Current Trends in Ambush Marketing

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This thesis seeks to investigate the practice of Ambush Marketing in sports. In particular, the goal of the research is to identify the Current Trends in Ambush Marketing from the scientific and practical perspectives. Due to the abundance of ambushing cases occurring during an extension of a sports mega-event, the focus of the thesis is on the Olympics and FIFA World Cup extensions.

This is a theoretical thesis based on the qualitative research design. An overview of the theoretical foundations of the concepts involved in the study is presented first. Following, a historical development of the ambushing marketing along with the sponsorship is described. The perspectives of the stakeholders associated with ambush marketing are introduced followed by the ethical/moral and legal consideration of the ambushing practice to date. In the end, the current trends in ambush marketing from the scientific and practical viewpoints are derived based on the scientific peer-reviewed literature and non-scientific articles accordingly.

Ambush Marketing is a controversial practice that has evoked a heated debate among its proponents and opponents. The arguments for and against of the practice in the ethical/moral and legal fields have not produced a definitive outcome as a result of the differing interest of the parties associated with the ambushing practice. The uncertainty in evaluation affected the emergence of demands by the sponsors and event organizers to drive self-interested legislation that violates the basic rights and freedoms of an individual. Therefore, the awareness of the development of the ambush practice is of importance for all the stakeholders.

From the scientific perspective, scholars investigate the development of the legal aspects of the practice, focusing on the emergence and development of the Olympic Law and its impact on the hosts. Additionally, the research on ambush marketing is centered around studying the effectiveness of ambushing strategies on psychological variables among the target audience.

From the practical perspective, the nature of ambushing campaigns has shifted from direct attacks to indirect thematic references. The laws and regulations concerning the practice are set to remain in place, however their enforcement will be more careful because of the potential backlash from the sports community and spectators. In addition, the emergence of the digital platforms provides an alternative for ambushers to shift their practice into the electronic space. Another alternative is to take advantages of the allowed ambush marketing.

Keywords
Ambush Marketing, Sponsorship in Marketing, Scientific Trends, Practical Trends, Legal and Ethical/Moral Evaluation of Ambush Marketing
# Table of contents

List of abbreviations .................................................................................................................. i

1 Introduction .............................................................................................................................. 1

2 Theoretical Foundations .......................................................................................................... 3
   2.1 Sponsorship in Sport ....................................................................................................... 3
   2.2 Guerrilla Marketing ...................................................................................................... 4
   2.3 Ambush Marketing ....................................................................................................... 5

3 Historical Background of Ambush Marketing ..................................................................... 8

4 Perspectives on Ambush Marketing ..................................................................................... 10
   4.1 Sponsors’ Perspective ............................................................................................... 10
   4.2 Event Organizers’ Perspective .................................................................................. 10
   4.3 Ambush Marketers’ Perspective ............................................................................... 11
   4.4 Consumers’ Perspective .......................................................................................... 11
   4.5 Media’s Perspective .................................................................................................. 12
   4.6 Scholars’ Perspective ............................................................................................... 12

5 Legal and Ethical/Moral Perspectives on Ambush Marketing ........................................... 13
   5.1 Legal Perspective ....................................................................................................... 13
   5.2 Ethical/Moral Perspective .......................................................................................... 14

6 Current Trends in Ambush Marketing: Scientific Perspective ........................................ 17
   6.1 Influence of Transnational Sports Organizations and Rise of Olympic Law and the
       Association Right ........................................................................................................ 17
   6.2 Identification of Consumers and Athletes’ Attitudes towards Ambush Marketing, its
       Strategies and the Impact of Influencers .................................................................. 20
   6.3 Effectiveness and Drivers of Misidentification in Research ..................................... 22

7 Current Trends in Ambush Marketing: Practical Perspective ........................................... 24
   7.1 Proliferation in Anti-Ambush Marketing Regulations of Exclusivity and Rigorous
       Enforcement .................................................................................................................. 24
   7.2 Growing Discontent with Anti-Ambushing Laws ...................................................... 25
   7.3 Growing Popularity of Applying Ambush Marketing in Social Media .................... 26
   7.4 Shift towards Authorized Ambush Marketing ........................................................... 28
   7.5 Using Past Legacy as a Central Theme to Associate with the Current Event .......... 29

8 Conclusion .............................................................................................................................. 30

List of References ..................................................................................................................... 32

Declaration of authorship of an academic paper with a partner university ......................... 39
List of abbreviations

CSR………………………………………………………………………………………Corporate Social Responsibility
FIFA…………………………………………Fédération Internationale de Football Association
IP………………………………………………………………………………………Intellectual Property
IOC………………………………………………………………International Olympic Committee
LOAR…………………………………………London Olympic Association Right
LOCOG…………………………………………London Organizing Committee of the Olympic Games
MEMA…………………………………………Major Events Management Act
OCOG…………………………………………Organizing Committee of the Olympic Games
OPMA…………………………………………Olympic and Paralympic Marks Act
TNO………………………………………………………………Transnational Organization
TOP…………………………………………The Olympic Partners Programme
TSO………………………………………………………………Transnational Sports Organization
1 Introduction

In the world of sports business, the phenomenon of ambush marketing has been a controversy that has separated people into two camps: its proponents and opponents. Since its first reported manifestations during 1984 Summer Olympics in Los Angeles (Pardo Amézquita, 2016), ambush marketing has been under the spotlight of the international sports and business community, setting a battlefield between official sponsors of mega-events and non-sponsor companies. As a result of the vast popularity of sports as recreational and entertainment activity, the international sports mega-events, such as the Olympics or FIFA World Cup, have become the platform for ambushers to achieve their objectives effectively.

Due to its ever-evolving and disruptive nature, ambush marketing has also triggered a heated debate among the stakeholders, with perspectives varying from free market approach to strict regulation of any form of advertising (Cornelius, 2011). In particular, the evaluation of the ambushing phenomenon is dependent on the role of the party involved. Sports event organizers and sponsors heavily criticize the activity, viewing it as a threat to sponsorship funding and free coattail-riding respectively. On the contrary, the ambushers cite it as a healthy competitive practice driven by their duty to shareholders in the free marketplace.

With deployment of creativity as the main tool, ambush marketing is a practice which the existing legislation on trademark, copyright protection and passing of has been ineffective to contain (Pardo Amézquita, 2016). The debate regarding the ethics, morality and legality of ambush marketing has similarly not produced clear results. Hence, uncertainty over the stance on ambush marketing contributed to private sports organizations, such as the International Olympic Committee (IOC) and Fédération Internationale de Football Association (FIFA), exerting their influence to drive self-initiated legislation in their interest, which infringes upon fundamental rights of free speech and competition in the marketplace. Therefore, given the controversial nature of the phenomenon, it is of importance to be aware of the direction of development of ambush marketing for all the stakeholders involved in the discussion.

By reviewing the theoretical foundations of the concepts involved in the study on the current trends in ambush marketing, the thesis will describe historical underpinnings of the studied phenomenon; in particular, the emergence, parallel development with sponsorship and subsequent transformation of ambush marketing will be presented. In addition, the perspectives of the stakeholder groups engaged in ambush marketing will be listed, fol-
owed by the detailed review of ethical, moral and legal considerations on the phenomenon. Finally, the current trends in ambush marketing from the scientific and practical standpoints will be derived based on the extensive peer-reviewed literature and non-scientific articles respectively. Hence, the findings of the thesis will be of value to practitioners of the studied field on both sides as well as to researchers in the area of sports economics, business administration and sports management.
2 Theoretical Foundations

The following part on theoretical foundations of sponsorship, guerrilla marketing and ambush marketing features the definitions and the relevant foundations of the aforementioned concepts that form the discussion of this thesis.

2.1 Sponsorship in Sport

According to Buehler and Nufer (2010, p. 92), professional sports sponsorship is “a business-related partnership between a sponsor and a sponsee based on reciprocity. The sponsor provides financial and non-financial resources directly to the sponsee and receives a predefined service in return in order to fulfil various sponsorship objectives.” Hence, the parties to sponsorship include sports organization (also called sponsee), in the form of an entity or an individual, and the sponsoring company, normally a business entity (Buehler & Nufer, 2010).

Overall, the objectives pursued by the sponsors in their sponsorship deals can be divided into two types: economic and psychological. Economic objectives encompass, though not limited to, an increase in market share, sales and profit (Nufer, 2013). Psychological objectives may include an increase in the level of awareness, image improvement through transfer of the goodwill from the event onto the sponsor, or a demonstration of a company or its products (Nufer, 2013). The accomplishment of the economic objectives is not feasible without the fulfilment of the psychological ones (Buehler & Nufer, 2010). Hence, the main reason for the sponsors to engage in sponsorship constitutes the implementation of the communication and strategic objectives and alignment of the broader marketing strategy (Pardo Amézquita, 2016).

