

Guidelines for NOCs regarding Rule 40 of the Olympic Charter

Paragraph 3 of the Bye-Law to Rule 40 (hereinafter Rule 40) of the Olympic Charter states:

“Except as permitted by the IOC Executive Board, no competitor, coach, trainer or official who participates in the Olympic Games may allow his person, name, picture or sports performances to be used for advertising purposes during the Olympic Games”.

The financial model for the Olympic Movement, including NOCs, IFs, OCOGs and, indirectly, athletes, is based on the exclusivity of rights granted for Olympic marks. Rule 40 provides a framework and guidelines for all participants, to ensure that the partners which have acquired the rights to the Olympic properties are respected. With Rule 40, the IOC also prevents over-commercialisation of the Games; it reinforces the uniqueness of the event, removing undue commercial presence on the field of play, which ensures that the performance of the athletes is the focus.

The IOC Executive Board, at its meeting in Buenos Aires in September 2013, approved Rule 40 and the exceptions for the Sochi XXII Olympic Winter Games. A notice to this effect was posted on NOCnet on 24 September 2013 (Annex 1).

These guidelines clarify the practical application and interpretation of Rule 40 and the exceptions as they apply to NOCs and their athletes.

The exceptions, recently adopted by the IOC Executive Board for the 2014 Sochi Olympic Winter Games, can be summarised as follows:

Firstly, the IOC will grant an exception to Olympic Commercial Partners (TOP and NOC sponsors and Rights-Holding Broadcasters) to use a Participant's Image for advertising purposes. This process is managed in partnership between the IOC and the NOCs and sponsors concerned. Further details on this can be found in section 2.1.

Secondly, the IOC recognises that, in some cases, NOCs will have to decide whether or not to make exceptions for advertising that uses a Participant's Image by a third party that is not an Olympic Commercial Partner. NOCs must manage this process on a case-by-case basis in order to ensure that these activities consist of advertising which is not Olympic-targeted and does not create any association with the Games, the NOCs or the Olympic Movement. Further details on these forms of exceptions and their scope can be found in section 2.2.

1. Definition

Rule 40 prevents a competitor, coach, trainer or official from permitting their person, name, picture or sports performance to be used in advertising during the Games period without the prior consent of the IOC.

Taking each element of Rule 40 individually:

"competitor, coach, trainer or official" referred to as a Participant in these guidelines	Rule 40 applies to competitors, coaches, trainers and officials who are participating in the next edition of the Games. As a reference, these rules would cover all A and P category accredited people.
"person, name, picture or sports performance" referred to as Image in these guidelines	Rule 40 applies widely so that any reference to the Participant by use of their Image in advertising will fall within its scope.
"advertising"	"Advertising" is a wide term and encompasses all forms of commercial promotion, including: <ul style="list-style-type: none">- Traditional advertising in paid-for space, including press adverts, billboards, television adverts and online advertising- Direct mail advertising (electronically or by post);- Public Relations and press releases- On-product promotions and advertising- In-store displays- Corporate websites, social networking sites and/or blogs- Viral adverts
"Games period"	For the Olympic Winter Games the application of Rule 40 will apply from nine days from the Opening Ceremony until three days after the Closing Ceremony for the Games. For the Sochi 2014 Olympic Games, the rule will be in place from 30 January 2014 until 26 February 2014.
"consent"	The IOC Executive Board is the sole body entitled to grant consent to the use of participant images for advertising purposes. The IOC Executive Board may delegate the authority to grant consents to the IOC administration, the respective Organising Committees and/or NOCs depending on the scope of the advertising.
Sanctions	Participants who do not comply with Rule 40 may be disqualified from the Games and/or have their accreditation withdrawn. Athletes may also be subject to additional sanctions from their NOC.

2. Exceptions

Two exceptions to the restrictions imposed by Rule 40 are described below and are relevant to NOCs.

