



Seeking an International Olympic Committee Concession to Use Olympic Games Competition Broadcast Content for “Performance Analysis” Purposes

International Association for Sports Information
Steering Committee Meeting & Workshop
Leipzig, Germany 27-30 July 2011



Recent observations in relation to National Olympic Committee (NOC) endorsed high performance sports training centre use of sports broadcast material for non-commercial “performance analysis” purposes

1. **Awareness** – poor consumer awareness exists about how to appropriately acquire and use rights protected intellectual property vested in sports broadcast content.
2. **Compliance** – if the above point is true, then it is safe to assume that a high level of non compliant, but potentially legitimate, use of content is occurring.
3. **Cost** - many consumers are unwilling and/or unable to pay for content, and some are simply not aware that they may be liable to rights holders for equitable remuneration.
4. **Risk** – consumers acquiring and using material inappropriately are exposed to unsustainable levels of business and operational risk, while conversely, restrictive access to content is inhibiting athlete and coach learning and development.
5. **Accountability** – an absence of copyright awareness, reporting and accountability by consumers is contributing significantly to the risk adverse nature of rights holders.
6. **Advocacy** - presently there is no coordinated international effort to raise awareness of this issue and to take action to improve legitimate access to content by hps training centres – and no attempt by hps centres to collectively bargain and lobby rights holders.



What is Intellectual Property exactly?

Intellectual Property is defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July, 1967:

Article 2 (viii) “intellectual property” shall include the **rights** relating to:

- literary, artistic and scientific works,
- performances of performing artists, phonograms, and broadcasts,
- inventions in all fields of human endeavour,
- scientific discoveries,
- industrial designs,
- trademarks, service marks, and commercial names and designations,
- protection against unfair competition,
- and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.



Who owns the intellectual property vested in an Olympic Games broadcast?

Rule 7 of the Olympic Charter (2007)

1. The **Olympic Games are the exclusive property of the International Olympic Committee (IOC)** which owns all rights and data relating thereto, in particular, and without limitation, all rights relating to their organisation, exploitation, broadcasting, recording, representation, reproduction, access and dissemination in any form and by any means or mechanism whatsoever, whether now existing or developed in the future. **The IOC shall determine the conditions of access to and the conditions of any use of data relating to the Olympic Games and to the competitions and sports performances of the Olympic Games.**
2. The Olympic symbol, flag, motto, anthem, identifications (including but not limited to “Olympic Games” and “Games of the Olympiad”), designations, emblems, flame and torches, as defined in Rules 8-14 below, shall be collectively or individually referred to as “Olympic properties”. All rights to any and all Olympic properties, as well as all rights to the use thereof, belong exclusively to the IOC, including but not limited to the use for any profit-making, commercial or advertising purposes. **The IOC may license all or part of its rights on terms and conditions set forth by the IOC Executive Board.**



Are there any other potential rights holders to consider?

The IOC is the principal rights holder over all Olympic Games intellectual property (IP). However, there may be other rights holders to consider when seeking a source licence to use Olympic Games competition broadcast content, such as:

1. Host broadcaster(s) in many cases will own IP vested in a broadcast including commentaries, graphics, commercials - and they may even claim IP in the telecast or content delivery process via terrestrial transmission, cable or online.
2. National Olympic Committee (NOC) organisations, in many cases own IP in images of their respective competing nation's uniforms, trademarks and logos.
3. Olympic Games sponsors and Advertisers will own the IP in relation to their advertisements, signage, key messages, trademarks and logos.
4. Athletes and officials may own IP rights with respect to the use of their image. However, most registered participants in an Olympic Games competition usually waive these rights in favour of the IOC when signing their registration documentation. It is important to note "performance rights" of sports athletes are not recognised, as is the case for "performance rights" of "performing artists" (using dance or the ballet as an example).



Rights holders and their strongholds – all requests must be directed to their “gatekeepers”

Many of us have applied individually to rights holders seeking permissions to use sports broadcast content on a gratis basis for non commercial “performance analysis” purposes. The permissions seeking process and experience is often daunting, intimidating, and more often than not concludes without reward.