As a result of the fact that sponsorships is based on the principle of reciprocity (Buehler & Nufer, 2010), the parties to sponsorship both exchange values. In particular, official sponsors purchase exclusive marketing rights that enable access to the platforms of the mega-events, in other words to the company’s defined target audience (Nufer, 2013). Therefore, a sponsor uses a sponsee as a conduit (Skildum-Reid, 2007). For the sponsees, sponsorship is a significant source of funding; for example, professional sports would not be feasible but for the funds coming from the sponsorship agreements (Buehler & Nufer, 2010).

A product of a sponsorship deal is the rights granted to the sponsor concerning the sponsorship property. First, a sponsor is entitled to use the trademark of the sponsee for the advertising and promotional purposes to establish an association with the event (Scaria,
Second, a sponsor’s right can also include using event name to market sponsor’s goods and services (Scaria, 2008). Third, merchandising rights may be given to sponsors to sell goods with titles and logos of the event (Scaria, 2008). Thus, the rights granted to a sponsor under the sponsorship agreement enable the sponsor to take advantages of the intellectual property of the sponsee and marketing opportunities in sponsor’s business activities to establish an association with the sponsored party.

The breadth of rights allowed to a sponsor depends on the extent of exclusivity obtained through sponsorship. In accordance with Buehler and Nufer (2010), a sponsorship structure nowadays looks like a pyramid of several layers of sponsors. For example, the main sponsors of the event are located at the top of the pyramid and have the most exclusive rights related to sponsorship. The next level is a kit supplier, who provides the teams or athletes with sports equipment. Following that are the commercial partners whose contribution to sponsorship and scope of rights accordingly are more limited. The base of the pyramid is occupied by the regional sponsors, who enjoy the most limited amount of rights among the official sponsors. For instance, the International Olympic Committee (IOC) (2016) manages the Olympic Partner (TOP) sponsorship programme, official supplier and licensing programme as well as domestic sponsorships. Likewise, FIFA’s sponsorship structure (2014) is divided into three categories of FIFA Partners, FIFA World Cup sponsors, and regional supporters.

2.2 Guerrilla Marketing

The origin of “guerrilla” lies with the military, translating from Spanish as “small war” and being a form of “guerra” for war (Nufer, 2013). Subsequently, the word was borrowed into the marketing terminology, and the concept “guerrilla marketing” was coined by Jay Conrad Levinson in the book “Easy and Inexpensive Strategies for Making Big Profits for Your Small Business” written in 1984 (Levinson, 2007). However, guerrilla marketing was practiced before entering scientific literature by small and medium sized enterprises in 1960s in the US as an inexpensive and innovative alternative to conventional ways of advertising (Hutter & Hoffmann, 2011).

In accordance with Hutter and Hoffmann (2011, p. 4), guerrilla marketing is “an umbrella term for unconventional advertisement campaigns which aim at drawing the attention of a large number of recipients to the advertising message at comparatively little costs by evoking a surprise effect and a diffusion effect.” Hence, main principle of guerrilla marketing is catching the attention of consumers by means of a surprising unconventional advertising message. The effectiveness of guerrilla marketing is based on surprise, diffusion and cost effects.
When running a new and unconventional advertising, the surprise effect is achieved because of the gap in expectations and the actual perception of the stimuli (Hutter & Hoffmann, 2011). According to Lindsey (as cited by Hutter & Hoffmann, 2011), surprise causes an individual to switch the focus of attention to the surprise stimuli. Therefore, unconventional advertising allows to grab the attention of consumers by means of this effect. Kirby and Marsden (2006) assert that surprise stimuli impacts the motivation of people to discuss the product that caused emotions. Subsequently, a diffusion of the advertising message occurs through word-of-mouth communication, which is at the same time more credible as a result of the participants in the conversation being at least familiar with one another, unlike in commercial advertising (Hutter & Hoffmann, 2011). Therefore, attention of a greater number of people will be drawn towards the surprising message. Levinson (2007) argues that the diffusion of the message provides the most value to a company. Finally, two aspects of guerrilla advertising contribute to the low cost effect: one of them being the result of diffusion effect and another one being low expenditure on guerrilla campaigns. In particular, as diffusion effect spreads further by means of word-of-mouth, it reduces the cost per person reached (Hutter & Hoffmann, 2011). Accordingly, since goal of guerrilla marketing is to maximize benefits with minimum money (Nufer, 2013), guerrilla campaigns require less funds (Hutter & Hoffmann, 2011).

Hutter and Hoffmann (2011) allocate guerrilla instruments to one of the aforementioned effects which it mainly emphasizes; nevertheless, each instrument includes the other effects as well. In particular, ambient and sensation marketing belong to surprise effect whereas viral and buzz marketing are ascribed to diffusion effect. Finally, ambush marketing is placed to low cost effect. Sensation and ambient marketing aim at surprising consumers through the placement of unconventional advertisements in the consumers’ surrounding (Hutter & Hoffmann, 2011; Nufer, 2013). The major distinction between them is that ambient marketing is repeatable as opposed to sensation marketing being a one-time occurrence (Nufer, 2013). As for the viral and buzz marketing, the essence of the former one is exponential dissemination of marketing message either through word-of-mouth or online (Nufer, 2013), and the focus of the latter one is incentivizing the messengers to transmit information, with the sender still remaining a true fan of the product (Kirby & Marsden, 2006).

2.3 Ambush Marketing

If necessary, you can create a second level of subchapters. There must be at least two of them under a higher-level subchapter as well. According to Ellis, Scassa and Séguin (2011), the research on ambush marketing has been mainly descriptive. In particular, the
studies on the practice have aimed at describing the practice and establishing a commonly accepted definition (Ellis et al., 2011). In the scientific literature, there are two most cited definitions in place (Pardo Amézquita, 2016). Sandler and Shani (1989, p. 11) defined ambush marketing as “a planned effort (campaign) by an organization to associate itself indirectly with an event in order to gain at least some of the recognition and benefits that are associated with being an official sponsors”. Subsequently, Meenaghan (1994, p. 79) described it as “the practice whereby another company, often a competitor, intrudes upon public attention surrounding the event, thereby deflecting attention toward themselves and away from the sponsor”. Nevertheless, many scholars conclude that ambush marketing lacks exact definition in the scientific and legal contexts as a consequence of deferring views on the practice (Pardo Amézquita, 2016).

Although there is no prevailing definition of ambush marketing, there are a number of common attributes of the concept in the literature. According to Bruhn and Ahlers, Sportlink and Nufer (as cited by Nufer, 2013), ambush marketing campaigns constitute a planned undertaking for the purpose of reducing the effectiveness of sponsorship. Ambushing is also a resort of direct competitors of sponsors, serving as a cheaper alternative to official sponsorship. Additionally, as a result of attention deflection from sponsors to ambushers, an impression of association to the sponsored event in the minds of the target audience is established. As a result, ambush marketing diminishes the relevance of sponsorship investment.

For this thesis, the definition of Nufer (2013) is applied as a result of its up-to-date status and relevance to sports, which is the focus of the thesis. Ambush marketing (Nufer, 2013, p. 32) is “the practice by companies of using their own marketing, particularly marketing communications activities, to give an impression of an association with the event to the event audience, although the companies in question have no legal or only underprivileged or non-exclusive marketing rights for this event sponsored by third parties”. Hence, unlike the aforementioned definitions, this one encompasses not only non-sponsors as ambushers, but also sponsors with limited rights.

The goals and objectives of ambush marketing are closely related to the basic idea of the concept. Ambush marketing takes place whenever an ambusher seeks obtaining the exposure and subsequently awareness available exclusively to sponsors (Pardo Amézquita, 2016). Hence, the main goal of ambush marketing is to amplify the goodwill of an ambusher by establishing a connection with the goodwill and marketing value of the event, and transferring it onto the ambusher (Cornelius, 2011). Ambushers facilitate the accomplishment of that aim through uncertainty in the minds of consumers as to who the official
sponsor is (Cornelius, 2011). As for the objectives, Nufer (2013) highlights three categories of ambush marketing objectives: a) economic, b) psychological and c) competition-oriented. Economic objectives encompass sales, market share or profit. Psychological objectives include increase in awareness, attention and image, and contribute to attainment of economic objectives (Nufer, 2013). The essence of the competition-related objectives is damaging the sponsorship by means of obstruction of communications efforts of official sponsors (Nufer, 2013).

