything used as a container for the newspaper/periodical or for its display.

There is an exception for any advertising activity carried out in accordance with a condition attached to a trading authorisation granted by the Olympic Delivery Authority.

There are exceptions for advertisements displayed on aircraft.

Finally, there is an exception for an advertisement displayed on street furniture. The advertisement may not be illuminated, and may only bear the name, contact details or device (or any one or combination of these things) of the manufacturer, owner or operator and may not be displayed as part of a campaign specifically intended to advertise within an event zone during the relevant event period.

Scottish Regulations

We have sought to mirror the exceptions in the draft England and Wales Regulations by reference to the analogous Scottish planning regulations, which although different in structure contain similar provisions in respect of consent and deemed consent for advertising.

Section 10: Human Rights Assessment

Introduction

1. Sections 19 and 25 of the London Olympic Games and Paralympic Games Act 2006 ("2006 Act") require ministers to make regulations about advertising and trading in the vicinity of London 2012 Games events.
2. Ministers have prepared draft Regulations which are to be the subject of a public consultation exercise in early 2011.
3. This paper assesses the impact of the draft Regulations on the rights and fundamental freedoms affirmed by the European Convention on Human Rights ("ECHR") and given further effect in UK law by the Human Rights Act 1998.

Freedom of Expression and Protection of Possessions

Impact of Regulations

4. Article 10 of the ECHR affirms the right to freedom of expression. During the London 2012 Games, the Regulations will restrict a person's ability to engage in advertising activity as well as some forms of trading that include an element of "expression" in small areas around London 2012 events. By doing so, the Regulations will interfere with the Article 10 rights of people who wish to engage in those activities.
5. Article 1 to the First Protocol to the ECHR ("A1P1") protects a person's "possessions" from unjustified appropriation or interference by the State. The benefit of a licence, permit, certificate or consent (a "licence") to carry on a profitable activity can amount to a "possession" for A1P1 purposes. The Regulations will apply despite any licence granted before or after the Regulations come into force¹ and will restrict a person's ability to engage in advertising activity and trading in accordance with an existing licence (in the small areas where the Regulations apply, during the Games period). Accordingly, the Regulations will arguably interfere with the A1P1 rights of current licensees.
6. Further, the Regulations will limit the uses to which land and other property (again, within the small areas where the Regulations apply) may be put during the Games period. They will prevent, for example, a land owner from using his or her land (or allowing his or her land to be used) for advertising or trading activities. This may also amount to an interference with land or other property owners' A1P1 rights.

¹ This is the effect of sections 19(8)(e) and 26(4) of the 2006 Act.

Justification

7. Interferences with the rights to freedom of expression and protection of one's possessions may be justified on related grounds.
8. An interference with freedom of expression will be justified under Article 10(2) of the ECHR where it is prescribed by law, where it furthers a "legitimate aim" referred to in Article 10(2), and where it is necessary in a democratic society. States are accorded a broad margin of appreciation under Article 10 for restrictions on commercial expression.
9. Likewise, an interference with possessions will be justified under A1P1 where it is "lawful" (that is, imposed by sufficiently accessible, precise and foreseeable law), where it pursues a legitimate aim which is in the general interest, and where it is proportionate to that aim (that is, it strikes a "fair balance" between the general interests of the community and the individual's fundamental rights).
10. The interferences in the Regulations with Article 10 and A1P1 rights will be prescribed by law that is accessible, precise and foreseeable. As we have noted, sections 19 and 25 of the 2006 Act set out ministers' powers to make regulations about advertising and trading in the vicinity of London 2012 Games events (indeed, those sections require ministers to make such regulations). The Regulations will specify:
 - The areas to which the restrictions apply
 - The periods during which they will apply
 - The types of advertising and trading activities that are covered by the regulations
11. Draft Regulations will be the subject of a consultation process that will both inform the public about their proposed content and invite responses. After the draft Regulations have been amended in light of responses to the consultation, they will be debated in draft in Parliament and will be made by the Minister only if the draft is approved by both Houses. The Regulations will be publicly available and the Olympic Delivery Authority will make arrangements to have their effect brought to the attention of persons likely to be affected or interested.²
12. The Regulations are intended to meet commitments given by the UK Government to the International Olympic Committee in London's bid to host the 2012 Games. The main aims are:
 - To ensure all Olympic and Paralympic events have a consistent celebratory look and feel to them
 - To prevent ambush marketing within the vicinity of venues³
 - To ensure people can easily access the venues
13. These aims are consistent with legitimate aims that justify an interference with Article 10 and A1P1 rights. The Games are a once-in-a-lifetime occasion and it is reasonable for the Government to enact measures to facilitate the staging of the Games, even where those measures necessitate a limited and temporary interference with individuals' rights.

² The ODA is required to do this by sections 23(1) and 29(1) of the 2006 Act.

³ "Ambush marketing" describes activities undertaken by businesses not sponsoring an event which nevertheless suggest that they or their products are associated with the event or which seek to exploit the interest in the event by exposing their brands to spectators at the event and/or watching the event on TV around the world.