2.1. Olympic Commercial Partners using a Participant's Image for advertising purposes:

As per previous practice, the IOC will grant exceptions for the Olympic Commercial Partners (TOP Partners, NOC sponsors and Rights-Holding Broadcasters) with respect to advertising with a Participant's Image for a specific edition of the Games:

Olympic Commercial Partner:	Exception:	Granted through:
TOP Partners	As partners of the Olympic Team of each NOC, TOP sponsors may use a Participant's Image on a multi-territory basis.	Prior to any use, TOP Partners must obtain consent from the IOC. The IOC will contact the NOC concerned accordingly.
NOC sponsors	NOC sponsors may use a Participant's Image, within the territory of the NOC.	Prior to any use, NOC sponsors must obtain consent from the NOC and from each of the Participants concerned. This process is managed by the NOCs themselves. Please see section 4 for further details on Participants' rights and obligations.
Rights-Holding Broadcasters (RHBs)	RHBs may use a Participant's Image in the territory for which the RHB has been granted broadcasting rights.	Prior to any use, RHBs must obtain consent from the IOC. The IOC will inform the NOC accordingly.

Certain restrictions apply as to what kind of advertising is authorised or not in these cases, as noted below:

<p>Authorised advertising</p>	<ul style="list-style-type: none"> • Supporting messages expressing encouragement to a Participant or the team in view of their participation in the Games; • Congratulatory messages praising the Participant or the team for their achievement at the Games; and • Continuation of any existing and already approved Olympic sponsors' activations/promotions subject to the cumulative conditions outlined in this document. <p>As a point of clarification:</p> <ul style="list-style-type: none"> • A Participant's Olympic biographical references may only be used in a factual manner (e.g. 2010 Olympic Gold Medallist) provided that they appear in an ancillary manner and not in a manner so as to bring special attention to them. • Participants must appear dressed in either (i) their national Olympic team uniform for Sochi 2014, (ii) their past Games national Olympic team uniforms provided the manufacturer is still the current NOC apparel sponsor, unless requested otherwise by the relevant NOC (iii) in generic, unbranded clothing, or (iv) in clothing branded in accordance with Rule 50 of the Olympic Charter and the corresponding IOC guidelines.
<p>Non- authorised advertising</p>	<ul style="list-style-type: none"> • Making textual or visual references to direct use of any product or service that enhances performance in practising or competing in sport. This includes textual references such as "official product" of the athlete or the team; • Being in relation to the Participant's performance at the Olympic Games or at other Olympic Games except in the case of congratulatory messages.

2.2. Advertising with a Participant's Image by a third party that is not an Olympic Commercial Partner

The IOC recognises that, in some cases, NOCs will need to decide whether or not to make an exception for advertising that uses a Participant's Image by a third party that is not an Olympic Commercial Partner. NOCs should be diligent in what they allow third parties to do, as this could impact their commercial programmes.

As per Rule 40, an NOC is entitled to refuse to authorise Participant's Images to be associated with third parties that are not an Olympic Commercial Partner, even if they have pre-existing business activities with this third party. In cases such as these, the NOC should inform the IOC of its intention to refuse authorisation of a Participant's Image to be used and the reasons for which an exception has not been granted.

In some cases, however, there may be a logical reason why the NOC may wish to apply exceptions to this restriction. These exceptions are conditional on the following points that are listed below and have been approved by the IOC Executive Board:

2.2.1. No association with the Olympic Movement

Any advertising activity by a third party should only consist of advertising, promotion or communication which are not Olympic-targeted and which do not create any undue direct or indirect association with, or reference to, the Olympic Games, the NOCs or the Olympic Movement. An activity should not include any Olympic themes (e.g. using the Look of the Games) and should not be specifically designed or created for a particular Games edition.

2.2.2. NOCs' process to grant exceptions

NOCs must manage a process of granting exceptions to Participants on a case-by-case basis and in accordance with applicable laws and regulations in their territory. It is the NOC's duty to seek and obtain proper legal advice in this respect.

In all cases, the NOC should inform the IOC of exceptions granted and the reasons for this. In particular, in cases where pre-existing business activities exist, have no association with the Olympic Movement and the NOC believes that an exception is justified, the NOC should inform the IOC by 16 January 2014 that they intend to authorise their Participants to continue to have their Image used for specific advertising by the third party. In this context, the NOC shall also consider and inform the IOC whether it extends such authorisation to Participants and their supporting sporting goods manufacturers.

3. Participants' rights

Should an NOC or its NOC sponsor wish to use a Participant's Image then they must respect the Participant's individual rights, including the need to obtain the Participant's express prior written approval.