Overall, ambush marketing strategies and manifestations can be structured into 3 categories: direct (blatant), indirect (subtle) and dominant destructive-aggressive ambush marketing (Nufer, 2013). Direct ambush marketing activities are aimed specifically at the intellectual property arrangements between the event organizers and sponsors (Nufer, 2013). In particular, direct ambush marketing is related “to an intentional use of symbols and trademarks associated to the mass event so as to give consumers the wrong impression as to the actual sponsor of the event” (Louw, 2012, p. 144). On the contrary, the essence of indirect ambush marketing is in “adjusting the message to the nature of the event in the manner which does not directly breach the rights of the organizers or the sponsors of the event, but rather uses the event as a pretext for the ambusher’s own marketing purposes” (Louw, 2012, p. 5). In this case, an ambusher takes advantage of the event without creating new products associated with it (Nufer, 2013). Furthermore, indirect ambush marketing can be broken down into two case groups of “by association” and “by intrusion”. Specifically, ambushing by association refers to utilizing a sports event as attention-drawing tool and a platform for communications activities (Nufer, 2013). Ambushers employ implied references, such as event themes or popular athletes, to establish the indirect connection in their advertising (Nufer, 2013). Likewise, ambush by intrusion refers to benefiting due to increased attention and awareness exposure from the “high spectator traffic at a sports event to conduct sales activities” (Nufer, 2013, p. 55). Similarly, “using high frequency advertising contacts” either on the event site or online to affect the psychological objectives also constitutes ambush by intrusion (Nufer, 2013, p. 55). Finally, dominant destructive-aggressive ambush is related to harming the official sponsors by reducing the effectiveness of the sponsorship activation and leveraging activities (Nufer, 2013).
3 Historical Background of Ambush Marketing

Cornelius (2011) describes that since the late nineteenth and until the mid-twentieth century, sport was mainly a recreational activity for amateurs. At the time, the goals of sports federations were related to preserving the framework of society by means of sports, rather than capitalizing on the commercial value of sports. The federations were largely indifferent towards the emergence and growth of advertising undertakings that were evolving around sports as long as those undertakings were not violating the sports principles of the time (Cornelius, 2011).

Nevertheless, Cornelius (2011) states that a change of attitude took place when hosting events on a national and international scale necessitated sizable investments. Before ticket sales and participants’ contributions had mainly covered the costs of holding an event along with the help of authorities and voluntary work, the increasing scale of sports events drove the costs high enough, making the existing sources of funding insufficient. Thereby, sport accepted advertising as it was becoming more professionally-oriented. As a result, professional sporting activities attracted business because of their entertainment and hence commercial value. Being able to draw and expose a great number of consumers towards an advertising message, sport has transformed into a domain for communications activities of companies (Cornelius, 2011).

The Olympics always had sponsorship in some shape or form since their appearance; however, there was a significant increase in the number of sponsors during the 1950-1960s (Johnson, 2007). Until 1984 Olympics in Los Angeles, the IOC had had an open policy regarding sponsorship at the Olympics (Johnson, 2011). Hence, any company willing to be a sponsor could become one; although, such an approach to sponsorship led the IOC to a lack of funding not only to hold the Games, but also to manage the organization itself (Johnson, 2011). Such a predicament led the IOC President, Juan Antonio Samaranch, to introduce global sponsorship and broadcasting rights that were also category-exclusive and marketed on an auction-basis (Pardo Amézquita, 2016). In addition, the establishment of three sponsorship categories of official sponsor, supplier and licensee for the 1984 Games reinforced the changes introduced to the sponsorship management model (Johnson, 2007). Thereby, the new model enabled the IOC to draw the funds required to cover the hosting of the Games and benefit from the surplus (Pardo Amézquita, 2016).

Along with the introduction of the changes to sponsorship by the IOC, a competition for becoming one intensified, thereby setting the sponsorship price at unprecedented levels
Moreover, the new category-exclusive rights granted to sponsors automatically deprived competitors of an opportunity to access their target audience at the event as before (Nufer, 2013). Hence, the rise of ambush marketing has been attributed to the changed complexity of the sponsorship structure (Johnson, 2007). In particular, the first reported instances of ambush marketing occurred during the Summer Olympics of 1984 in Los Angeles when Kodak ambushed Fuji, the official sponsor of the Games, by becoming the broadcast sponsor and “official film” supplier of the U.S. track and field team (Pardo Amézquita, 2016). Similarly, at the very same Games, Nike engaged in ambush marketing against its competitor, Converse, that was also an official sponsor, by setting up murals depicting Nike logo and the athletes sponsored by the company (Pardo Amézquita, 2016).

Therefore, the very first manifestations of ambush marketing in the area of sports were for the most part related to direct ambush marketing (Piątkowska, Żyśko, & Gocłowska, 2015). It was rivalry between the organizers and ambushers that advanced ambush marketing into new and creative approaches (Piątkowska et al., 2015). By now, ambush marketing has transformed from forms targeted against competitors into manifestations mainly focused around communications with consumers, using thematic references.
4 Perspectives on Ambush Marketing

The following part on the perspectives of different stakeholders concerning the practice of ambush marketing features the relevant arguments made by the stakeholders and the rationale for their actions that form the discussion of this part.

4.1 Sponsors’ Perspective

The motive for sponsors to engage in sponsorship activities at major events is to obtain the exclusivity in employing intellectual property of event organizers, such as trademarks or logos, and of their own in marketing activities (Scaria, 2008). Hence, the main goal for sponsors is taking advantage of the opportunities brought by the official sponsorship to establish connection with the event by means of communications activities (Scaria, 2008). Additionally, sponsors pay sizable fees to obtain the status of an official sponsor, which are lost in case of a sponsor being ambushed (Scaria, 2008). Thus, ambush marketing undermines that goal, thereby diminishing the effectiveness of sponsorship, in particular the granted exclusivity and the value of sponsorship (Piątkowska et al., 2015). Due to the extent of ambush marketing threat, official sponsors view it as an immoral practice, which is to be counteracted (Pardo Amézquita, 2016). In sponsorship contracts, combatting ambushing infringers is normally listed as the responsibility assumed by the event organizers (Louw, 2012).

4.2 Event Organizers’ Perspective

The standpoints of sponsors and event organizers are largely congruent as a result of the similarity of their interests. Organizers perceive ambush marketing as reducing the worth of their sponsorship agreements and discouraging other companies from entering into official partnerships with them (Piątkowska et al., 2015). In general, as a result of reliance of event organizers on sponsorship money in terms of its overall share in their revenues, failure to retain and attract sponsorship funding can threaten the financial sustainability of organizers, thus impacting the very occurrence of an event (Scaria, 2008). Therefore, organizers look to shield their own brand and exclusivity given to sponsors (Ellis et al., 2011). Unless organizers manage to protect the sponsorship value from being infringed upon, they risk losing current and prospective sponsors as well as the already-made sponsorship contributions, which endangers the running of an event and the organization itself. For example, in 2003, having been ambushed by Sasol, Panasonic retreated from paying its sponsorship contribution to South African Formula 1 organizers, which caused their subsequent insolvency and seizure of operations (Cornelius, 2011).
4.3 Ambush Marketers’ Perspective

In general, companies cite several reasons to engage in ambush marketing instead of official sponsorship. First, many firms simply cannot afford the investment into official sponsorship, which has risen to unprecedented levels (Nufer, 2013). Second, as a result of the sponsorship exclusivity, only a limited number of companies can become sponsors, meaning that competitors in the same category cannot sponsor simultaneously (Cornelius, 2011). Additionally, the relationship established between an organizer and a sponsor is concluded on a long-term basis (Cornelius, 2011). Finally, a company image and the kind of products it markets may not be congruent with the image of the event aspired by an organizer (Cornelius, 2011).

Beside that, ambushers also claim that ambush marketing is just a creative and legitimate business strategy, which capitalizes on a significant communications opportunity in terms of a sports mega-event (Pardo Amézquita, 2016). In case sponsors do not leverage the potential of an event, ambushers cannot be held accountable for doing the opposite without having an official connection (Skildum-Reid, 2007). Hence, from the viewpoint of ambushers, limitations on ambush marketing are anti-competitive (Cornelius, 2011). Additionally, ambushers state that such a practice constitutes a fair approach in the free market, which acts as a beneficial driver for efficiency in the marketplace (Scaria, 2008). Ambushers also argue that being able to practice ambushing is the manifestation of the freedom of commercial expression, pointing at the unconstitutional nature of restrictions thereof (Scaria, 2008).