14. Moreover, the Regulations will further the interests of public safety at Games time by ensuring that competitors, officials, spectators and other people attending events are able smoothly to enter and exit venues. They will also protect the rights of those that have made a commercial contribution to the staging of the Games (without which the Games could not take place) by preventing advertising and trading activities that amount to ambush marketing. It is legitimate in a democratic society to take steps to protect commercial investments which have a public interest element to them. In this case, the social benefits of the Games could not be achieved without such commercial investments.
15. The Regulations will be reasonable and proportionate. They will strike a fair balance between the community's general interests (as reflected in the objectives underlying the Regulations) and individuals' rights to freedom of expression and protection of possessions. They will interfere with those rights to the minimum extent necessary to meet the underlying objectives described above.
16. For example, the Regulations will apply only to small, individually drawn areas around each Games venue. In most cases, these areas will extend only a few hundred metres from a venue's perimeter. Where an area does not pose a risk to the objectives underlying the Regulations, it will be excluded from the Regulations, even if it is situated close to a Games venue. In aggregate, the area covered by the Regulations represents a very small proportion of the total land area of the United Kingdom.
17. Further, the Regulations are a temporary measure – they will only apply for short periods tailored for each venue by reference to the times when Games events are to take place. The longest period that the Regulations will apply to any one place is 35 days (in the area around the main Olympic Park). This period is made up of two phases (one of 22 days for the Olympic Games, and another of 13 days for the Paralympic Games) separated by a period of two weeks during which the Regulations will not apply. For many venues, the Regulations will apply only for a few days. The Regulations will cease to have any effect on the day after the closing ceremony of the Paralympic Games.
18. The Regulations contain a number of exceptions which exempt advertising and trading activity that does not undermine the objectives underlying the Regulations. For example, there is an exception for demonstrations and related activity. This exempts acts, public assemblies or processions that are intended to demonstrate support for or opposition to the views or actions of a person or body. It also exempts acts etc. that are intended to publicise a belief, cause or campaign or mark or commemorate an event. The exception would cover (for example) carrying a placard during a protest march, displaying a poster promoting a particular religious belief, or distributing flyers in support of a political party. The exception does not apply to any commercial activity – activity that promotes or advertises a good, service or supplier of a good or service (unless that supplier is a not-for-profit body).
19. There are a number of detailed exceptions for advertisements that do not require express consent from local planning authorities under the current law. These exceptions have the effect (for example) of exempting certain types of advertisements on business premises (such as standard shop signs) and advertisements on vehicles not principally used to display advertisements.
20. Likewise, there are a number of detailed exceptions for trading activity, which exempt (for example) operating as a newsvendor, providing various motor vehicle-related services on private land (such as, running a car sale yard), and trading on private land adjacent to shops, cafés and related premises, and petrol stations.

21. In addition to specific exceptions, the Regulations will provide for advertising and trading activity to be authorised by the London Organising Committee of the Olympic Games and Paralympic Games Limited (LOCOG) and the Olympic Delivery Authority (ODA) respectively. LOCOG and the ODA will publish documents setting out their approach to authorisation and, in general, will authorise advertising and trading that is not inconsistent with the objectives underlying the Regulations.
22. The combined effect of the exceptions set out in the Regulations and LOCOG's and the ODA's authorisation functions is that only those forms of advertising and trading activity that are inconsistent with the legitimate aims of the Regulations will be prohibited.

Right to be Presumed Innocent

Impact of Regulations

23. Article 6(2) of the ECHR affirms the right to be presumed innocent until proven guilty according to law. The draft Regulations provide that a person who has an interest in or is responsible for a business, good or service, will be liable for a contravention of the Regulations by the business or if the contravention relates to the good or service. Similarly, a person who owns or occupies land will be responsible for any contravention of the Regulations that takes place on the land. In both cases a person can escape liability if they prove that the contravention took place without their knowledge or despite their having taken all reasonable steps to prevent a contravention from occurring, continuing or recurring.⁴ By requiring an accused person to prove the elements of the defence the usual onus is reversed and the Regulations could be said to interfere with the right to be presumed innocent affirmed by Article 6(2).

Justification

24. An interference with the right to be presumed innocent will be justified where it is confined "within reasonable limits which take into account the importance of what is at stake and maintain the rights of the defence."⁵ Putting this another way, an interference will be justified where it furthers a legitimate aim and is reasonably proportionate to that aim.
25. In paragraph 12 above, we have set out the three general objectives of the Regulations. The reverse onus provision is intended to contribute to the achievement of those objectives. In addition, it is specifically intended to ensure that people who are responsible for businesses that contravene the Regulations, or goods or services in relation to which a contravention occurs, or land on which a contravention takes place, are held accountable for the contravention or, at least, take reasonable steps to prevent a contravention occurring.
26. The reversal of onus is reasonably proportionate to those objectives. The onus (to prove a lack of knowledge or reasonable preventative steps) will only transfer to an accused once the prosecution has proven that a contravention of the Regulations has occurred (that is, that there has been advertising or trading activity in contravention of the Regulations). The prosecution would also have to prove that

⁴ In the case of a contravention of the advertising regulations, this defence is contained in section 21(2) of the 2006 Act rather than in the Regulations themselves.