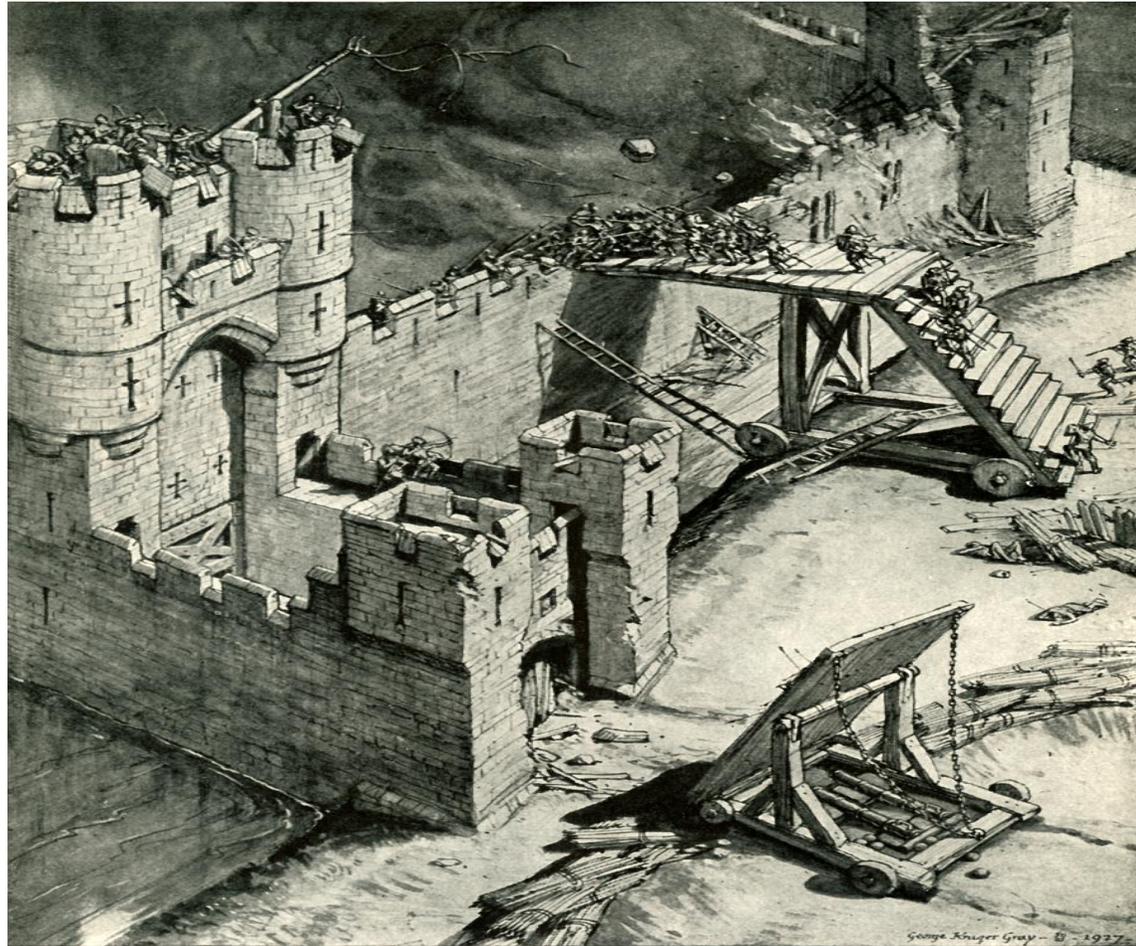


Neuschwanstein Castle, near Füssen in southwest Bavaria, Germany



How can we get around the “gatekeepers”?

This is one obvious approach – but definitely not an IASI endorsed strategy





Wouldn't this be nice.....

So what needs to be done to make it possible to receive this type of reception from sport broadcast rights holders (such as the IOC) in the future?





Step One – Understand and gain consensus of our requirements – what are we seeking from the IOC for example?