4.4 Consumers’ Perspective

The existing research on consumers’ viewpoint on ambush marketing is generally contradictory (Scaria, 2008). Consumers are not aware of the essence of ambushing practice and cannot differentiate between the actual sponsors and ambushers (Piątkowska et al., 2015). Consumers are characterized as not knowledgeable and generally confused by ambush marketing and sponsorship structures (Scaria, 2008). According to Skildum-Reid (2007), there exist a number of reports claiming that consumers are of negative view with regard to ambush marketing; however, the author points at the wording bias in questions asked of respondents, which could have influence on the findings. Additionally, gender and age of respondents have indicated to impact the results in consumer research (Scaria, 2008). Therefore, up to now, there is no agreement as to what the perception of consumers with respect to ambush marketing is.
4.5  Media’s Perspective

Regarding the perspective of media on ambush marketing, it is necessary to make a distinction between two cases of mega-event broadcasters and other non-broadcasting media. In case of the former one, an official event broadcast presents a number of benefits, such as high ratings and revenues from commercials (Nufer, 2013). Therefore, the very concern regarding the running of the event endangers the revenue from advertising (Nufer, 2013). On the contrary, non-broadcasting media have affinity towards ambush marketing-related topics because of their controversial nature, appealing to the moral aspects of the practice (Skildum-Reid, 2007). In particular, in the light of the very strict enforcement of the sponsors’ and organizers’ intellectual property (IP) rights, media have shifted their stance, presenting such practices as IP bullying (Louw, 2012). Thus, the standpoint of the media on the ambushing phenomenon is ambivalent.

4.6  Scholars’ Perspective

Most of the scholars studied the occasions of ambush marketing, focusing on the Olympic Games or other sports mega-events (Piątkowska et al., 2015). Generally, many researchers evaluate ambush marketing as a negative phenomenon, stressing the need to prevent it (Ellis et al., 2011). On the contrary, a number of scholars perceive it simply as a expression of competitive market approach in a marketplace characterized by rivalry (Ellis et al., 2011). In addition to that, scholars express their hesitation regarding the need for the anti-ambush marketing measures within the legal context (Cornelius, 2011). Hence, the scientific research on ambush marketing has been described from the positive and negative viewpoints.
5 Legal and Ethical/Moral Perspectives on Ambush Marketing

The following part is centered around ethical/moral and legal perceptions of the ambush-ing practice. In particular, the current legal measures against ambush marketing are pre-sented, and the ambushing practice is discussed from the viewpoints of a number of the theories of ethics.

5.1 Legal Perspective

As a result of ambiguity as to the ambush marketing definition, the current legal state of the ambushing manifestations is not developed; therefore, sponsors and event organizers have increasingly turned to extra-legal measures (Pardo Amézquita, 2016). Nevertheless, a number of conventional legal protection instruments are in place on a worldwide basis (Pardo Amézquita, 2016). The existing legislative limitations on the ambush marketing practices are founded upon defending company’s goodwill as well as reputation and identity (Cornelius, 2011). In case any of them are infringed upon by ambushers, trademark law, copyright law and the law against unfair competition are in place for protection of IP rights of organizers or sponsors (Johnson, 2007).

Trademark law provides protection when distinct and unique logos, symbols, words or a sound mark are used illegally without consent from the owner thereof (Johnson, 2007). When registered, trademark rights can be passed onto the official sponsors or licensees by means of an arrangement with the IP owner (Nufer, 2013). In cases of infringement of trademark rights by means of unauthorized use, an owner can initiate a lawsuit against a potential infringer because of the trademark rights ownership, thereby preventing the illegal use (Cornelius, 2011). This law applies to similar trademarks used by infringers in order to create confusion and benefit from them (Nufer, 2013). Additionally, the organizers of sports mega-events have the possibility to register additional trademarks as a reserve to expand the area of trademark protection and exclude ambushers from using similar marks (Nufer, 2013). Worldwide, the Paris Convention for the Protection of Industrial Property adopted in 1883 serves to defend IP rightsholders against trademark infringements (Pardo Amézquita, 2016).

Copyright law protects the owners of design, logos, symbols or mascots, which are the result of the original artistic, musical or film work (Johnson, 2007). Therefore, the cause for legal action on the grounds of copyrights infringement constitutes the issue and subsequent distribution of a copy of a protected work (Johnson, 2007). In case of the actual copyrights infringement, IP owners are eligible to seek damages, ban on distribution and prohibition of use (Nufer, 2013). On the international scale, the Berne Convention for the
Protection of Literary and Artistic Works adopted in 1886 is at the disposal of IP
rightsholders, providing the basic uniform protection in the participating member states
(Pardo Amézquita, 2016).

Competition law provides for the protection in cases of unfair competition, which dimin-
ishes the value of competition and conflicts with the public interest (Cornelius, 2011). The
prerequisite for legal action with regard to competition law is the presence of competitive
relationship between the parties (Johnson, 2007). The manifestations of unfair competition
include, among others, deliberate misrepresentation, deception, obstruction of contractual
arrangements or exploitation of reputation (Cornelius, 2011; Nufer, 2013). In the cases of
misrepresentation, the law safeguards against the damage caused by the false impres-
sion through imitation (Cornelius, 2011). However, ambushers attempt to market their own
products or services, capitalizing on the spectatorship of the event instead of focusing on
sponsors’ wares (Ellis et al., 2011). Hence, it is challenging to ascertain the delict of pass-
ing off (Ellis et al., 2011).

Therefore, the intellectual property law in conjunction with the competition laws are aimed
primarily in cases of direct (blatant) infringements of their respective areas of coverage.
Nevertheless, the problem with the respective laws is that only an insignificant number of
ambushing cases qualify through the prerequisite requirements to constitute the infringe-
ment of these laws (Nufer, 2013). The reason the existing laws cannot curb current prac-
tices of ambushing is because they are primarily applicable to the forms of direct ambush
marketing (Pardo Amézquita, 2016).

5.2 Ethical/Moral Perspective

Overall, the discussion on the moral aspects of ambushing practice is limited in the re-
search field despite its relevance to the debate (Piątkowska et al., 2015). The debate is
focused around the nature of ambush marketing as a creative and unconventional prac-
tice or as an immoral phenomenon (Piątkowska et al., 2015). Scholars state that cases in
favor and against of ambushing from the ethical standpoint can be made (Ellis et al.,
2011). The evaluation of morality depends on whether the argument arises from a party
being ambushed or ambushing (Scaria, 2008). For sponsors and organizers, ambush
marketing is immoral because of the damage caused by it whereas ambushers find it as
an aggressive marketing approach (Scaria, 2008).

In general, ambush marketing has been conditioned to the ethical debate by being exam-
ined through the lenses of advertising standards (Cornelius, 2011). Ethical advertising
complies with a number of principles, such as responsibility, social and economic account-
ability as well as harmlessness (Cornelius, 2011). Advertising has to be fair towards all the
stakeholders involved, such as consumers and competitors (Cornelius, 2011). Ambush marketing fails to fulfill those criteria, being a hard issue because of its misleading nature and lack of foundation in its claims (Dickson, Naylor, & Phelps, 2015). In particular, by endangering the official sponsors and event organizers, ambush marketing is quite often unaccountable (Cornelius, 2011). Similarly, the misleading character of ambushing undermines the principle of fairness by placing other parties in a disadvantageous position (Dickson et al., 2015). Therefore, ambush marketing as considered from advertising standards perspective does not meet those ethical criteria (Cornelius, 2011).

The ethicality of ambush marketing has also been analyzed by conditioning it to a number of theories of ethics (Ellis et al., 2011). In particular, companies that engage in ambushing raise the case of Corporate Social Responsibility (CRS). CRS is defined as the duty originating from an implied social contract between companies and society at large, which binds the companies to respond to the calls from the society as well as to adjust their behavior so as to enhance the benefits and mitigate any harm associated with company’s actions (Lantos, 2001). The essential idea of the theory is for companies to take care of its stakeholders by addressing their economic, ethical, philanthropic and legal responsibilities (Lantos, 2001). The responsibilities in question impose moral obligation in cases of actual or would-be harm towards its stakeholders (Lantos, 2001). Ambushing establishes a deceptive connection with an event, which makes an ambusher ethically accountable towards all the parties involved (Scaria, 2008). Additionally, ambushing inflicts a substantial financial harm to sponsors and organizers (Scaria, 2008). Hence, from CRS viewpoint, ambush marketing is unethical.