⁵ *Salabiaku v France* (1988) 13 EHRR 379, para 28.

the contravention was undertaken by a business for which the defendant was responsible, or that it related to a good or service for which the person was responsible, or that it occurred on land which the person owned or occupied. Accordingly, the prosecution will be required to make out the main elements of an offence before the onus shifts to the defendant.

27. In addition, once the onus is reversed, the matters that a person is required to prove in order to benefit from the defence are peculiarly within the knowledge of the person – that they did not know about the trading or advertising or that they took reasonable steps to prevent the trading or advertising from occurring. The burden on the accused person would, accordingly, not be difficult for a person to discharge if they have no knowledge of the advertising or trading at issue or have taken steps to prevent it.

Conclusion

28. In light of the above analysis, we have concluded that any interference with a person's Article 6, 10 or A1P1 rights by the Regulations is justified.

Section 11: Impact Assessment

Title: Regulations about advertising activity and trading in open public places during the Olympic and Paralympic Games 2012 Lead department or agency: DCMS Other departments or agencies:	Impact Assessment (IA)
	IA No: DCMS011
	Date: 26/01/2010
	Stage: Consultation
	Source of intervention: Domestic
	Type of measure: Secondary legislation
	Contact for enquiries: Helen Anderson

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

High profile events attract companies who want to associate themselves with the event or promote their products to the masses of people attending or watching the event on television. The Olympic and Paralympic Games are sponsored by companies who pay for that association right and therefore it is a requirement of the International Olympic Committee (IOC) that the Government put in place legislation to prevent other businesses promoting themselves within the proximity of Games venues without permission. Moreover we want to ensure spectators can get to events easily and that they enjoy their experience of a London Games. The London Olympic Games and Paralympic Games Act 2006 set out the broad framework for advertising and trading regulations. The detail of these have now been developed and is available for scrutiny.

What are the policy objectives and the intended effects?

The policy objectives are to:

- To ensure all Olympic and Paralympic events have a consistent celebratory look and feel to them;
- To prevent ambush marketing within the vicinity of venues¹; and
- To ensure people can easily access the venues.

¹ Ambush marketing describes activities undertaken by businesses not sponsoring an event which nevertheless suggest they or their products are associated with the event or which seek to exploit the interest in the event by exposing their brands to spectators at the event and/or watching the event on TV around the world.

What policy options have been considered? Please justify preferred option (further details in Evidence Base)

Option 1: Do nothing and rely on existing legislation. Option 2: Do what is proportionate and limit the scope of the restrictions. Option 3: Gold plate our requirements to cover wide spaces for long periods.

Our preferred option is 2, to produce regulations which build on existing law to achieve our aims and to be reasonable and proportionate in line with the Host City Contract and commitments made in Parliament. We are consulting on our regulations to seek wider views on this approach

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?

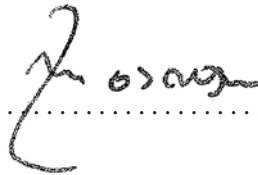
It be reviewed
05/2011

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?

Yes

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date:

2 Feb 11

Summary: Analysis and Evidence

Policy Option 1

Description:

Price Base Year	PV Base Year 2010	Time Period Years 1	Net Benefit (Present Value (PV)) (£k)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£k)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£99.79		Optional	£92.8047
High	£332.65		Optional	£309.3645
Best Estimate	£216.23			£201.0939

Description and scale of key monetised costs by 'main affected groups'

Traders prohibited by the regulations will be those who trade in open public places, who are not exempt or authorised. Loss of revenue has been estimated using earnings data (Annual Survey of Hourly Earnings) and turnover of business (National Associate of British Markets Authorities) data. For advertisers we can estimate the total revenue of sites within the area and the potential for losses. Restrictions will apply to different places for different periods, the longest period being 35 days, the shortest being one day.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£k)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

Putting in place reasonable restrictions on advertising and street trading will prevent us from failing to meet commitments given to the IOC (which could have financial consequences).

Authorised street traders will be able to trade and should make significant revenue during a time of heightened visitors. Sellers of advertising space are likely to be able to sell all their space during the Games period.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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Impact on admin burden (AB) (£k):			Impact on policy cost savings (£k):		In scope
New AB:	AB savings:	Net:	Policy cost savings:		Yes/No

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			Great Britain		
From what date will the policy be implemented?					
Which organisation(s) will enforce the policy?			the police and ODA		
What is the annual change in enforcement cost (£k)?					
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:	Non-Traded:	
Does the proposal have an impact on competition?			Yes		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs:	Benefits:	
Annual cost (£k) per organisation (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties² <i>Statutory Equality Duties Impact Test guidance</i>	Yes	
Economic impacts		
Competition <i>Competition Assessment Impact Test guidance</i>	Yes	
Small firms <i>Small Firms Impact Test guidance</i>	Yes	
Environmental impacts		
Greenhouse gas assessment <i>Greenhouse Gas Assesment Impact Test guidance</i>	No	
Wider environmental issues <i>Wider Environment Issues Impact Test guidance</i>	No	
Social impacts		
Health and well-being <i>Health and Well-being Impact Test guidance</i>	No	
Human rights <i>Human Rights Impact Test guidance</i>	Yes	Section 10 of the consultation
Justice system <i>Justice Impact Test guidance</i>	Yes	
Rural proofing <i>Rural Profing Impact Test guidance</i>	No	
Sustainable development <i>Sustainable Development Impact Test guidance</i>	No	

² Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	http://www.statutelaw.gov.uk/content.aspx?activeTextDocId=2321128
2	ODA publication on Advertising and Street Trading June 2009 http://www.london2012.com/publications/advertising-and-street-trading-regulations-detailed-docu.php

Evidence Base

Annual profile of monetised costs and benefits* – (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

*For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Problem under consideration and rationale for intervention

The Olympic and Paralympic Games will draw international attention to London and the UK and the way we stage the Games could have a lasting impact on the UK's international reputation. An event as important as the Games needs legal and practical measures in place to manage the area in the vicinity of events effectively and proportionately so London can showcase itself.

In our bid for the Olympic and Paralympic Games we stated 'London will become a Host City with an unmistakable air of celebration and excitement' and that this feeling will be taken to all venues. We want to create 'a backdrop fit for celebration on a truly global scale'. Moreover Games sponsors provide a vital source of funding for the Olympic and Paralympic Games, without which the UK would not be able to host the Games. In return for this funding, sponsors have exclusive rights to associate their brands with the Olympic and Paralympic Games. Intentional unauthorised advertising on streets in the immediate vicinity of Olympic venues is a form of ambush marketing by people attempting to create an association with the Games and/or seeking to exploit the interest in the event by exposing their brands to spectators. Such promotion not only undermines the value of Games sponsorship, it also threatens the aesthetic values of London at a time when the city will be subject to unprecedented international scrutiny. Finally, to ensure a free flow of spectators to venues we need to limit the number of additional people taking up space on the pavements. For these reasons we need to regulate to limit advertising and street trading within the proximity of Games events.

Policy objectives

Our primary policy objective is to comply with the commitments made to the IOC which were to introduce legislation to reduce and prevent ambush & manage street vending in the vicinity of the Olympic sites and to control advertising space and airspace during the period of the Games. To comply with this we passed the London Olympics Games and Paralympic Games Act 2006 which provided the framework for the regulations. This requires Ministers to make regulations about advertising and trading in the vicinity of London Olympic Events. The consultation outlines our proposals and should be read alongside this IA.

We are regulating advertising and trading for three reasons:

- To ensure all Olympic and Paralympic events have a consistent celebratory look and feel to them;
- To prevent ambush marketing within the vicinity of venues³; and
- To ensure people can easily access the venues.

Description of options considered

Option 1

We could do nothing and rely on existing legislation. We could utilise existing legislation and accept that it was not crafted with such large and time critical event in mind.

Option 2

We could be proportionate and limit the scope of the restrictions. In the technical manual the IOC requests that advertising and concessions be controlled by the organising committee between main access points (train/bus stations, airports) and the venues. The IOC does not state how far this extends to but advises that: 'no publicity, or branding of any kind appears on or from the field of play or field of performance at any Olympic venue or other Olympic site, not appears within the sightlines of viewing spectators, nor within view of the television cameras'. We could aim to cover only the nearest transport hubs and identify key sites which could be used to promote brands within 200m of a venue perimeter.

Option 3

We could "gold plate" the regulations preventing any and every advertiser and trader from conducting business within a wide space around venues and for a long period. Previous host nations have brought in stringent laws to regularise advertising and trading. In 2000 Sydney law makers restricted advertising within a 1km perimeter of the main Games venues. In 2004 the Athens Olympic and Paralympic organising committee cut the number of billboards around the city, clearing 10,000 from buildings and city rooftops. In 2008 the Beijing organisers ensured that all advertising was strictly controlled not just on billboards but on all public transport, at airports and city streets.

Costs and benefits of each option

Option 1: Do nothing and rely on existing legislation.

Benefits

- Preserve status quo.
- Free market for companies and individuals to derive commercial benefit from Olympic and Paralympic Games.
- No additional expenditure incurred in authorising and enforcing.

³ Ambush marketing describes activities undertaken by businesses not sponsoring an event which nevertheless suggest they or their products are associated with the event or which seek to exploit the interest in the event by exposing their brands to spectators at the event and/or watching the event on TV around the world.

Costs

- The IOC could take legal action against the Government and other parties for failing to deliver on commitments made in the bidding process and contained in the Host City Contract.
- Companies and individuals may not comply with the regulations (may act illegally) where the penalty for doing so is lower than the potential commercial gain, or where enforcement is weak.
- Enforcement officers are unable to respond to illegal advertising and trading within the strict timeframes of the Olympic or Paralympic Games.
- The UK's inability to deal with ambush marketing means it is too high a risk to be allowed to host major events thus denying a significant future income.
- Current legislation does not effectively meet our three principal policy objectives.

Option 2: Do what is proportionate and limit the scope of the restrictions.*Benefits*

- Government and other bid stakeholders able to deliver the commitments made as part of the bidding process (in the Candidature File and associated guarantees as well as by signing the Host City Contract).
- The UK is considered a good option for future major events.

