

COSLA Response to Draft Commonwealth Games Bill

Introduction

1. COSLA welcomes the opportunity to provide a response to the Draft Commonwealth Games Bill and wish to emphasise our full support for Glasgow's bid for the Commonwealth Games which will be a major sporting, cultural and economic opportunity for Scotland should Glasgow's bid be successful. Our response is based on the feedback from only a few local authorities. However, we trust the points made will be useful to the consultation process.

Background

2. The nature of the wider benefits to Scotland are of particular relevance to surrounding local authorities to Glasgow with the M8 as the main transport artery and transport links to Glasgow and Prestwick airports. Ideally, it will also be beneficial to the country if other local authority areas can reap the spin off benefits from the events associated with the Games. Moreover, it will be important that the Games boost tourism and economic development for the whole of the country where possible.

3. COSLA has been actively supportive of Glasgow's Commonwealth Games Bid through our political support of the 'All of Scotland Group' which has provided regular updates on the progress of Glasgow's bid and is aimed at spreading the benefits of the Games around the rest of the country. Therefore, we believe it is important for the legislation to take into account the need to ensure that a fair share of media income, sponsorship and business profits are redistributed back into Glasgow and the surrounding areas in the form of tourism venues for the future and also facilities that will serve the wider population.

4. Further clarification is also desirable in relation to the role of the organising committee in determining access routes to funding to ensure that there is no financial burden on some neighbouring local authorities without recompense. Section 35 of the draft bill is of relevance in this context. This is important given that some local authorities may experience a financial burden due to the Games and as such this should be considered in relation to the provisions which will be put in place as a result of the legislation.

Advertising

5. Section 9-14 of the draft bill sets out the regulations for advertising and the potential for ambush marketing is discussed in the introductory paper. The proposed scope of the legislation, however, must acknowledge the wider context, particularly in relation to neighbouring councils to Glasgow. There is potential for ambush marketing within privately owned land including the green field space along the A737 and M8 corridors. Moreover, local authorities such as Renfrewshire Council are currently involved in advertising contracts for 10-15 years and ultimately will have no control over any sub-contracting. As such legislation should acknowledge these facts and incorporate accompanying measures.

Trading Activities

6. The importance of cross-referencing new legislation to Trading Standards legislation is paramount to ensuring protective measures for existing traders.

Ticket Touting

7. It will be important to build on previous experience in relation to the hosting of the Commonwealth Games in Great Britain. The fundamental principle of effective liaison and co-ordination between the policy and enforcement officers has to be acknowledged.

Enforcement

8. It is assumed that Trading Standards will influence practice in relation to the designated duties. The resource implications should be emphasised once again, as there is a clear expectation of a high level of input with corresponding expertise/training. Further guidance is desirable to clarify roles and responsibilities, given the level of power invested in the enforcers and the significance of the end of the legislation at the conclusion of the Games. There is also reference in section 16 of the introduction to local authority employees undertaking the role of enforcers. It is not clear if this is restricted to Glasgow and no detail is given in relation to training and associated costs.

Transport

9. The importance of consultation with neighbouring local authorities in the development of a transport plan in section 31 of the draft bill must be emphasised. Moreover, consultation is essential even if no sporting functions will be taking place within other local authority areas.

10. Further discussion and clarification in relation to the resource implications for promoting traffic regulation orders should be noted, particularly in the context of section 32 (2).

Land Acquisition

11. Greater clarification is desirable on the range of sports to be included in the Games and the potential for other neighbouring council facilities to be used for training purposes.

Comments on Specific Sections of the Bill

Section 9

12. Intellectual Property theft has now been “criminalised” by the inclusion of 2 new sections in The Copyright Designs & Patents Act 1988. These are Section 107 and Section 198. Use of the powers in these sections, which places the enforcement duty on the local weights and measures authority by virtue of Sections 107A and 198A, may preclude the need to have specific legislation relating only to the Commonwealth Games.

Section 11

13. This refers to the Trade Marks Act 1994 and the Trades Description Act 1968 but both of these Acts will be the subject of change and /or repeal as they are in conflict with the Unfair Commercial Practices Directive (UCPD). The proposed implementation date for the UCPD is April 2008. In addition any proposed specific legislation for the “Games” will have to comply with this Directive/Act the main aim of which will be to introduce a general duty on all businesses in the UK not to trade unfairly with consumers to harmonise unfair trading laws in all European Union Member States.

14. Further, the proposed legislation Trading Standards currently includes powers which can also be utilised e.g. relating to Business Names display, pricing display both of which can be used to discourage unlicensed street traders.

Sections 14 and 15

15. Trading Standards currently have powers with regard to “ticket touting” contained in the Price Indications (Resale of Tickets) Regulations 1994 and any proposed legislative will have to take this into account. No mention is made of the sale on the Internet. UK legislation already exists in this area. Therefore, this section appears to replicate this legislation.

Section 16

16. If any offence is committed it will have to be tried in the local authority area in which it is committed and as such the powers of the “Enforcement Officers” will have to be specific to each local authority. This will have to be taken into account when the “Act” is drafted. In addition, the Draft Bill states what is not a touting offence but selling tickets could still be either/or a section 2 trading offence or advertising offence i.e. double jeopardy?

Section 17

17. As with comments relating to Section 11 above, Trading Standards have existing powers under Trade marks, TDA and Copyright legislation but these may well change under the legislation to implement the UCPD. The proposed “ Games” legislation will have to ensure that it complies with the UCPD.

Section 21

18. We would prefer the term “has reason to believe” rather than “believe” in 1(a) (i) as this lends itself to the officer having to provide proof of belief.

Section 29

19. We are unclear as to why the obstruction penalty in sub-section 4 is at level 3 on the scale. Penalties for offences in sub-section 1, 2 and 3 are higher but by being obstructive any offender may be able prevent evidence gathering for prosecution under these sections.

20. Other suggestions are that a section on forfeiture of seizure goods should be included. In addition, there should be a link to the prosecution to the Proceeds of Crime Act as if specified this could prevent involvement of serious large scale criminal gang activity.

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