The most comprehensive overview of ethical aspects of ambush marketing is attributed to O’Sullivan and Murphy (1998), who analyzed it through four theories of ethics: utilitarianism, ethics of duty, ethics of virtue and stakeholder analysis (Ellis et al., 2011). The theory of utilitarianism holds that an action is ethically correct if it maximizes the total welfare or creates the most happiness than any other action (Luetge, 2013). As a result of sponsorship rights structuring, the interests of all official parties to an event are maximized; hence, this type of ambush marketing can be construed as ethically correct (O’Sullivan & Murphy, 1998). If sponsors decide to drop out of their commitment, the harm suffered by the majority would exceed the utility enjoyed; hence, as viewed from this perspective, ambush marketing is ethically incorrect (O’Sullivan & Murphy, 1998).

Ethics of duty represents a deontological approach to ethics, evaluating an action based on a binding obligation or principle (Luetge, 2013). The essence of the principle is the goodwill embedded in the intentions of an action regardless of the consequences incurred (Luetge, 2013). Since ambushers aim at the deliberate deception or confusion as to who
the official sponsor of an event is, the intentions of the ambushers are ethically wrong (O’Sullivan & Murphy, 1998). On the contrary, an ambusher also has an obligation towards the shareholders to maximize profits and thereby equity; hence, forgoing such an opportunity is violation of that obligation (Meenaghan, 1996). From this perspective, ambush marketing is ethically acceptable.

Virtue ethics holds the virtues of character as the basis for judging an action (Luetge, 2013). Hence, an action is ethically correct only if an individual possessing the virtuous character would do it in this particular situation (Luetge, 2013). Due to the misleading nature of ambush marketing with regard to the intended audience, ambushing deviates from the accepted virtues and is therefore ethically wrong. Finally, stakeholder analysis emphasizes the effects of a decision on all the parties involved or somehow impacted by the decision (O’Sullivan & Murphy, 1998). In particular, during the FIFA World Cup in 1998, French team supported by Adidas, the official sponsor, competed against the Brazilian team, with which an ambusher, Nike, managed to establish a connection in the eyes of the public (O’Sullivan & Murphy, 1998). The evaluation of ethicality of Nike’s actions depends on whether Nike had an intent to mislead consumers and harm Adidas (O’Sullivan & Murphy, 1998). Thus, the results of stakeholder analysis are also contradictory.

Although scientific research on ethical aspects of ambush marketing is limited, the topic is of importance in determining how to treat ambush marketing in different contexts. The evaluation of ethicality is largely dependent on the perspective of the party affected by ambushing, which leads to the contradictory outcomes in evaluation.
6 Current Trends in Ambush Marketing: Scientific Perspective

The following part features the current trends in ambush marketing that are present in the scientific field. The trends are derived based on the scientific peer-reviewed literature, which concerns ambush marketing.

6.1 Influence of Transnational Sports Organizations and Rise of Olympic Law and the Association Right

McKelvey and Longley (2015) investigate the potential motives behind the governments’ obedience in passing anti-ambush marketing laws based on economic theory. The authors (2015) examine the economic relationship between the the IOC and the national governments. From the economic perspective, the Games are a scarce resource, which is artificially reduced to once in four years occurrence. Additionally, the Games have no matching competition to provide a substitute for them. Likewise, there is normally a significant demand for hosting the competition among nations. Hence, the combination of low supply and great demand for the Games puts the IOC into the monopolistic position, whereby the IOC has the discretion over granting the benefits inherent in the Games and aspired by the bidders. The IOC’s monopoly allows it to have a greater bargaining power in demanding for the desired legislation.

Ellis, Parent and Séguin (2016) investigate the impact of Olympic ambush marketing stakeholder power and transfer of ambush marketing knowledge on institutionalization of the anti-ambush marketing laws. In particular, the authors base their research on network analysis and institutional theory. Institutionalization is defined as the device through which the practices and structures are acknowledged and subsequently adopted generally as given (Ellis et al., 2016). The notion of power is crucial to the theory of institutionalization because it is influential organizations that are capable to dictate the acceptance of the practices and structures within their network.

Ellis, Parent and Séguin (2016) identify that the IOC and Organizing Committees of the Olympic Games (OCOG) are the most central actors in the Olympic network. The IOC and OCOGs have the greatest tangible and intangible resources endowment. Particularly, the IOC and OCOGs have the ability to control, influence and bend the understanding of the danger of ambush marketing among the network actors. The IOC and OCOGs are capable to dictate the institutional logics and drive the institutionalization of anti-ambush marketing legislation because of their power resulting from the central position in the network.
James and Osborn (2016) argue that the distinctiveness of the IOC in transplanting self-interested legislation is founded on a number of pillars. Unlike other transnational organizations (TNOs), the IOC is not in charge of running any sporting activity and operates as an independent non-governmental body. In addition, the IOC’s influence crosses the boarders of the nation states as exhibited by the inability to legislate, which is compensated by the contractual requirements with the hosts. Hence, such relationship of the IOC with the hosts gives rise to the Olympic law.

James and Osborn (2016) examine the origin, rise and formation of the Olympic law, which has transformed into a transnational force. The origin of the IOC’s Olympic law is the Olympic Charter, which serves as a reference point in drawing the terms of the Host City Contract (James & Osborn, 2016). The IOC is compliant with the Swiss law, where it has its legal recognition and operations; however, the reach of IOC’s activities and relationships with governments through different instruments extend across the globe. The Host City contractual relationship that previously served as reference between the IOC and the host, has now shifted into the municipal supervision by means of the forced legislation in each jurisdiction.

James and Osborn (2016) argue that such state of affairs is not yet in congruence with legal comprehension of the phenomenon. International sports law is public and under the application of each country’s courts as opposed to the transnational sports law, which enjoys autonomy and is governed by the sporting bodies themselves. The Olympic law does not belong entirely in any of the two concepts; on the opposite, it constitutes a new independent type of transnational law, which is created at a national level and driven by the requirements of transnational sports organization.

Palomba (2011) argues that the power allowed to organizers is the cause of the horizontal and vertical creep in legislation. Horizontal creep concerns the extension and transfer of legal protection employed at one edition of sporting event to another one in a different country with the justification of prior use at the event. An example of such creep is the introduction of the Olympic and Paralympic Games Act (called London Act) in the UK as borrowed from the Sydney Games. With respect to the vertical creep, it refers to proliferation of demand by the organizers of other events for exclusive legislative protection from the governments. The author exemplifies it by pointing at passage of special laws for the 2014 FIFA World Cup and the 2016 Olympics in Brazil.

James and Osborn (2016) also investigate the phenomenon of the legislative creep. In particular, they expect that the current coverage available to TNOs will expand beyond the original scope as a consequence of reutilization of the past practices and new extensions
in other legal regimes. The authors emphasize that the new extensions serve to mend the loopholes, identified and used at the previous edition of the event by ambushers, for the coming events.

The increase in such legislation causes concerns and a number of consequences (Palomba, 2011). First, it infringes upon the rights of the local businesses, community and the general public. Second, the legislation raises questions as to the appropriateness of the haste with which it is passed. Third, such response to ambush marketing by the organizers distances them from the audience in general with the possibility to create negative publicity.

Ellis, Scassa and Séguin (2011) state that in the literature there is agreement regarding the feature of unauthorized association employed by ambushers. As a result of the bargaining power, the IOC has succeeded in requiring an exclusive association right in the hosting bids (Ellis et al., 2011). Therefore, nowadays establishing an association with sponsors or events is most likely to break some law (Palomba, 2011).

James and Osborn (2016) describe the development of the association right initiated for the 2000 Sydney Games, extended for the 2010 Vancouver and fully formed for the 2012 London Games. The Sydney right prevented the ambushers from taking advantage of the specific words, collocations or combinations thereof that indicated at connection with the Games. Despite being passed later than the London Act, the Vancouver act served as an intermediate milestone and prohibited misleading of the public that could create confusion with regard to official sponsorship as a threshold for the breach of the act. Finally, the London Olympic Association Right (LOAR) banned any activities that were likely to suggest any association with the sponsorship property. Hence, the London Act is much broader in scope as compared to the Canadian Olympic and Paralympic Marks Act.

Ellis, Scassa and Séguin (2011) explain that the current division of legislative powers between the federation and provinces in Canada limits the legislative ability of the former to enact such legislation nationwide. Such allocation of the power over different types of intellectual property in Canada limits the scope of what the federal government has the right to enact. On the contrary, the legislative power of the UK lies with the national government as a consequence of the unitary formation. Therefore, the UK government is able to provide more encompassing protection in a single statute.

Finally, with the incorporation of the requirements from the IOC, the understanding and legal approaches to ambush marketing in respective countries are affected by the rights and freedoms provided by the constitution of the country in question (Ellis et al., 2011). Hence,
the legal framework of the country, where legislation is passed, is going to define the scope and limits of the association right (Ellis et al., 2011).