Costs

- Limiting advertising and street trading has a financial impact of around £216.23k depending on numbers of authorisations.
- Cost to the ODA to enforce the regulations.
- That a tightening of the laws on advertising and trading even for a small period is unpalatable to the general public.

Option 3: Gold plate our requirements to cover wide spaces for long periods.*Benefits*

- Government and other bid stakeholders able to deliver the commitments made as part of the bidding process (in the Candidature File and associated guarantees as well as by signing the Host City Contract).
- High satisfaction from the IOC and sponsors leading to the UK being considered for future major events.

Costs

- High outlay as enforcement would need to cover large distances for significant periods.
- That such stringent control on advertising and street trading would be unpalatable to the general public.

Explanation of costs calculation

Costs have been identified for option 2 and within that 3 potential scenarios of impact are assessed. Financial impact is measured by the losses which UK businesses might incur as a result of new regulations on advertising and trading before and during the Olympic and Paralympic Games. The losses which are being measured are from normal trading not the losses which might arise from the extra revenues because of higher visitor numbers during the Games.

Advertising methodology

Any market consists of buyers and sellers who will both obtain benefits from buying and selling. The regulation of a market may have consequences for either of these groups and potentially other related markets.

For sellers we can estimate the total revenue of sites within the area and the potential for losses. For the regulation under consideration it is assumed that the sellers of advertising space will be able to sell their space

generally to sponsors if not to other buyers. In some cases the advertising space may be at a higher price and there may be some gains for sellers. These are not estimated but are likely to be a few high prestige sites where sponsors might wish to compete for these locations. In practice therefore it is reasonable to expect any losses, if any to sellers, to be mitigated largely by sales to sponsors. Some scenario estimates with relatively high take up of advertising space are estimated.

For buyers there are potential losses but these are less tangible. The costs therefore will potentially lie with the buyers of advertising space who have a preference for a local site who are displaced by the sponsors (whose business is more international). Many buyers may be content to use other space or find substitute advertising media. It is not practical to estimate precisely the numbers of advertisers who benefit from a particular location but given the scale of the regulation perimeter the numbers are expected to be few. For these reasons it was concluded any potential loss to buyers should be excluded from the base advertising costs and scenarios.

Advertising sites are identified using the Postar database which lists advertising spaces in public areas such as roadside billboards, posters on kiosks etc. For each venue sites within the regulation perimeter were identified. For each of the advertising sites a price per day was established taking account of the type of road and size of the advertisement. For sellers this provides the potential revenue per site. Also the number of days the regulations were expected to apply to each venue was taken into account. These estimates are:

Standard Prices

Prices (£per 2 weeks)	London	Manchester, Glasgow	Other outside London
6 sheet	250	390	250
48 sheet	500	550	500
96 sheet	2000	2250	2000

Premium Prices

Prices (£per 2 weeks)	London	Manchester, Glasgow	Other outside London
6 sheet	500	390	250
48 sheet	1000	900	500
96 sheet	4500	3000	2000

For sites included here only standard prices were used.

Trading methodology

Traders prohibited by the regulations will be those trading in open public places in the vicinity of Olympic and Paralympic events. Some traders may be exempt or be able to move to a suitable alternative site but the estimates provided are based on the assumption that any traders subject to these regulations will have to cease trading for the appropriate period.

The numbers and sites for traders are based on information provided by local authorities hosting the Games. The income foregone is estimated in two ways:

- Earnings of the customer sales group using Annual Survey of Hourly Earnings (ASHE) data. The ASHE database is a highly regarded and a widely used data source. This is a survey of earnings across the UK and provided incomes for broad ranges of occupations. Customer sales include street traders but other sales occupational groups. This earnings figure may not represent all the labour input into a small business. It is expected that an individual street trading unit might employ more than one person not necessarily in direct selling but including other activities such as deliveries or other assistance. An estimate of 2 persons per site is used.

- Turnover of business is an alternative approach to measuring impact and arguably is better adjusted to the particular occupational group. One disadvantage of this measure is availability and reliability of data.

The final estimates used here are of losses are based on an average of the earnings and turnover estimates with a regional adjustment based on ASHE regional earnings data.

Scenarios

Three costs are identified based on 3 scenarios:

- Base scenario: 5% advertising space not taken up (£16.65k) and 50% street trading disallowed (£199.58k). This equates to a total cost of £216.23k (2010 prices);
- Scenario 1: High cost scenario: 10% advertising space not taken up (£33.29k) and 75% street trading disallowed (£299.36k). This equates to a total cost of £332.65k (2010 prices);
- Scenario 2: Low cost scenario: All advertising space taken up (zero cost) and 25 %street trading disallowed (£99.79k). This is a total cost of £99.79k (2010 prices).

All three scenarios are based on estimates of the impact of the regulations on existing street trading.

It may be expected that additional traders might wish to take the opportunity to trade within the regulation perimeter but are unlikely to be allowed such access. For illustrative purposes we have estimated a worse case scenario of 100% increase in interest to trade using our base model of 50% being disallowed (which includes 5% of advertising space not taken up). This equates to a total cost of £615.38k.

