



Draft Glasgow 2014 Commonwealth Games Bill.

***UNISON Scotland's response to the Draft
Glasgow Commonwealth Games Bill
Consultation Document.***

September 2007

Executive Summary

- UNISON Scotland welcomes the opportunity to comment on this consultation. UNISON members will be engaged in the many roles making sure the Games are delivered.
- UNISON Scotland broadly supports Glasgow's bid to host the 2014 Commonwealth Games and the legislation required to support the delivery of the Games.
- UNISON Scotland fully supports the functions of the bill, that will:
 - Prohibit unauthorised advertising or outdoor trading within the vicinity of Games venues;
 - Prohibit the unauthorised sale of Games tickets in excess of face value;
 - Create Enforcement Officer posts to enforce the advertising, street trading and ticket tout offences and make it an offence to obstruct them in their duties;
 - Provide Local Authorities with the power to make Games Traffic Regulation Orders;
 - Provide Local Authorities with the power to issue a Compulsory Purchase Order for land within their area which they believe is required for Games purposes;
 - Provide Ministers with the powers to direct Local Authorities to make, vary or revoke any instrument which regulates road use in relation to the Transport Plan for the Games;
 - Provide Ministers with powers to pay grants and provide other forms of assistance to the Organising Committee of the Games and set conditions on such assistance; and
 - Provide Ministers with the power to repeal the Act from the statute book once the Games have ended.
- UNISON Scotland has some concern that the consultation fails to provide such basic details on staffing and financial issues. These functions will have a direct input from our members working in Local Authorities who will be required to ensure that these functions are implemented.

Introduction

UNISON is Scotland's largest public sector trade union representing over 160,000 members. We are the largest trade union in local government, with over 98,000 members working in this sector across Scotland. UNISON welcomes the opportunity to comment on this consultation, particularly as UNISON will have members engaged in the responsibilities assuring that the Games can be delivered.

Glasgow's bid for the 2014 Commonwealth Games is a tremendously exciting proposal which has the potential to make a huge difference to Glasgow and across Scotland.

It is vital, if the bid is to be successful, that it is recognised it provides opportunities not only for Glasgow and the surrounding Local Authority areas, but across the whole of Scotland.

The Glasgow Commonwealth Games

The definition of "games event" does not appear to consider trading prior to, or even after, a "games event". It is likely, based on the Trading Standards experiences of previous major sporting events, such as major football finals in Glasgow and previous Commonwealth Games in Edinburgh, as well as future events such as the Olympic Games in London, that there will be significant levels of trading created prior to the Glasgow Commonwealth Games beginning.

Much of this trading will be directly related to the Games. Businesses and individuals will view the Games as an entrepreneurial opportunity. This will manifest itself in otherwise legal trading activities (that have been subsequently prohibited by the legislation) as well as illegal trading activity. Examples of the former would be hot/cold food and drink vendors or souvenir sellers. Examples of the latter would be the sale of counterfeit/trade mark infringing goods or unsafe goods marketed as Games items. Trading Standards would have a direct enforcement responsibility in both of these examples. Whilst there are numerous statutes that would apply to businesses and persons undertaking trading activities the Trade Descriptions Act 1968, the Trade Marks Act 1994, the Copyright, Designs and Patents Act 1998, the Business Names Act 1985 and the Consumer Protection Act 1987 would be most relevant.

Experience indicates that businesses and individuals will travel significant distances (particularly travelling from England to Scotland) to "cash in" on the marketing opportunities that the Games will generate. From a strategic perspective, and working on an intelligence-led basis, an effective enforcement strategy would incorporate joint-working arrangements between Strathclyde Police and Trading Standards to monitor the main transport link between England and Scotland, the M74. The intelligence for such an

operation would be supplied by local Trading Standards Departments, colleagues in England and other police authorities.

Ambush Marketing

While some aspects of existing legislation provides some protection, the Bill seeks to fill the gaps in the current legal framework to allow the Games to take place free of ambush marketing and unregulated commercialisation.

Examples of ambush marketing are:

- The sale of unauthorised or pirated goods or services.
- The sale of goods or provision of services using marks, indicia or dates that (although not official trade marks) are suggestive of a connection with the event.
- The placement of billboards displaying the ambush marketer's name near the venue or venues of the event.
- The use of photographs of the sporting venue as background to the marketing campaign in a way that suggests sponsorship of the event.
- Sponsorship of the city where the event is being held or even a particular location.
- Giving away free tickets to the event as prizes in an advertising campaign and then advertising in such a way as to suggest sponsorship.
- Arranging aerial advertising over the venue immediately before or during the event as to suggest sponsorship or association.
- Sponsorship of individual participants in the competition and the purchase of media slots and billboard advertising before the event to promote the advertiser's goods or services.
- The giving away of free merchandise such as caps, t-shirts or even small flags bearing the advertiser's logo with the aim that spectators will wear the caps or t-shirts or wave the flags and be picked up in numbers by television coverage or still photographs.
- Advertising using the match schedules and broadcast schedules.

