




Speech By  
**Michael Hart**

**MEMBER FOR BURLEIGH**

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**COMMONWEALTH GAMES ARRANGEMENTS (BRAND PROTECTION)  
AMENDMENT BILL**

 **Mr HART** (Burleigh—LNP) (4.38 pm): I rise in support of the Commonwealth Games Arrangements (Brand Protection) Amendment Bill 2013 introduced to the parliament on 13 February 2013 by the honourable Minister for Tourism, Major Events, Small Business and the Commonwealth Games and my electoral neighbour, the member for Currumbin. This amendment bill is some 39 pages in length but has a very simple objective: to prohibit the unauthorised use of certain images and references for commercial and promotional purposes and prohibit those people who might imply an association with the Commonwealth Games.

In this era of instant communication, fast-run manufacturing and electronic commerce, special rules and regulations are needed to protect various interests involved in the running and promotion of short time span events. The Commonwealth Games, to be held on the Gold Coast from 4 to 15 April 2018, is such an event. The lead-up, promotion internationally and massive investment by many organisations need to be protected. This special legislation aims to provide commercial comfort to those investors.

From past experience, both in Australia and overseas, there will be an extraordinary number of organisations that will try to take commercial advantage of such an event without investing in authorised and legitimate activities or products. This quantum of potential breaches of intellectual property relating to the games makes usual enforcement methods costly and impractical, particularly when related to the time frames involved. These amendments allow fast and simple remedies which are strong enough to act as a serious deterrent.

One area of intellectual property in particular that I have been concerned about is the potential explosion of domain names and electronic based organisations who will try to exploit the promotion of the event on the web. When researching this matter for this speech I completed a number of Google searches to see whether there are already organisations set up for this purpose. I am pleased to discover that no such activities were present at this stage in the first three pages of my searches. In fact, it was heartening to see that the main official site—goldcoastcity2018.com—is well and truly the dominant site on the first two pages of Google listings. We all know that if you are looking for anything on the web, you go to Google or Bing and you type it in. Anything that comes up on the first two pages is the sort of thing that people will look at. If you have to go to any more than two pages people will start to lose interest. This amendment bill will ensure that any non-authorised websites that pop up will be able to be removed with swift action by those responsible for policing the intellectual property of the games.

I am also pleased to see that the Newman government's charter of reducing red tape did not try to recreate the wheel, but in fact based the amendments on similar legislation that protected the Melbourne 2006 Commonwealth Games, the London 2012 Olympic Games and the upcoming Glasgow 2014 Commonwealth Games. This bill is, therefore, consistent with fundamental legislative principles while reinforcing the existing state and national framework for the protection of intellectual

property. It merely provides strengthened certainty in the Gold Coast Commonwealth Games context. However, due to the special circumstances of this international event there are exceptions in the creation of offences to co-exist with civil remedies and the power to seize unauthorised goods or advertising material. These are all developed to ensure we have fair but very speedy enforcement options. This is essential to give legitimate sponsors, who will be investing heavily, the absolute confidence that their investment will be protected.

Effectively, through this legislation, breaches of the games' intellectual property are exposed to a dual potential of both civil remedy and criminal prosecution. In outlining that fact, it is important to note that the relevant provisions are due to expire on 31 December 2018. This ensures that relevant activities undertaken after the games and, therefore, no longer having a significant effect will not attract this dual exposure of civil remedy and criminal prosecution.

I comment particularly on three new sections of the legislation, being section 51, 52 and 66. These specify the actual breaches and enforcement of remedy. New section 51 establishes the first of two offences: the unauthorised use of protected images and references for prohibited purposes. This offence will occur, for example, in the promotion and sale of items of unauthorised clothing that may be printed with copies of things like the games logo or images. A section 51 offence may also occur with the unauthorised use of logos and images on websites that will appear closer to the games time period of opportunity.