We anticipate that our best estimate of costs lie with our base scenario.

Risks and assumptions

The UK has not hosted an Olympic Games since 1948, so it is difficult to calculate the extent of unauthorised advertising and trading that might occur during a London Games. However, the experience of previous host cities is that non-sponsors make sustained and creative attempts to benefit commercially from the Games. The regulations must be designed to counter such attempts.

However it is also recognised that the Olympic and Paralympic Games represents an opportunity for local business to benefit commercially and in these austere times it should not be the role of Government to prevent that. Consequently the risk of ambush marketing must be weighed against the opportunities for local businesses to exploit the influx of potential trade.

In developing the policy two major assumptions have been made:

- That despite efforts a number of local businesses will not be aware of these restrictions and will, in ignorance, breach the regulations;
- That some companies will know about the regulations but will be prepared to risk the penalties to market their products.

The enforcement of the regulations will take into account these two extremes and deal appropriately and sensitively to the range of breaches that may occur.

The paralympic road cycling assumes the same route (for illustrative purposes) as the road cycle course.

Administrative burden and policy savings calculations

None

Wider impacts

The Games will be the largest special event ever hosted by the country and will attract an unprecedented level of commercial activity in public spaces in the proximity of the Games venues, unless it is carefully regulated. Trading and commercial advertising at the street level, through distribution of pamphlets, flyers, and product samples, can cause congestion and litter adversely affecting the enjoyment of the Games by residents and visitors alike. The regulations strengthen our ability to regulate activities on the streets in the vicinity of Games sites.

Summary and preferred option with description of implementation plan

Our preferred option is 2 which means we only do what is necessary to showcase our country and protect against ambush marketing to ensure we maintain a focus on the sport itself.

Restrictions will be in place at different times for different venues; they will be in place for between one day and 35 days depending on the venue. Similarly the coverage of the restrictions will depend on the local environment but in most cases we have gone no further than 200m from a venue perimeter. This equates to less than 0.01% of the land mass of Great Britain, 1.2% of London. As a consequence of these strict spatial and temporal restrictions, a permanent impact on competition in the affected markets is very unlikely.

In the regulated zones (during the relevant event periods) the regulations will override any existing advertising and street trading authorisations and licences. That means that advertisers and traders will need to be authorised by or under the regulations (in addition to holding current authorisations and licences under the general law).

The regulations will not impact on those that trade indoors. So shops and businesses trading in the restricted zone will be able to conduct business as normal. In addition ordinary shop signs will be allowed together with corresponding advertising that is normally used.

Authorisation

In addition to exemptions on the face of the regulations, there will be an authorisation process whereby advertisers and existing street traders can apply to advertise and trade during the Olympic /Paralympic period. The London Organising Committee of the Olympic Games and Paralympic Games Ltd (LOCOG), which is identified by the draft regulations as the designated body to authorise advertising will permit advertising which does not conflict with the aims of the regulations, including advertising by London 2012 sponsors on existing outdoor advertising sites in the vicinity of venues.

LOCOG has indicated that it proposes to authorise advertising activity which is consistent with the aims of the regulations and has identified the following types of activity which it therefore anticipates authorising:

- advertising activity undertaken by London 2012 sponsors for products within their sponsor product category, including displaying advertisements on outdoor advertising spaces in the vicinity of venues in respect of which LOCOG has entered into option agreements;
- the display of London 2012 "Look" (ie decorative Games-related street dressing) displayed by local authorities and other organisations, with LOCOG's agreement;
- advertising activity undertaken by non-commercial partners (including the Greater London Authority, local authorities and government departments) which is non-commercial in nature; and
- permanent or customary advertising which is not specifically excepted by the regulations but which does not suggest that the brand advertised is associated with the Games and does not seek to gain advantage for the brand advertised by reason of its proximity to a Games venue (examples may include some large illuminated signage on the forecourt of petrol stations or films advertised outside a cinema).

In the case of trading the Olympic Delivery Authority (ODA) is responsible for issuing authorisations. The ODA will look to the three main policy objectives (outlined on p6) when considering authorisation. The focus will be ensuring that existing business can continue to operate, or operate with conditions attached, without compromising the main objectives.

Enforcement

The regulations may be enforced by the police or by enforcement officers designated by the ODA. It is only right that the police focus on safety and security matters at Games time and therefore the ODA will take the lead on enforcement. It is looking to designate enforcement officers from local authorities, who are experienced in dealing with street trading and advertising offences (for example Trading Standards Officers, Street Trading Enforcement Officers). ODA will take a light touch approach to minor infringements that can easily be rectified but persistent offenders could face having offending items seized, removed or destroyed. Serious and deliberate ambush marketing attempts will be dealt with using the full enforcement powers conferred on designated officers, and may result in prosecution through the criminal courts.