Ambush marketing has an impact on the integrity of the event, future sponsorship and survival of events such as the Commonwealth Games. It can be seen as 'commercial theft', freeloading and reaping the benefits of a major event without paying any money or using those who have paid money. Some global brands will not consider sponsorship of major events unless legislation is in place. It also leaves visitors vulnerable to being ripped off which will have an impact on attracting them back to Scotland.

Other countries have introduced new legislation. Australia launched an Ambush Marketing Legislation Review in March 2007 with the aim of providing information and advice regarding the effectiveness of the legislation to the Government. The findings of this review may prove valuable to the enforcement of the legislation for the Commonwealth Games.

Street Trading

UNISON Scotland supports the provision within the Bill which places a prohibition on trading in the vicinity of games events. Vicinity of games events is not defined and we would envisage sufficient personnel resources to be made available at multiple locations, at different times, to effectively enforce this provision. There would also be a need to ensure sufficient personnel resources were available outwith normal working hours.

This may require local authorities to authorise their officers in relation to Commonwealth Games enforcement and / or to enter into cross-border authorisation and enforcement arrangements with other authorities to make better use of staff time.

The Organising Committee will be required to liaise closely with those who will be undertaking enforcement activity, e.g., Police, Trading Standards and Environmental Health. There will also be a requirement to ensure effective communication between the different enforcement agencies.

The Organising Committee is responsible for issuing guidance in relation to trading in the vicinity of games events. We believe that this will require a strategic input from Trading Standards on a national or regional basis.

Advertising

UNISON Scotland supports the provision within the draft bill that it will be an offence to advertise in the vicinity of a games event. These provisions seek to prevent unauthorised advertising in relation to the Games, to control the nature and content of advertising for that purpose and to outline how advertising will be regulated.

Authorisations may be granted by the Organising Committee to person for the purposes of advertising. This will require effective liaison and communication between the Organising Committee and the enforcement agencies.

The Organising Committee is also responsible for issuing guidance on advertising in the vicinity of Games events. There may be a Trading Standards involvement in this respect in the proactive provision of business advice prior to the Games and this may require a national or regional input. The Control of Misleading Advertisements Regulations 1988 may also require a direct Trading Standards enforcement responsibility.

Ticket Touting

UNISON Scotland believes that ticket touting would undermine the first interaction between the public with the Games. We believe that ticket touting would also undermine the public confidence in the Games. The provisions within the bill outline a regime of control in relation to Games tickets. The main

provisions relate to the “touting” of tickets and the manner in which tickets for the Games can be legally advertised.

Trading Standards enforce the Price Indications (Resale of Tickets) Regulations 1994 and will have a direct enforcement responsibility in this respect. Trading Standard Officers also enforce the Control of Misleading Advertisements Regulations 1988 and the Unfair Contract Terms Act 1977 and again would have a direct enforcement responsibility in these regards.

Enforcement

UNISON Scotland supports the Bills provision for the Organising Committee to appoint Enforcement Officers who will be empowered to enforce the Advertising, Outdoor Vending and Ticketing offences.

We believe that clear provisions are required to allow effective enforcement and that there should be a reasonable balance struck between interests of event organisers and stakeholders/ third parties e.g. athletes, coaches, existing and new service providers, media and the public attending the events.

The Bill states that Enforcement Officers are likely to be employees of the Local Authority (in this case Glasgow City and surrounding Local Authorities). The enforcement powers contained within the draft are broadly consistent with those already used by Trading Standards Officers and Environmental Health Officers under existing legislation. These officers have responsibility for enforcing existing legislation which tackles some of the issues raised.

The number of staff involved, due to the variety and number of locations involved, and the pre-existing day to day work to the officers, it is likely that there will be cross border co-operation between enforcement authorities in order sufficient numbers of experienced staff are available to undertake enforcement duties. There would also be a need to ensure sufficient resources were available outwith normal working hours, and not solely for the duration of the Games.

The cost of enforcing, apart from direct employee costs, may be considerable, for example cost of exercising powers in relation to transport and secure storage of goods seized or employing subcontractors to cover offending material such as billboards and signs.

Most, if not all, of the services within Local Government who employ enforcement staff work within very small budgets and undertaking this additional role, albeit for a limited time, could have a quite disproportionate impact on finances.

Conclusion

The key element of this consultation paper is a requirement to introduce legislation to protect the games from ambush marketing, eliminate street vending and control advertising space.

Whilst the paper highlights the role of enforcement officer, UNISON Scotland believes that the paper fails to recognise the importance of the role that enforcement officers will have, if Glasgow's bid is successful.

UNISON Scotland is disappointed that the consultation fails to provide such basic details on staffing and financial issues.

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