

Weigh sponsorship risks, rewards early on



By Bart A. Lazar

Sponsorships are a multibillion-dollar market, and one of the largest and fastest-growing marketing and promotion media today.

According to Chicago-based IEG Inc., 82% of companies plan to either maintain or increase their sponsorship spending this year. By sponsoring an event, a marketer

is able to tie the sponsor's product or service with the goodwill or image of the person or event being sponsored. This can provide tremendous tangible and intangible benefits to the sponsor. A sponsorship can also be quite lucrative for the event producer. Just look at the Chicago White Sox, who have made a reported half-million dollars just by changing the start times of its home baseball games from 7:05 pm to a 7-Eleven-sponsored 7:11 p.m.

However, a sponsorship gone awry can end up hurting a brand instead of elevating it.

One example of a sponsorship deal that fell apart for legal reasons last year was Michelin North America Inc.'s multimillion-dollar sponsorship of the Formula One race car series. It is hard to imagine a better marketing opportunity to promote an automobile tire than putting the tire on some of the fastest cars in the world and have them driven by prominent sports figures in one of the top spectator sports in the United States.

Unfortunately, the deal ended up being too risky from a safety and liability perspective. Since tires on race cars can blow out and result in accidents, the Greenville, S.C.-based tire company was understandably concerned about potential lawsuits from

anyone who might be injured due to a crash. As a result, Michelin attempted to get Formula One to make last-minute rule changes to reduce the tire manufacturer's liability. The efforts failed and Michelin pulled its sponsorship at the last minute together with the use of Michelin tires at the race. Because the Michelin-sponsored teams could

not obtain replacement tires in time, they were forced to withdraw from the race, which was devastating to the event.

As a result of Michelin's decision, it forfeited the multimillion-dollar sponsorship fee it had paid. The company also agreed to pay some \$17 million to try to placate ticket-holders by giving them a refund and buying tickets to the 2006 U.S. Grand Prix. But more than monetary loss, Michelin's brand image was materially deflated. The racing community, both professional and consumer, was angry that the event—the first U.S. Formula One event in years—was decimated, and the company was perceived to have lacked faith in its own product, which most likely was not true.

How can such a sponsorship fiasco be avoided? Prognostication is hard to do, but you must play Karnak for yourself and try to look at all the legal and business angles, including liability, before entering into a sponsorship agreement. Someone at Michelin clearly understood the need to limit liability, but it seems like the action it took came too late. If Michelin was concerned about liability, perhaps it could have made

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the agreement contingent on Formula One changing its rules, or simply not have entered the agreement until the rules had been changed to its liking.

Here are some other issues to be considered when entering into a sponsorship agreement:

- ◆ **Exclusivity**—A sponsor should try and obtain some level of exclusivity, such as category exclusivity, so a competitor does not share in the benefits of the event.

- ◆ **Grant of rights**—The sponsor wants to tailor the grant of rights so that there are clear limitations on what can and cannot be done with a sponsor's brand.

- ◆ **Sponsor's benefits**—The sponsor needs to know what benefits it is receiving. Usually this will include the type of signage and placement, as well as any guarantees in terms of attendance at an event. Benefits

often also include the ability to market around the event, such as by engaging in a co-promotion or having a presence at the event and free admissions or other perks.

- ◆ **Quality control**—A sponsorship agreement virtually always involves the licensing of the sponsor's trademark. Therefore, the sponsor needs to control the use of its marks in connection with the event, including media, signage and promotional products associated with the event.

- ◆ **Option to renew**—If an event is successful, the sponsor will likely want to continue the next time the event occurs and potentially lock out the competition.

- ◆ **Insurance**—If someone gets injured at an event, the event producer must have insurance to protect both parties in the event of a claim. If a sponsor is going to actually participate in the event, the event producer likely will require the sponsor to have insurance as well.

- ◆ **Changes in event**—The agreement should delineate what recourse the sponsor has if the event is cancelled, rescheduled, loses significance due to circumstances beyond anyone's control or otherwise is not as popular as the parties expect.

- ◆ **Payment**—Of course, the producer of

an event will be paid, but just like working with a contractor, a sponsor can negotiate installment payments or a refund if particular milestones or benefits are not met. The event producer will typically want a significant portion of the payment upfront in order to assist in financing the event.

- ◆ **Publicity**—Both parties may have an interest in controlling the publicity associated with the sponsorship.

As I always tell my clients, get your in-house or outside counsel involved fairly early in the process, so you have someone to assist you in analyzing the potential risks and rewards associated with implementing a particular sponsorship. You don't want your legal team to be a "bump in the road" to delay or derail your sponsorship, but you do want the deal to be appropriately structured to run smoothly. ■

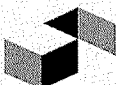
Bart A. Lazar is a partner who specializes in counseling, business transactions and litigation in intellectual property, advertising and promotions, privacy, Internet and related matters for Chicago-based Seyfarth Shaw LLP. He can be reached by e-mail at BLazar@seyfarth.com or news@ama.org.

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