Sunsetting

Given that the objective of Games legislation is to allow the UK to host a successful Games in line with IOC requirements, the regulations are designed to apply to advertising and trading from the week before the Opening Ceremony of the Olympic Games. The regulations will cease to take effect on 11 September 2012

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added to provide further information about non-monetary costs and benefits from Specific Impact Tests, if relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review];</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured]</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review]</p>
<p>Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here]</p>

Annex 2: Competition Assessment

The Office of Fair Trading published revised guidelines for departments on the consideration of competition assessments in 2007. The guidelines state that, in relation to competition assessments, the following four key questions should be considered:

1. Does it directly limit number or range of suppliers?

This is likely to be the case if the proposal involves:

- the award of exclusive rights to supply, or
- procurement from a single supplier or restricted group of suppliers, or
- the creation of a form of licensing scheme, or
- a fixed limit (quota) on the number of suppliers.

DCMS position: No. There is no exclusivity over supplying products to traders or advertisers. Wherever possible we are looking to authorise traders to continue to trade in the vicinity of Olympic venues and advertising space will be utilised. We are restricting any potential for new trade, illegal advertising and trading but for those legitimate traders we will make every effort to ensure they can continue to trade. For those we do restrict this will be for a short time and in a limited geographical space. We are not making a permanent change to business in the relevant areas.

2. Does it indirectly limit the number or range of suppliers?

This is likely to be the case if the proposal significantly raises the costs:

- of new suppliers relative to existing suppliers,
- of some existing suppliers relative to others, or
- of entering or exiting an affected market.

DCMS position: No. Supplier costs are not expected to be affected through the legislative change.

3. Does it limit the ability of suppliers to compete?

This is likely to be the case if the proposal:

- controls or substantially influences the price(s) a supplier may charge, or the characteristics of the product(s) supplied, for example by setting minimum quality standards
- limits the scope for innovation to introduce new products or supply existing products in new ways,
- limits the sales channels a supplier can use, or the geographic area in which a supplier can operate,
- substantially restricts the ability of suppliers to advertise their products, or
- limits the suppliers' freedoms to organise their own production processes or their choice of organisational form.

DCMS position: Yes. Both advertising and trading will be limited in terms of what product they can promote however this limitation will only be in place within a restricted area and for a limited time.

4. Does it reduce suppliers' incentives to compete vigorously?

This may be the case where a proposal:

- exempts suppliers from general competition law,
- introduces or amends intellectual property regime,
- requires or encourages the exchange between suppliers, or publication, of information on prices, costs, sales or outputs, or
- increases the costs to customers of switching between suppliers.

DCMS position: Yes.

We are restricting who may advertise or trade in specific areas so there will inevitably be an impact on competition. In addition we are limiting both the number/range of suppliers and their ability to compete. However, the restrictions are not substantial or long lasting enough to have a significant impact as they will only be applied to a tightly defined area for a limited period. The Games will generate a significant influx of new trade to the wider area and arguably there is scope for exploiting the market outside these areas.

We therefore consider that this policy is unlikely to raise substantive competition concerns.

Small Firms Impact Test

The main impact here will be due to the restrictions on traders, although restrictions on advertisement might also impact small businesses e.g. who maintain small billboards, want to undertake sales promotions during the Games. Again we do not believe that the restrictions are substantial or long lasting enough to warrant a detailed assessment. For example, whilst we will prevent some traders from trading, this will only be for a limited period in less than 0.01% of the land mass of Great Britain, 1.2% of London. In addition we have worked hard to identify licensed street traders within the vicinity area and wherever possible we will seek to ensure they can continue to trade, in some circumstances with additional conditions applied to their business. Moreover the enforcement of these regulations will deal with any rogue traders who may tempt business away from legitimate traders.

Justice Impact Test

Discussions with the Ministry of Justice suggest that there will be a negligible impact on the justice system.

Annex 3: Equality Impact Assessment

Summary of evidence on the impact (adverse and positive) on the community and demographic groups

Will the policy have an impact on national or local people/staff?

The temporary restrictions on advertising and street trading within a few hundred metres of an Olympic and Paralympic venue perimeter will have a temporary impact on the local population. It will mean that local street vendors and those wishing to advertise will need to be authorised before they can promote and/or sell their produce. It will also have an impact on the local community that buy or are affected by traders and advertisements. However we are looking to limit the impact on the local population by exempting or authorising a proportion of legitimate business.

Are particular communities or groups likely to have different needs, experiences and/or attitudes in relation to the policy?

Street traders are static traders and usually operate in a specific location with a stall selling fruit, clothes, etc. They will have a Local Authority issued license for the location and the products they sell. Many street traders operate in street markets. Mobile traders operate by moving around to customers for example pedlars. There are approximately 4000 pedlars in the UK. Pedlars apply and are issued with a certificate from the police which allows them to travel and trade on foot to sell or expose for sale goods or services.

Street traders and mobile traders will be used to trading around big events. However these specific restrictions will mean that these traders will need authorisation from the ODA to trade at Games time around Games venues. Permission to trade will be considered against risks of ambush marketing and ensuring a smooth Games experience. Only authorised traders will be allowed to trade within specific zones on specific days. Trading outside of those zones and days will be subject to existing law.

The impact of having the Olympic Park in an area unused to hosting major events will attract a number of opportunist traders at Games time. However only traders authorised under the existing law and by the ODA will be allowed to continue to trade.