- **Access:** Seeking to secure fair and equitable access to Olympic competition broadcast content strictly for non commercial “performance analysis” purposes for the benefit of NOC endorsed high performance sports training centres (that is, specifically for the benefit of current and emerging Olympic level athletes, coaches, officials and sports scientists).
- **Application:** Ability to use (acquire, reproduce, communicate and store) this content for the purpose of undertaking critical “performance analysis” activities in a compliant and transparent manner without threatening the intellectual property and revenue interests of the IOC (and their stakeholders).
- **Permission:** IOC to establish and extend a non exclusive and revokable “performance analysis” source licence (in accordance with the prescribed use of content above) for the benefit of NOC endorsed high performance sports training centres.
- **Advocacy:** IOC (as a leader in the field of broadcast rights management), and through its existing partnership with IASI, to recommend all peak international (and national) sports broadcast rights holders (typically peak sports bodies) consider adopting the same or similar “performance analysis” licensing model.



Step Two – Define our use of sports competition broadcast content within the scope and application of “performance analysis”

- The International Association for Sports Information (IASI), defines “performance analysis” (also referred to as “video analysis” or “notional analysis”) as a sport science and/or coaching practice that directly contributes to improving athletic performance.
- High performance athletes, coaches, sports scientists, and sports officials analyse video recordings of sports competition and training performances as part of their technical direction and tactical planning processes.
- A key element of this international sport sector practice is the ability to access, store, reproduce and communicate digital (consumer quality) format video recordings of sports competition broadcasts.
- It is proposed that the application or use of video as described above will always be managed in a secure and accountable manner so as to not threaten or risk the interests of Olympic competition broadcast rights holders.
- Licensees will agree to a range of accountability measures (including producing activity reports), and are prepared to submit to audit and review in regard to their use of any content within the scope of an IOC licence.



Step Three – Understand and articulate our value proposition – do we have one?

- The application of video (and associated data, telemetry, etc.) is prevalent in our high performance sports environments today.
- The practice of “performance analysis” makes a significant contribution to improving athletic performances (particularly in the modern era of coaching and sports science).
- Restricted access to critical information and data inhibits athlete and coach learning, development and innovation.
- Therefore, if the above assumptions are true, it may be in the best interests of principal sports broadcast rights holders (such as the IOC) to remove barriers currently inhibiting the non commercial practice of “performance analysis”, given the links between achieving “optimal” athletic performance and the subsequent contribution this effort makes to the rights holder’s primary product (that is, the appeal and spectacle of a high profile competition and/or sports telecast).
- It can be argued that NOC endorsed high performance sports training centres are effectively sponsoring the Olympic movement 365 days of the year through their respective investment in producing and managing athletic talent (or Olympians) – and may wish to promote a shared position that they be regarded by the IOC as key stakeholders (or as key partners in sustaining the Olympic movement)?



Step Four – Develop an agreed strategy, and work together to implement the strategy

1. Form a collective bargaining consortium under the auspices of IASI.
2. Initially restrict the bargaining consortium to a relatively small and influential group of NOC endorsed (or equivalent) national and provincial high performance sports training centres (it is essential this group remains a “coalition of the willing”).
3. Review and refine the strategy ensuring there is a high level of consensus between consortium members, and then implement the strategy together.
4. Target the IOC, aiming to establish an important and highly visible precedent with a leading international peak sports body.
5. Work together through IASI (leveraging IASI’s, IOC status and links), to demonstrate our value proposition (there needs to be a “win-win” outcome here).
6. Enlist the support of the consortium members’ respective NOC organisations.
7. Identify and lobby key IOC policy and decision makers – not the “gatekeepers”.
8. Continually appraise and refine the strategy through the implementation process, and remain committed and persistent.
9. Be prepared for an outcome either way – or a protracted process. It is very easy to get lost in the IOC’s bureaucracy.



Summary

- High performance sports training centres share many common information management issues and challenges today.
- The shared challenge of securing copyright compliant access to competition broadcast content for the benefit of our athletes, coaches, sports scientists, and sports officials, has existed for a number of decades.
- Many of us at some point in time have attempted to address the issue with limited or no success. This is a challenge that is likely to take our collective resolve to address.
- We all understand the important role quality information (and knowledge) plays in driving athlete and coach learning, development and innovation..
- Many of us (if not all) believe our national level athletes (or Olympians) have a legitimate claim to access royalty free competition broadcast content strictly for non-commercial “performance analysis” purposes.
- IASI, with its international standing and expertise in sport information, is an obvious choice to lead and represent this issue on the behalf of international high performance sport community.

Thank you / Vielen Dank für Ihre Aufmerksamkeit.