

Avoiding scandal damage: A due diligence plan for corporate sports sponsors

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In recent years, the global sports audience has witnessed many corruption scandals. Such scandals can significantly impact the reputation of the brands sponsoring athletes and the competitions organized by sports institutions.

After all, a company's reason for sponsoring a sports related event or an athlete is simple: to increase the value (or at least improve the perception) of its brand through association with concepts such as fair play, hard work, integrity and ethics. However, once the sponsored event or person is revealed to be corrupt, this can easily tarnish the brand image and therefore the reputation of the sponsoring company.

As unethical behavior in the sports world such as doping or match fixing become more and more highlighted, companies contemplating sponsorship deals for athletes or the upcoming competitions such as the 2018 FIFA World Cup in Russia should find ways to mitigate such risks and take precautionary measures.

How can sponsoring companies do this? The best way would be to treat the sponsored institutions or athletes as third parties and conduct anti-corruption due diligence on them.

Anti-corruption due diligence requires measures to be taken (i) before the execution of the agreement, (ii) during the negotiation of the agreement and (iii) during the performance of the agreement.

A typical due diligence process should include a reputation check before the execution of the agreement. This is a relatively easy step given the celebrity status of many sports-related people. The harder part would be to negotiate the terms of the agreement which would safeguard the company -- to the maximum extent possible -- against anti-corruption risks.

First of all, sponsorship agreements should have an unethical clause including doping or game rigging prohibitions. The agreement should clearly provide that in case of the breach of the anti-corruption or the anti-doping clause, the sponsor should have the right to immediately terminate the agreement and the counterparty should compensate the sponsor's losses. Sponsors are advised to include a deterrent (for non-compliance risks) penal clause.

The sponsor can also insert a clause that provides itself with the right to audit the athlete or the organization through doping tests or the institution of a books and records audit. These provisions, of course, should be used in the agreements in a proportionate manner. For example, if a sponsorship agreement is being executed with a person convicted of corruption before, the agreement can include a provision for periodic unannounced audits and other intrusive tests.

Just as many companies would adopt a zero tolerance policy towards corrupt behavior by third parties, companies should also adopt a zero tolerance to unethical behavior by the athletes or the sports institutions and games they sponsor. After all, being diligent about unethical behavior in sports does not always mean forgoing sponsorship opportunities. Instead it might mean an extra portion of due diligence and other precautions.

Since the sponsoring companies provide a significant amount of the revenues of the sports associations (according to **MarketingWeek**, sponsorships contribute to 28.5 percent of FIFA's revenues), the sponsors have significant sanctioning power. Some companies would rather use this power instead of backing out of the sponsorship. For example, during the FIFA corruption scandal where high ranking FIFA officials, including the president, were investigated by the U.S. authorities, it was FIFA sponsors such as Visa, McDonald's and Coca-Cola who pressed for FIFA's then president to resign.

Recent corruption scandals in sports point companies to anti-corruption due diligence which emerges as a standard risk-averse procedure for corporate sports sponsorship deals. Aside from regulatory necessity, being diligent also requires companies to take preventive and corrective actions to set a minimum standard and send a global message.

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