Past best practice has shown that NOCs have favoured using a "Team Membership Agreement" for each edition of the Games, in which Participants' rights and obligations related to the use of their image during the Games period have been clearly defined. Any NOCs requiring assistance in preparing a team membership contract are encouraged to contact the IOC Sports Department. .

4. Contact details

Should your NOC require further information on these guidelines please contact: Elisabeth Allaman (elisabeth.allaman@olympic.org).

5. Rule 40 scenarios:

Scenario 1: Examples of authorised and non-authorised advertising (Section 3.1)

The NOC of Narnia's sponsor "Do It Yourself Hardware" has created a nationwide billboard and television advertisement wishing the NOC of Narnia's Olympic team well and congratulating their athletes in the upcoming Games. The sponsor asks the NOC of Narnia to choose between the following advert straplines for the advertising campaign:

"Do It Yourself Hardware is proud to support and encourage Narnia's team at the Sochi Olympic Winter Games." - Authorised

"Narnia's athletes will nail their performances at the Sochi Olympic Winter Games with the support of Do It Yourself Hardware!" - Authorised

"Do It Yourself Hardware congratulates Peter Pevensie, (2006, 2010 Olympic gold medallist) for nailing it again in Sochi!" - Authorised

"Narnia's curling team landed that final gold-winning stone thanks to Do It Yourself Hardware precision tools" – Not Authorised

"Congratulations to the Narnia team for their performances during their outstanding winning streak at the Sochi Olympic Winter Games! Do It Yourself Hardware is proud to be the official supplier of the team" – Authorised

Good Luck [Athlete's name] for tomorrow's competition. We are all behind you!

- Authorised

Congratulations [Athlete's name] on this fantastic win. Do It Yourself is proud of you"

- Authorised

Scenario 2: Advertising with a Participant's Image by a third party that is not an Olympic Commercial Partner (Section 3.2)

Lucy Pevensie of the NOC of Narnia is a multi-Games ski-jumping medallist and a high-profile athlete in her home country. She has a number of personal sponsors including a clothes manufacturer. By winning the World Championships in 2013, Lucy has qualified and has been selected by the NOC of Narnia for the Sochi Olympic Winter Games. Lucy's main sponsor is "NarniaJet Airways", which is not an NOC sponsor, and she has featured in a number of billboard, television and print advertisements promoting the company since the Vancouver 2010 Olympic Winter Games. Lucy's agent has asked the NOC of Narnia what position they will take in the run-up to the Sochi Games.

In considering the case, the Executive Board of the NOC of Narnia has highlighted the following questions:

Question 1. What position should the NOC take if the NOC of Narnia manages to sign a sponsorship agreement with NarniaJet Airways?

Answer 1: As the NOC's sponsor and Lucy's sponsor are the same, then NarniaJet may continue to use Lucy's person, name, picture or sports performance in its advertising subject to the fact that NarniaJet is recognised as the NOC sponsor and subject to the "Authorised Advertising" guidelines outlined in Section 3.1.

Question 2. What position should the NOC take if the NOC of Narnia does not manage to sign a sponsorship agreement with NarniaJet Airways but its representative requests to continue with its existing advertising campaign using Lucy's person, name, picture or sports performance up to and including during the Sochi Games?

Answer 2. The NOC of Narnia shall decide between whether or not it grants an exception for Lucy by considering whether this will have an adverse impact on its existing or future commercial programmes.

Answer 2 "Option 1": In this Olympiad, the NOC of Narnia is just about to conclude a sponsorship agreement with Air Narnia, a competitor to NarniaJet Airways, and therefore the NOC has decided not to authorise Lucy to continue with the advertisement. The NOC has notified Lucy and the IOC of its reasons why such an advertisement is not possible under Rule 40 and has requested for this to end by a certain date. At the same time, the NOC of Narnia has also sought advice from its own legal counsel on whether this position creates any issues within the applicable law and regulations, including the antitrust law, of its country.