6.2 Identification of Consumers and Athletes' Attitudes towards Ambush Marketing, its Strategies and the Impact of Influencers

Mazodier, Quester and Chandon (2012) investigate how disclosure of ambush marketers affects the consumer attitudes with regard to an ambusher's brand. The authors examine if involvement in the event and attitude towards sponsorship influence consumer attitude towards disclosure. They define ambush marketing disclosure as the compensation of the erroneous conviction that an ambush marketer is somehow associated with the event, which the ambusher pretends to sponsor.

Mazodier, Quester and Chandon (2012) find that ambush marketing disclosure influences the consumer attitudes towards the ambusher's brand in a negative manner. Additionally, the higher the involvement of an individual in the event and the better the attitude towards sponsorship is, the more negatively consumers perceive the disclosed ambusher's brand. Nevertheless, the authors emphasize that disclosure is prone to foment negative attitudes towards similar brands, including those of sponsors.

Dickson, Naylor, and Phelps (2015) investigate whether consumers' attitudes towards ambush marketing are industry-specific. They suggest that consumers take the industry of an ambusher into account in making judgements about the conduct of the ambusher. The study connects the ambushing phenomenon to the advertising standards in place in the banking and beer industries. Dickson, Naylor, and Phelps (2015) argue that companies from various industries are accountable to a different extent because of different advertising codes of conduct.

Dickson, Naylor, and Phelps (2015) conclude that most consumers view non-industry specific ambushng as unethical and condemn the activity; however, consumers are not annoyed with the ambushing practice. Likewise, consumers do not hold banks accountable to a greater extent than beer producers with regard to industry-specific ambushng. In addition, neither age nor gender have an impact on consumer perceptions of ambush marketing both non-industry specifically and industry-specifically.

Dickson, Naylor, and Phelps (2015) suggest that naming the ambusher can be an effective countermeasure as a response to ambushing. The authors also indicate that sponsorship activation can provide the sponsors with the sought-for annoyance in shaping consumer attitudes in the negiative direction.
Koenigstorfer and Uhrich (2017) examine how consumers react to three categories of counterambushing ads employed by official sponsors. In particular, the authors focus on and compare naming and shaming, educational and humorous counterads as well as sponsorship leveraging advertisements. Koenigstorfer and Uhrich (2017) identify the impact of each counterambushing strategy on consumer attitudes towards the counterambushing ad, considering the predisposition towards ambush marketing.

The study of Koenigstorfer and Uhrich (2017) finds that humorous counterads produce increased perceptions of the fitness of the advertising strategy as opposed to decreased perceptions of appropriateness for naming and shaming as well as educational strategy. The positive evaluations of humorous counterads are identified only if the general attitude towards the practice in a consumer’s mind is also positive. In case consumers are positively predisposed towards ambush marketing, their evaluations of naming and shaming as well as education countermessages decline. Moreover, the authors argue that humorous ads result in more positive attitudes towards the counterad as compared with the leveraging ad. Therefore, humorous counterads generate more positive attitudes towards the ad as opposed to any other aforementioned strategy.

In contrast to the preceding attitudinal studies focusing on non-participants, McKelvey, Sandler and Snyder (2012) explore the attitude of sports event participants, in particular ING New York City 2005 and 2008 marathon runners, towards ambush marketing. The authors examine whether the attitudes of event participants were significantly different from the ones of non-participants. McKelvey, Sandler and Snyder (2012) provide explanation for the differences in attitudes with consumers based on involvement.

McKelvey, Sandler and Snyder (2012) report generally negative attitudes of marathon runners throughout the years of 2005 and 2008. In addition, the majority of the athletes believe that ambushing practice is unethical. The athletes are also well aware of the rights available to sponsors. The runners are highly knowledgeable of the marathon sponsors in terms of recall and recognition.

McKelvey, Sandler and Snyder (2012) explain that the recognition of sponsors enables more negative views with respect to ambush marketers. In particular, the authors argue that athletes’ high involvement into the sports event affects the recognition directly. Since runners are physically, mentally and recreationally involved into the event, they establish an attachment to the event and its attributes, including sponsors. Therefore, the knowledge of sponsors and the value the sports event brings to runners substantiate the negative perceptions of ambush marketing among the runners.
6.3 Effectiveness and Drivers of Misidentification in Research

Wolfsteiner, Grohs and Wagner (2015a) examine what influence ambushing has on misidentification of ambushers as sponsors in the experimental settings. In addition, the authors investigate how effective ambushing is as opposed to sponsorship.

Wolfsteiner, Grohs and Wagner (2015a) infer that the presence of an ambusher causes the highest rates of misidentification for a sponsor. Subsequently, the absence of an ambusher positively affects a sponsor in terms of correct identification by consumers. Being familiar with a brand raises the likelihood of both sponsor identification and ambusher misidentification. The authors also conclude that both sponsors and ambushers share the associations in consumers' minds. However, the strongest association dictates the outcome of recalling, in other words correct identification or misidentification. Therefore, the power of communication activities has an impact on establishment of an indirect link between a company, such as a sponsor or an ambusher, and an event.

Carrillat and Colbert (2014) state that there is currently a lack of understanding of ambushing strategies in terms of the effect on misidentification. The researchers argue that the knowledge is outdated, and the research lags behind the development of today's ambushing practices. In addition, sponsors and event organizers have already addressed the old ambushing practices through legislation or contractual terms.

In order to fill the gap, Carrillat and Colbert (2014) investigate the leveraging of Promotion, Event and Broadcast ambush marketing strategies and their impact on consumer misidentification. The authors define Promotion strategy as the use of thematic references in communication activities of an ambusher. Event strategy comprises staging a similar parallel event around the time the ambushed event takes place. Finally, the Broadcast strategy refers to sponsoring the broadcast of an event.

Carrillat and Colbert (2014) conclude that ambush marketing strategies are more effective when aimed against the dominant brands sponsoring an event because of their susceptibility. The Broadcast ambushing is the most harmful to both dominant and non-dominant sponsors because it reduces their identification. Contrary to that, Event and Promotion impact the dominant sponsors exclusively. Furthermore, Promotion and Event enable the ambusher to capitalize on misidentification and harm the sponsors. However, the Broadcast strategy is detrimental to sponsors only without bringing any gain to ambushers in return.
In a different study, Wolfsteiner, Grohs and Wagner (2015b) study the effectiveness of ambush marketing strategies on misidentification by consumers. The potential of the ambushing strategies, such as a) program sponsoring (Broadcast), b) support of athletes, c) thematic advertising (Promotion) and d) geographical surrounding advertising, are compared. In particular, the authors focus on the influence of involvement, ambush marketer’s congruence with the event and ambush marketer’s prominence on misidentification.

Wolfsteiner, Grohs and Wagner (2015b) conclude that the aforementioned ambushing strategies do not differ significantly in terms of misidentification. Furthermore, the authors ascertain that ambush marketer’s congruence with the event and prominence impact misidentification in a positive manner whereas sponsor’s congruence and prominence affect misidentification negatively. Contrary to prior studies, Wolfsteiner, Grohs and Wagner (2015b) report that involvement in the event has no detrimental impact on the ambusher in terms of misidentification. Finally, Wolfsteiner, Grohs and Wagner (2015b) conclude that there is no difference when ambushers are misidentified as sponsors regardless of their congruence with an event.

Piątkowska and Gocłowska (2016) investigate how involvement into an event impacts sponsors’ and ambushers’ brand recognition in the context of the UEFA Euro 2012. Similarly, the authors study the drivers of misidentification of sponsors among the fans.

Piątkowska and Gocłowska (2016) report that involvement plays a crucial role in affecting brand recognition as a sponsor. The awareness of the official sponsor is the highest among the most involved respondents. Particularly, the less the respondents watch football matches, the less they can recall the sponsor’s brand. Therefore, Piątkowska and Gocłowska (2016) claim that it is necessary to differentiate between fans and non-fans because of their polarized levels of involvement. Likewise, the authors state that ambush marketing does not harm the official sponsors when it comes to the highly involved consumers.
7 Current Trends in Ambush Marketing: Practical Perspective

The following part features the current trends in ambush marketing from the practical perspective. In particular, the trends are derived based on the non-scientific articles as a consequence of the dynamic nature of changes in the practitioners’ field.

7.1 Proliferation in Anti-Ambush Marketing Regulations of Exclusivity and Rigorous Enforcement

Event organizers of mega-events have driven a number of legal and non-legal measures to protect themselves and sponsors from ambush marketing. The IOC introduced its own guidelines for explaining advertising rights and the specific legislation introduced in each host country (James & Osborn, 2016). As for the London Act with the expanded association right, although the guidelines had no impact on the interpretation of the Act in court, they served as an explicit manifestation of enforcement intent from the IOC and LOGOC (James & Osborn, 2016). Similarly, FIFA has its own marketing guide that serves as a warning for potential ambushers against establishing an association with the event (Palomba, 2011).