Are there any aspects of the policy that contribute to narrowing future inequalities?

According to the Office of National Statistics the local demographics for the five host boroughs are:

- In the five host boroughs, 58% of the population are of white origin, 20% are of Asian origin and 15% of black origin. In London overall the comparable shares are 70%, 13% and 11% respectively. Bangladeshi and Pakistani communities, make up a significant proportion of the population within the boroughs, particularly in Tower Hamlets.
- Ethnic diversity is particularly high among young people. In Tower Hamlets around 67% of children are from Black, Asian and Minority Ethnic (BAME) communities, similarly the figure is around 70% in Newham, and roughly half in Waltham Forest and Hackney, with BAME children in Greenwich numbering approximately a third.
- According to the 2001 census 21% of the population in the five host boroughs recorded that they are disabled compared to 17% in London and 18% for the whole of the UK.
- The East London area contains a high representation of Muslim residents. Muslims constituted 19% of the population at the census in 2001. There is a slightly lower than the London average representation of Christians in the host boroughs, though this is still high at 50%. There are also significant Buddhist, Hindu, Jewish and Sikh populations resident in the host boroughs. There is an equivalent ratio of women to men in the host boroughs, as in London more widely.
- Estimates show that the Lesbian, Gay, Bisexual and Transgender (LGBT) population of London ranges from 6-15%.

Whilst there is no information on the demographics of street traders or advertisers surrounding the Olympic Park, it can be presumed that the demographics of East London are reflected in the local business community and in the specific businesses of advertising and street trading with which we are restricting. Similarly the same

conclusions can be drawn from other host boroughs. Specific demographic breakdown for each of the Olympic and Paralympic venues have not been extracted outside of East London however a question relating to the impact of the regulations on specific communities has been asked in the consultation and this may assist in identifying particular affected groups.

Can the adverse impacts be justified and the policy implemented without making adjustments? Please explain:

We have endeavoured to limit the impact on the local population by keeping the restricted zone tight and by looking to authorise a good proportion of legitimate business. The proposed location of the restrictions will not change unless there is a convincing argument that they should.

What action will be taken to mitigate the adverse impacts?

We are consulting widely on the Regulations and will make changes to our plans where it is reasonable to do so.

Stakeholders/Customers and consultation

We have consulted numerous stakeholders including London Organising Committee of the Olympic Games and Paralympic Games Ltd, Olympic Delivery Authority, Greater London Authority, International Olympic Committee, International Paralympic Committee, Local Authorities, Host Boroughs Unit, Street Trade Associations (National Market Traders Federation, National Association of British Market Authorities, London Market Associations), Pedlars.admin, Outdoor Advertising Association, Incorporated Society of British Advertisers, The Royal Parks, Olympic & Paralympic Security Programme, the Metropolitan police, Home Office, Ministry of Justice, Department for Communities and Local Government, Department for Business Innovation and Skills, Scottish Government, Welsh Assembly Government, London Chamber of Commerce, Confederation of British Industry London, Civil Aviation Authority, Marine Policing Unit, Olympic Specialist Response, Liberty, Local Authorities Coordinators of Regulatory Services (LACORS), Joint Local Authority Regulatory Services (JLARS), London Trading Standards Association (LOTSAs), London Councils, London Street Trading Benchmarking group, Office of Fair Trading, Transport for London, Association of Train Operating Companies (ATOC), Port of London Authority.

There have been a series of meetings and discussions on the Regulations. ODA provided a general notice in June 2009 alerting the public to the Regulations, and this will be followed up with a specific detailed notice 6 months prior to the Regulations coming into force.

Are you going to abandon the policy?

No. The policy is part of our commitment to the IOC in staging the Games. Its fundamental aim is to prevent ambush marketing and ensure we can stage an effective and clean Games.

Monitoring and Reviewing

The equality impact assessment will be reviewed following the consultation to consider any further identified impacts. In addition equality issues will be monitored through the monthly Project board which oversees the development of this work.

Section 12: Summary of Questions

Question 1: Have we got the definition of advertising right?
Yes/no/partially – please give your views

Question 2: Have we made the right exceptions? *Yes/no/partially – please give your views*

Question 3: Have we got the balance right between protecting sponsors and allowing businesses to operate as usual? *Yes/no/partially – please give your views*

Question 4a: Have we got the definition of trading in open public places right?
Yes/no/partially – please give your views
Question 4b: Have we made the right exceptions?
Yes/no/partially – please give your views

Question 5a: Are we impacting on specific groups through these regulations?
Yes/no/partially – please give your views
Question 5b: How can we limit that impact? *please give your views*

Question 6: Do our event timings allow us to adequately deal with rogue trading or advertising? *Yes/no/partially – please give your views*

Question 7: The event zone will extend to the water and up into the air. Have we got this right? *Yes/no/partially – please give your views*

Question 8: Is the ODA approach to street trading authorisation reasonable and transparent? *Yes/no/partially – please give your views*

Question 9: Is the LOCOG approach to advertising authorisation reasonable and transparent? *Yes/no/partially – please give your views*

Question 10: Is the ODA approach to enforcement reasonable and proportionate?
Yes/no/partially – please give your views

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