Answer 2 "Option 2": After reviewing the existing platforms across which adverts are running, the NOC of Narnia has decided that Lucy's long-term commercial relationship with Narniajet Airways does not impact adversely on the NOC's own commercial programme or the TOP programme and therefore its has agreed to grant an exception based on the following conditions:

1. Any advertising should not create an association with the NOC of Narnia, the Sochi Games or the Narnia Olympic team.
2. The advertising that is already running can continue at the same level and cannot be increased in scope or frequency in the run-up to the Sochi Games.
3. That Lucy participates fully in the NOC commercial programme and allows the NOC's sponsors to use her person, name, picture or sports performance in their Sochi Games advertisements.

The NOC has notified Lucy and the IOC of its reasons for granting an exception for these advertisements and the conditions that apply for this exception to be applied.

ANNEX 1: Detailed information concerning the use of images of a competitor, coach, trainer or official during the period of the XXII Olympic Winter Games in Sochi 2014 – Rule 40 provided on the NOCnet

Please find below the rules which will apply to the use of images of a competitor, coach, trainer or official (hereinafter jointly referred to as “Participants”) during the period of the XXII Olympic Winter Games in Sochi 2014 (hereinafter the “Olympic Games”), which, for the purpose of Rule 40, is the period starting from and including nine days prior to the Opening Ceremony and ending on the end of the third day after the Closing Ceremony, i.e. 30 January 2014 until 26 February 2014.

The  [Olympic Charter](#) (Rule 40, Bye-law paragraph 3) states that *“Except as permitted by the IOC Executive Board, no competitor, coach, trainer or official who participates in the Olympic Games may allow his person, name, picture or sports performances to be used for advertising purposes during the Olympic Games.”*

The IOC has agreed to the following exceptions and conditions:

1. Olympic Sponsors and Rights-Holding Broadcasters

1.1 Subject to the approval of the National Olympic Committee (NOC), NOC sponsors may use, for authorised communications only (as further detailed under Section 2. below), the image of a Participant or of the NOC Olympic team, within the territory of the NOC in which it is a sponsor.

In the host territory of the Olympic Winter Games, the Sochi 2014 Organising Committee for the Olympic Winter Games shall act as the NOC for the purposes of this letter.

1.2 Subject to the approval of the IOC, TOP Partners, as Partners of the Olympic team of each NOC, may use, for authorised communications only (as further detailed under Section 2 below), the image of a Participant or of the NOC Olympic team on a multi-territory basis.

1.3 Subject to the approval of the IOC, Rights-Holding Broadcasters may use, for authorised communications only (as further detailed under Section 2 below), the image of a Participant in the territory for which such Rights-Holding Broadcaster has been granted rights.

2. Authorised communications

2.1 Authorised communications include (i) supporting messages expressing encouragement to a Participant or the NOC Olympic team in view of their participation in the Olympic Games, (ii) congratulatory messages praising the athlete or the NOC Olympic team for their achievement at the Olympic Games and (iii) any other Olympic-related advertising subject to the cumulative conditions outlined below.

2.2 Communications may not under any circumstances:

2.2.1 make textual or visual references to direct use of any product or service that enhances performance in practising or competing in sport. This includes textual references such as “official product” of the athlete or the team, nor

2.2.2 be in relation to the Participant's performance at the Olympic Games or at other Olympic Games except in the case of congratulatory messages.

2.3 Participants' Olympic biographical references may only be used in a factual manner (e.g., 2010 Olympic gold medallist) provided that any such references appear in an ancillary manner and not in a manner so as to bring special attention to such reference.

2.4 Participants must appear dressed in either (i) their National Olympic team uniform, (ii) in generic, unbranded clothing, or (iii) in clothing branded in accordance with Rule 50 of the Olympic Charter and the corresponding IOC guidelines.

2.5 The NOCs shall be responsible for the communication and implementation of the applicable conditions in respect of their Participants and NOC sponsors, as outlined in this letter. The IOC will provide guidance to the NOCs upon request.

In addition, compliance with Rule 40 by Participants in association with entities not listed in Paragraph 1 above, including sporting goods manufacturers, shall be monitored and enforced accordingly by the NOCs.

In this respect, the NOCs shall abide and comply, to the extent necessary, with applicable laws and regulations in their territory.

3. Participant's individual rights

In all cases, use of a Participant's image, name, likeness or other resemblance must respect the Participant's individual rights including the need to obtain the Participant's express prior written approval.

Thank you for taking due note of the above-mentioned guidelines and advising the Participants who will be members of your national Olympic team, as well as your NOC sponsors.