New section 52 establishes a second offence: conduct falsely suggesting a sponsorship arrangement or conduct falsely suggesting an affiliation with the games, a games related entity, or an event or program associated with the games. The detail of this section 52 offence is self-explanatory and experience may show that a particular unauthorised activity will in fact breach section 51 and section 52. An example of this may be a T-shirt that is produced to promote a particular games cycling event or games cycling in general featuring the official games cycling logo and the dates of the games. This could effectively breach both section 51 and section 52. This breach, for example, may then activate section 66 which states that, from 1 January 2018 through to 18 April 2018, a police officer may seize goods, advertising material or a device. The officer may act if he finds the goods or material in the immediate vicinity of a relevant place and believes that the goods or material contravenes section 51 or 52 or both.

It must be noted that new sections 67 to 76 specifically address the actions of authorities in relation to the seizure of goods and materials. These sections safeguard a fair and speedy process to ensure the rights and protection of sponsors and the organisers of the games. In outlining these relevant and important amendments contained in this bill I must note the first of the other main tools which will be an administrative regime of authorisations for not-for-profit community purposes. The second main tool will be a standard practice of resolving breaches informally if possible—and appropriate—with proceedings usually as a last resort. The intention of the amendments is, therefore, not all about breaches and policing.

During its discussions with the department, the committee did have concerns about the proximity of New South Wales to the Gold Coast. We all know that with regard to any sort of games on the Gold Coast—the Commonwealth Games in particular—it is only a hop, skip and a jump to Tweed Heads in New South Wales. So I think it is pretty clear that we can expect people who do want to take advantage of these particular laws and the opportunities that the Commonwealth Games do provide to go down and do these sorts of things in New South Wales. That was one of the reasons the committee suggested that the minister move as quickly as possible to start talking to the Commonwealth government. We have heard from the minister this evening that that is well and truly underway. I commend the minister for that. I think the member for Gympie touched on the fact that as a nation it is the Commonwealth government that should have an overarching area of responsibility as far as legislation goes for these sorts of events.

One would think that after several Olympic Games, a couple of Commonwealth Games and major events like the Australian Grand Prix in Melbourne for the last several years there would in fact be some sort of overarching cover for intellectual property for these very short-term events. We must remember that the duration of the Commonwealth Games will be about two weeks, but obviously there will be a lot of activity in the years leading up to that. Given that we are five years away, the minister and the department have a lot of time to get this right.

I am also very happy to see that the government does not intend on taking the heavy-handed approach we saw in London in the last few years. It would be terrible, as the member for Gympie said, to tell that person with their sausage rings or their bakery rings or whatever that they cannot do that. I would hate to see, for instance, the fun police on the beach at Burleigh telling someone that they cannot draw a few rings in the sand. I say to the minister and the department: let us encourage

business on the Gold Coast in that regard, and I note that the legislation is well and truly there, especially given that this government is all about promoting business. In the current environment, it is really up to the government to promote those sorts of things—that is, giving people the opportunity to build their businesses, to employ people and to take care of their families. This is going to be a great thing over those couple of weeks.

I finish by repeating the objective of the bill—that is, to prohibit the unauthorised use of certain images and references for commercial and promotional purposes and to prohibit conduct falsely implying an association with the games. The bill amends the Commonwealth Games Arrangements Act 2011 and the Police Powers and Responsibilities Act 2000. The amendments will give sponsor investors and game organisers speedy remedies and protection from unscrupulous people and firms who may attempt to profit from the games without sharing in the cost that those legitimate partners are putting forward. I commend the Minister for Tourism, Major Events, Small Business and the Commonwealth Games and my neighbour, the member for Currumbin, for the work associated in bringing this bill before the House. I also want to thank my fellow members on the State Development, Infrastructure and Industry Committee for its speedy work in looking at this bill. I especially want to thank the hardworking staff in our secretariat. They do a wonderful job. Without them I am really not sure that we would be doing our job properly, so I want to thank all of our staff. With that, I commend the bill to the House.