Marketing guidelines provide interpretation of protection granted to IP of organizers. For instance, FIFA claims trademark protection for the official emblems, mascots, logos and slogans of the World Cup event (Lewis Silkin, 2017). Moreover, specific words and combinations thereof, such as Country + Year or City + Year, are registered as trademarks for each new Olympics and World Cup. For example, RUSSIA 2018 and Moscow 2018 are the trademarks protected and owned by FIFA for the coming World Cup (Lewis Silkin, 2017). The equivalents of the trademarks in different languages are also covered (Lewis Silkin, 2017).

In addition, the organizers of sports mega events employ other preemptive measures. With the introduction of the 2018 World Cup Law in Russia, ticket touting or redistribution for marketing and promotional purposes are prohibited and punishable by the law (Lewis Silkin, 2017). Organizers also provide the sponsors with the first rejection right for the advertising on the television broadcast of the event, which grants sponsors the right to prevent ambushers from advertising during the broadcast (Pardo Amézquita, 2016). Finally, since 1997, the hosts of the Olympics also are obliged to guarantee sponsors with all the advertisement space within the host city for several weeks before, during and after the Games (Pardo Amézquita, 2016).

On the site, the IOC has a clean zone policy around the venues, where all unauthorized marketing activities are prohibited within a specified distance from the venues (Palomba,
Additionally, the Olympics enforce a clean venue policy, thereby forbidding any commercial signage inside the venues (Warnes, 2017). Furthermore, spectators with unauthorized drinks and food as well as any clothing items featuring non-sponsor logos vividly are denied entering the venue (Woodward, 2008). In order to enforce its policy, the IOC employs brand police that detects the cases of ambush marketing in and round the venues and the host city (Louw, 2013). In cases of violations of event organizers’ policies, sanctions ranging from a fine to administrative or criminal liability are in place to deter the potential ambushers (Lewis Silkin, 2017).

Athletes competing in a sports event are also obliged to comply with requirements from event organizers stated in the agreement. Rule 40 of the Olympics Charter prohibits competitors, coaches or trainers from authorizing companies to use their name, person, visual representation and performance records in advertising during the Games (International Olympic Committee, 2015). Particularly, the blackout period that prevents athletes and companies from using Olympics-related terms in advertising in an immediate period prior, during and after the Games, is based on Rule 40 (Taylor & Murphy, 2016). Otherwise, the IOC can has the right to disqualify from competing and fine the athletes for breaching the rule (Germano, 2016). As for the companies, OCOGs on behalf of the IOC have used cease and desist letters as a trademark-bullying warning measure before the litigation (Louw, 2013).

7.2 Growing Discontent with Anti-Ambushing Laws

Over the years, the proliferation in anti-ambushing regulations has led to the rise of discontent with it, especially during the running of the Olympics. In particular, since the London Games, athletes and companies have increasingly expressed their dissatisfaction with Rule 40 (Winston, 2016). An online protest with a hashtag #WeDemandChange was trending on Twitter in the middle of the London Olympics, with numerous athletes demanding that the IOC change Rule 40 to allow personal sponsors of athletes to be advertised on social and other media (Heitner, 2012). For example, a US champion runner, Lauren Fleshman, who was a non-participant at London, tweeted her gratitude to a sponsor of her participating friend, Alysia Montano, with a hashtag #@redbull gives @Aly800 wings and #wedemandchange (Hall, 2012, para. 4). In addition, Dawn Harper, a US hurdler athlete, posted several photos on Twitter, with the tape saying Rule 40 over her mouth (Hall, 2012).

Moreover, in the lead up to the 2017 South East Asia Games, a Singaporean athlete, Soh Rui Yong, posted his disgruntlement with Rule 40 on Facebook and thanked his apparel
sponsor indirectly (Duckworth, 2017). After a formal warning and a meeting with the Na-
tional Olympic Committee (NOC), Soh took down the sponsor-related posts; however, the
athlete expressed hope for a change in the Rule (Duckworth, 2017). The cause for Soh’s
dissatisfaction was the lost sponsorship opportunity with the earphone company because of
the blackout period (Mahmud, 2017). American athletes and Roh argued that the
Games were a rare opportunity when an athlete’s visibility, exposure and marketability are
the highest whereas Rule 40 shadows marketing opportunities for sponsors, thereby di-
minishing sponsors’ interest in athletes (Hall, 2012; Mahmud, 2017). Finally, the American
and Singareoan athletes argued that sponsorship was a single funding source for them,
unlike other foreign athletes, such as Chinese, who were financially supported by the state
(Hall, 2012).

Non-sponsors have also expressed their displeasure with the notorious rule and the black-
out period. Brooks Running Co., a Seattle-based sportswear company sponsoring partici-
pating athletes, launched an anonymous campaign against Rule 40 before the 2016 Rio
Games (Germano, 2016). Brooks used trucks around the city of Eugene, Oregon and uni-
versity campus with a slogan “Not pictured here: an athlete living below the poverty line to
bring glory to their country.” (Germano, 2016, para. 2). In addition, the company registered
Rule40.com domain, whereby it educates consumers about the consequences of the rule
for athletes and promotes merchandize, such as T-shirts bearing indirect mocking refer-
cences to the Olympics (Germano, 2016). The campaign also spread onto the Twitter and
Istagram accounts of Brooks, where the company left posts highlighting the foolishness of
the rule (Li, 2016). Brooks said that their goal was to shed the light on the unfair punish-
ment of not so popular competitors through social media, where the voices of viewers,
athletes and other non-sponsors could be heard better (Li, 2016).

Oddbins, a discount wine retail chain, protested against stringent marketing regulations of
the IOC during the London Games (Louw, 2013). The company offered a 30% discount to
any customer in its 35 stores who had Vauxhall keys, an iPhone, an RBS MasterCard, a
receipt for a Pepsi from KFC or wore Nike sneakers because all of those items came from
non-sponsors (Reynolds, 2012). In addition, the windows of Oddbins shops displayed pro-
motional messages that indirectly referred to the Games (Reynolds, 2012). The company
urged other non-sponsors to discover creative methods to associate with the Olympics.

7.3 Growing Popularity of Applying Ambush Marketing in Social Media

Digital viral marketing has become the new field where companies implement their am-
bushes to engage consumers with comprehensive ambushing campaigns on a different
level. Nike took advantage of the new online social platforms with its “Find Your Greatness” ambush campaign for 2012 London Olympics and “Risk Everthing” ambush campaign for the 2014 World Cup (Fidelman, 2014; Lee Yohn, 2016). “Find Your Greatness” featured several short videos showing how ordinary people manage to find their greatness through sport everyday (Lee Yohn, 2016) whereas “Risk Everthing” showed teenagers imaging themselves to be the world-famous football players (AdAge, 2014). Nike used YouTube and Twitter to promote the campaigns, encouraging consumers to share their stories of finding greatness and risking everything with relevant hashtags (Fidelman, 2014; Macleod, 2012). The company went further, releasing its football app and launching a website to entertain the fans for the latter campaign (Fidelman, 2014). In the end, “Find Your Greatness” led the majority of consumers to believe Nike was the official sponsor (Russell, 2012) while “Risk Everthing” became the most viral of the campaigns of the 2014 football championship (Tunga Capital, 2017).

Another development in ambush marketing is the reactive and proactive content creation for social media in order to generate the discussion. The companies responding to the live moments of an event with an engaging message have been most successful in ambushing. Volvo launched “The Greatest Interception Ever” campaign on Twitter during the 2013 Super Bowl, asking people to tweet the hashtag #VolvoContest with a friend’s name in order for the friend to win a Volvo (Monllos, 2016). The catch was that people had to tweet it only when a competitor’s auto company’s ads were broadcasted, with campaign reaching more than 55,000 retweets (Monllos, 2016). Likewise, Oreo reacted immediately to a power blackout during the 2013 Super Bowl with an Oreo cookie picture and a message “You can still dunk in the dark” (Watercutter, 2013, para. 2). The message went viral with more than 15,000 retweets and 20,000 Facebook likes (Watercutter, 2013).

