



October 6, 2008

Sheridan Scott, Commissioner of Competition
Competition Bureau
50 Victoria Street
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Dear Ms. Scott:

Re: Complaint Against the Vancouver Organizing Committee for the 2010 Olympic and Paralympic Winter Games (“VANOC”)

We are writing on behalf of the British Columbia Civil Liberties Association to make a complaint and, pursuant to sections 9 and 10 of the *Competition Act*, call for an inquiry against an organization that in our opinion has undertaken practices in violation of Part VIII of the *Competition Act* (the “Act”).

The trigger for this complaint is the recent news that VANOC has made blanket purchases of every major supply of public advertising space in the Lower Mainland for the ten-week Olympic period and has done so explicitly so as to eliminate any competitive speech activities. Please see the enclosed news report entitled “VANOC spends \$40 million to tie up advertising space”. VANOC’s purchase apparently includes all advertising space on public transit vehicles, including vehicle exteriors, transit stations and platforms, airport baggage carousels, mall posters, and outdoor billboards.

Our complaint, however is not limited to that shocking announcement, but relates as well to VANOC’s pattern of threatening behavior regarding the mere mention by others of the Olympics coming to Vancouver in 2010.

Its website, which we invite you to review, including the page and links found at <http://www.vancouver2010.com/en/about-vanoc/the-vancouver-2010-brand/protecting-the-brand/-/32798/1i3nwix/index.html>, sets out a torrent of threats of enforcement actions against others. It is apparent that VANOC will not tolerate any competition and intends to use its financial muscle and privileged position to stifle public speech by others.

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To: Sheridan Scott, Commissioner of Competition
From: BC Civil Liberties Association
Date: October 7, 2008
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Our Association is concerned that VANOC's explicit attempt to monopolize advertising space in order to prohibit non-sponsors from advertising at all during the Games is a practice that effectively denies an advertising forum for others. That includes both commercial and political speech.

VANOC's actions eliminate the possibility of competing and dissenting views being put before the public. This appears to us to be anti-competitive behavior and to call out for your office to investigate and take action.

It appears to us that VANOC's actions fall within the restrictive trade practices prohibited under sections 75 and 78 the *Competition Act*. Specifically, we are of the view that VANOC's attempt to completely monopolize advertising space constitutes an exclusion of rivals from facilities and that action:

- Constitutes refusal to deal (s. 75(1))
- Denies entrants the inputs needed to compete (s. 78(1)(b)),
- Constitutes a practice that pre-empts a scarce facility or resource required by a competitor (s. 78(1)(e), and
- Constitutes a practice that effectively excludes others completely from the market (s. 78(1)(h).

VANOC has obtained special treatment and considerable protections concerning its name and marks through legislation passed for its benefit (e.g., the *Olympics and Paralympics Marks Act*) and through its reliance upon intellectual property laws generally. It has enormous financial resources derived from public financing and from its own commercial activities. The combination of those, together with its website's aggressive stance threatening others with what in our view would amount to abusive litigation interfering with basic rights of speech and expression and its announcement that it has bought up all advertising space, creates a serious and substantial impact on competition.

We ask that the Competition Bureau investigate what appear to be anti-competitive practices of VANOC, including those referenced in the attached news report in regard to the monopolizing of public advertising space, provide us and the public with a timely response as to the results of your investigation and take such further action as the Competition Bureau may deem appropriate.

Yours truly,



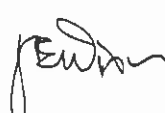
Robert Holmes
President



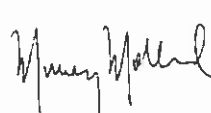
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Vanoc spends \$40 million to tie up advertising space

Jeff Lee

Vancouver Sun

Wednesday, October 01, 2008

Organizers of the 2010 Games will spend \$40 million buying up every major supply of public advertising space throughout the Lower Mainland.

Everything from billboards to mall posters to Vancouver International Airport baggage carousels, to every inch of available space on TransLink's vast fleet will carry the corporate Olympic message in 2010.

The move, which involves six major advertising suppliers, honours Vanoc's commitment to the International Olympic Committee to sew up all advertising locations for Games sponsors and prevent so-called "ambush marketing" by non-sponsors. The deal also allows the Vancouver Organizing Committee to resell that advertising at cost to sponsors, according to Dave Cobb, Vanoc's executive vice-president of revenue, marketing and communications.

Cobb said Vanoc is still working out deals with some of the six suppliers in the Metro area.

But he said Tuesday that the agreements require Vanoc to pay full market rate to the owners of the advertising space.

Vanoc will then try to sell that space to sponsors at cost-recovery rates.

"Our objective is to pass it all through, to receive enough money from sponsors to pay suppliers like TransLink for their inventory," he said.

"It's not a profit centre for us, and our object is to sell all of it. If we do, we recoup our money."

Cobb said the Vancouver Bid Committee, Vanoc's predecessor, signed agreements with advertising suppliers securing all outdoor advertising space around the Olympics.

Vanoc was obligated to buy 100 per cent of the inventory, and to pay full price, adjusted for inflation. The suppliers also didn't have to use a broker, he said, giving them a richer deal.

"That would result in each of the suppliers receiving significantly more revenue than they ever would have received for the 10-week [Olympic] period," he said.



CREDIT: Richard Lam/Vancouver Sun
 An ad for Rock 101 on the side of a Vancouver bus.

Vanoc revealed the new details in the wake of an agreement it signed with TransLink to include public transportation with Olympic admission tickets.

As part of that agreement, TransLink will give Vanoc access to a large range of advertising options, including space on board buses, SkyTrain and West Coast Express cars, in stations and on platforms, and even the ability to wrap vehicles in Olympic livery or advertisements.

Cobb said the other suppliers include Pattison Outdoor, CBS Outdoor, Vancouver International Airport, Canada Line and Canada Storyboard, the large electronic billboard at Canada Place.

Cobb and Doug Kelsey, the CEO of TransLink, declined to reveal dollar figures behind the TransLink deal at this time because other contracts are still pending. They committed to making the details public early next year.

However, Kelsey said it's a good deal for taxpayers.

"The agreement for TransLink, we think is a very good agreement for us and the taxpayers. It is, in totality, self-funding. So relative to the cost of running the Games, our costs will be funded," he said. "That was the mandate of TransLink's board of directors."

Ken Hardie, TransLink's communications director, said the deal was based on a "conservative" estimate that there will be an additional 700,000 to one million transit rides during the Games.

"We're not getting paid off in stuffed animals. We're getting cash," he said.

"We're not wandering around trying to get rid of a thousand Quatchis or something like that."

Cobb said the advertising arrangements run from Jan. 12 to March 23, 2010.

The deals also make it extremely difficult for non-Olympic advertisers to take advantage of the Olympic period.

The International Olympic Committee has in the past insisted on stringent rules to prevent non-sponsors from creating unapproved affiliations with the Games.

Such "ambush marketing" rules have made it difficult for even ordinary advertisers because Vanoc aggressively protects its brand.

The recent Beijing Summer Olympics was plagued by ambush marketers, from car companies using stadiums as backdrops to perfume companies picturing models as high-performance athletes.

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