In rare cases, companies capitalize on the opportunities brought by an accident. Zippo, a lighter maker, took advantage of an accident when the extinguished Olympic torch was re-lit with a Zippo lighter by a stranger during the 2014 Olympic flame relay across Russia (Socolow, 2016). Zippo reacted to it by posting pictures on Facebook and Twitter with a hashtag #ZippoSavesOlympics (Socolow, 2016). Similarly, Blue Man, a Rio-based design house, used the photos from the 2016 Rio Games with Neymar during a match (Willens, 2016). The athlete accidentally revealed his Blue Man underwear waistband, and the company spread the news about it on all of its social media, thereby gaining great exposure (Willens, 2016).
7.4 Shift towards Authorized Ambush Marketing

After lobbying from the athletes and other non-sponsor companies, the IOC amended Rule 40 in 2015, allowing athletes' personal sponsors to use their image in advertising during the blackout period but without reference to the Olympics. Nevertheless, the relaxation was criticized because it mainly served the needs of star athletes with established sponsorship relationships, thereby being a less risky investment for the sponsors (Duckworth, 2017). In addition, non-sponsors had to notify respective NOCs several months in advance, which made the little-known athletes, whose selection for the Olympics was yet ahead, unattractive (Duckworth, 2017).

Under Armour, a sportswear manufacturer, took advantage of the relaxation of Rule 40 with its “Rule Yourself” ad featuring Michael Phelps (Bain, 2016). The spot showed Phelps training hard for something big, with the athlete’s training accompanied by the song “It’s The Last Goodbye” (Richards, 2016). Everyone knew that something big was the Rio Olympics and that the song referred to Phelps' announcement that this would be his last Olympics (Richards, 2016). As a result, the ad reached more than 10 million views on YouTube (Bain, 2016).

Virgin Media used the waiver from Rule 40 by producing the “Be the Fastest” ad featuring Usain Bolt (Gianatasio, 2016). The ad consisted of 10 combined stories that were 9.58 seconds long and showed Bolt’s life from hard training to success and joy (Gianatasio, 2016). The ad referred to 9.58 seconds, Bolt’s Olympic record, and Michael Johnson’s voice, an Olympic sprinter, thereby establishing a thematic connection with the coming 2016 Rio Olympics (Gianatasio, 2016).

Burton, a snowboard and clothing manufacturer, leveraged the loophole in Rule 50, which allows not more than 10% of the surface of the equipment occupied by a logo, when the logos of the company flashed vividly all across the snowboards of several prize winners both in the air and on the medal podium of the Sochi Olympics (Miller, 2014). The reason Burton was able to put its logo across the whole surface of the board was because the company used it on its apparel which it sold by retail 12 months before the Olympics (Miller, 2014). That allowed the company to benefit from the 12 months retail sale rule (Miller, 2014).

Along with the aforementioned ambushers, other multinational companies, among others Red Bull, Asics, Mondelez and Speedo, also requested a waiver from the rule (Taylor & Murphy, 2016). Despite the fact the they would not be able to refer to the Rio Games, the companies could gain from the existing sponsorship arrangements prior, during and after
the Games if they started their campaigns four months before the Olympics (Taylor & Murphy, 2016).

7.5 Using Past Legacy as a Central Theme to Associate with the Current Event

Companies engaging in ambush marketing have increasingly started to implement their campaigns with indirect thematic legacy references. Burger King launched its “The Mannschafts-Whopper” campaign before the 2016 FIFA World Cup. The company used the legacy behind the victory of the 1996 European Football Championship by the German football team (Burger King, 2016a). The promotional video narrated a story of how Burger King purchased the Wembley Stadium turf, on which German team had won the tournament, and brought it to Germany in order to grow the necessary ingredients from it for the limited edition of 96 Mannschafts-Whoppers (Burger King, 2016a). Eventually, according to the terms of the contest, 96 of most passionate fans would win the chance to get a Whopper (Burger King, 2016b).

Michael Johnson, an American sprinter, won the gold twice during the 1996 Atlanta Olympics, wearing his gold Nike shoes (Boylan-Pett, 2016). After the wins, he appeared on the TIME magazine frontpage, with his gold shoes hanging from his neck (Boylan-Pett, 2016). Afterwards, the companies and athletes have used his victorious golden shoes legacy to promote their sponsors, thus ambushing the official sponsors and event organizers. After winning the 100-meters sprint at the Rio Olympics, Usain Bolt held his golden pair of Puma shoes above his head and posed with them for the photographers (Thieringer, 2016). Puma immediately reacted to his victory with posts on Instagram referring indirectly to Bolt (Thieringer, 2016). Similarly, US sprinters, Jenny Simpson and Emma Coburn, put their New Balance shoes around the shoulders to thank their personal sponsor, having won the bronze in Rio (Parsi, 2016).

American Apparel, a clothing retailer, ambushed the Sochi Olympics with its new products line “Principle 6” (Socolow, 2016). The company made a reference to article 6 of the Olympic charter, which states that discrimination in sport on the basis of gender, race, politics or other grounds is not tolerated (Joseph, 2014). The reference came in line with the growing criticism of the country-wide minority rights infringements in Russia that were widely covered by the European and American press. In a similar manner, Google changed its usual colors of the Doodle on the homepage into the rainbow colors to express solidarity with the principle of article 6 before the Sochi Games (Carter, 2014).
8 Conclusion

This thesis examined the current trends in ambush marketing from the scientific and practical perspectives, preceded by the theoretical foundations of the concepts involved in the discussion, historical background as well as stakeholders’ and interdisciplinary evaluations. This part concludes this thesis with the major learnings derived from the literature review and analytical part.

Since its onset and until now, the nature of ambush marketing has changed from a direct attack and a direct association to weaken and imitate sponsors to mainly an indirect association with the event. The practice of ambushing developed alongside with sponsorship, especially after the introduction of sponsorship exclusivity for the 1984 Olympics. With the expansion of counterlegislation and the rise of the association right, the opportunities for direct ambushing shrank, making ambushers turn to increasingly creative methods, such as indirect thematic references or proactive and reactive online ambushing. Therefore, in the future, ambush marketing can occupy a greater place online in social media. Another alternative for ambushers can be the authorized ambushing.

The legislative grip over the practices of ambush marketing and creation of the association right are set to expand further because of the power of the Transnational Sports Organizations, such as the IOC or FIFA, that decide whether an event will take place in a candidate country. With each new extension of a sports event, the organizers close the loopholes in the current legislation identified by ambushers in practice. Likewise, the enforcement of the requirements towards the participants of the mega-sports events will remain strict; although, it will be more flexible because of possible backlash from athletes and the public opinion of the requirements. Therefore, the ongoing discontent of the athletes can have an impact on the possible further changes in rules.

The arrival of social and mobile platforms for engaging with consumers and fans presents a number of opportunities for ambushers and sponsors. First, the companies can reach out to a much greater audience. Second, interactions with consumers on social media provide better insights as to what is important for consumers, thereby allowing the companies to react. Finally, online ambushing or sponsorship leveraging campaigns can be much more interactive for consumers, especially on such platforms as Twitter and YouTube, because they enable the messages from companies to spread viral.

In scientific research, scholars have studied the different areas of ambush marketing. In particular, they focus on the role the transnational sports organizations play in driving anti-ambush marketing legislation. They stress the dangers of the artificial monopoly position
of event organizers and the legislative creep developing with each new extension of a mega-event. Moreover, scholars also investigate the consumer attitude and the effectiveness of ambush marketing in achieving its objectives. The attitude and effectiveness studies emphasize the drivers impacting the attitude and misidentification, such as involvement, sponsorship attitude and knowledge of ambush marketing. Hence, the scholars are set to examine the development of the legislative creep as well as the identification of consumer attitudes and effectiveness of ambushing strategies.

Finally, the evaluations of ambush marketing are polarized and depend on the interest of the party evaluating the practice. Those whose interest are threatened by it perceive it highly negatively and use their influence to protect themselves. As for the disciplinary evaluations, the stance on ambush marketing is also ambiguous. The legal context could rarely curb the manifestations of ambush marketing because of its creative evasive nature. The ethical aspects of ambush marketing are also not definite and depends on the evaluator’s role in the ambushing network. Therefore, ambush marketing remains an issue up to this day, which is reflected in its ambiguity in terms of evaluation and lack of consensus on the commonly accepted definition.
List of References


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I hereby declare that I have written this paper myself and used no other sources or resources than those indicated, have clearly marked verbatim quotations as such, and clearly indicated the source of all paraphrased references, and have observed the General Study and Examination Regulations of Reutlingen University for bachelor and master programmes, the specific regulations for study and examinations of my study programme, and the Regulations for Ensuring Good Academic Practice of Reutlingen University. This paper is also being presented, in accordance with the study and examination regulations of the study programme International Business to Haaga-Helia University of Applied Sciences. Furthermore, neither this paper nor any part of this paper is a part of any other material presented for examination at this or any other institution.

Reutlingen, 23 November 2017

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