

**UNIVERSITY OF WISCONSIN-MADISON
FACILITIES USE POLICY**

SUBJECT: Policies Governing Advertising, Commercial Use, Incentives, Acceptance of Gifts, Sponsorships, and the Use of University Names and Marks

POLICY OF: Vice Chancellor for Legal and Executive Affairs

DATE: September 1992; June 2000

I. INTRODUCTION, BACKGROUND AND AUTHORITY

The University of Wisconsin-Madison (“University”) recognizes that many of its activities provide potential sources of revenue or other non-financial benefits through legitimate and worthwhile opportunities for advertising, sponsorships and other promotional activities. This revenue can be beneficial to the entire University community, and, in turn, the State of Wisconsin.

However, it is also necessary to recognize that the University is a public institution and that its reputation and image must be protected. Therefore, the University has adopted the following policies applicable to the granting of advertising, sponsorship and promotional rights to non-university entities.

The Office of the Vice Chancellor for Legal and Executive Affairs (“Legal and Executive Affairs”) has been given the authority to administer these policies under the authority of the UW System Board of Regents (“Regents”). In addition, any dispute about these policies or their application must be referred for resolution to Legal and Executive Affairs. Certain decision making and administrative functions related to these policies may be delegated to other University offices or entities upon appropriate application to and approval by the Vice Chancellor for Legal and Executive Affairs (“Vice Chancellor”).

These policies will be reviewed and revised as needed. In addition, an Advertising and Commercial Use Advisory Committee will be available to advise the Vice Chancellor, the Office of Trademark Licensing, the Division of Intercollegiate Athletics, and other University entities concerned with the development or assessment of advertising and related activities as deemed appropriate by those offices on questions and interpretations related to the application of these policies. A Licensing Advisory Board will also be available to advise the Director of Trademark Licensing and Legal and Executive Affairs on issues related specifically to the University’s trademarks and their licensing.

II. ADVERTISING

A. Definitions

Advertising is any advertisement, signage, label, logo, packaging, imprint, sales promotion activity or device, public relations material or events, merchandising or other activity or communication that has the obvious intent of promoting or marketing a non-University product, service, event or organization. As defined by the Internal Revenue Service (IRS) for Unrelated Business Income Tax (UBIT) purposes, Advertising includes messages that contain qualitative or comparative language, price information, an endorsement, or an inducement to purchase, sell or use the non-University advertiser's products or services. This definition does not apply to an Acknowledgment of Sponsorship as defined and discussed at IV below.

University Publications are publications, including electronic publications, published by or on behalf of a University department, college, program or unit. University Publications that are produced by others on behalf of a University unit are subject to these policies. Contracts for their production should contain a clause stating this.

Non-academic University Publications include, but may not be limited to, programs for cultural, theater and other performing arts events, programs for athletic events, staff and student directories, visitor information and alumni magazines.

Academic University Publications include, but may not be limited to, school and college brochures, periodicals and bulletins, timetables, and course catalogues.

B. Grants of Advertising and Promotional Rights

1. In general, Advertising or promotional rights may be granted to a non-University entity to advertise at or about University events, in University Publications or on University property when (1) revenue or other benefits will be generated for a University department or program; (2) the standards and criteria set forth in these and other relevant policies are complied with; and (3) UW System's "General Administrative Policy Paper-2" (hereinafter "GAPP-2", attached as Addendum A) and any other applicable State or University procurement regulations are followed.
2. These policies should not be construed to permit advertising, sponsorships or other commercial uses of campus web sites or addresses that are located on any campus computing network. Separate policies applicable to web sites will be developed. Until such policies, applicable to web sites, are developed, web site advertising, sponsorships or other commercial use will not be permitted except with

the prior written permission of the Vice Chancellor as a pilot or test case. Questions relating to this issue should be directed to Legal and Executive Affairs.

C. Advertising in University Publications

In general, Advertising in *University Publications* shall be limited to Non-academic University Publications. Academic journal and periodicals are excepted from this provision and may contain Advertising. Other exceptions may be granted for extraordinary publications upon written request to Legal and Executive Affairs.

D. Advertising Contracts/Agreements

All Advertising, as defined herein, in/on University Publications (including electronic publications) or in/on other University communications media, signage, property, material, or facilities shall be under a written contract/agreement executed by a University official who has been delegated contracting authority from the Regents, before any acceptance and placement of the Advertising.

E. Unacceptable Types of Advertising

The University has the right and will refuse Advertising which it considers unacceptable. For example, Advertising is unacceptable when it (1) conflicts with University policies; (2) adversely affects the University's reputation; (3) appears to create an endorsement by the University of a particular company, product, political candidate or position regarding public policies; (4) is considered to contain obscene, indecent or profane material; (5) ridicules, exploits, or demeans persons on the basis of their age, color, creed, handicap, national origin, race, religion, sex, or sexual orientation; or (6) promotes tobacco products.

The University may permit Advertising of alcoholic beverages in University Publications, or other University media, at University events or on University property only when the primary audience of the associated program or activity is non-students. When permitted, the content of any alcoholic beverage advertisement must not appear to encourage the misuse of such beverages, must include specific warnings against abusive or unsafe use of alcohol, and/or must directly and conspicuously promote responsible use of alcohol.

All Advertising about, or including reference to or depiction of, alcoholic beverages regardless of the audience toward whom it is intended, shall be submitted to Legal and Executive Affairs, or its designee, for prior written approval.

F. University Department vs. Commercial Advertising Rates

The University and its departments may determine rates for Advertising as appropriate to cover any costs associated with such Advertising and to generate revenue. The University and its departments may offer special Advertising rates for Advertising originating with on-campus advertisers.

G. Use of Campus Mail Systems to Distribute Advertising Materials

Distribution of non-University Advertising materials through the campus mail or email system is prohibited. University Publications which may contain Advertising, as described in accordance with C. above, are exempt from this prohibition and may be distributed through campus mail systems. Use of the campus email system is further subject to the Guidelines for Appropriate Use of University Information Technology Resources.

H. Unrelated Business Income Tax (UBIT)

Amounts received by University departments, colleges, programs, or other units for Advertising may be unrelated business income to the University, subject to UBIT under the Internal Revenue Code. Accounting Services must be contracted in order to review the arrangement contemplated and to ascertain whether there are any tax implications.

I. Use of University Trademarks

Any Advertising that includes the use of any University trademark must comply with the University's trademark and licensing policies, and may require the payment of a royalty to the University for such use. The Office of Trademark Licensing ("Licensing Office") must be contracted to review and approve any such use.

III. COMMERCIAL USE OF FACILITIES

The use of University facilities is primarily for the purposes of instruction, research, and public service. Use by University groups and non-University groups under the sponsorship of a University department or organization is authorized, but only in conformance with these and other applicable policies.

The use of University facilities by or for commercial or commercially-related interests is allowed as long as the use is consistent with these and other applicable policies and rules, the policies of any University department or facility, or organization that is involved in the activity, and the University of Wisconsin-Madison Policies Governing Use of University Facilities and Lands.

Commercial use of facilities and grounds by non-University individuals or groups, and the commercial offering, demonstration, distribution, display, advertising, promotion or sale of goods or services on University property not otherwise covered

by a University contract shall take place only with the prior written approval of Legal and Executive Affairs, or its designee, based on a case-by-case review, and subject to terms and conditions negotiated and/or imposed by Legal and Executive Affairs, or its designee. Uses that may involve sales or solicitations must also comply with the provisions of UWS 18.06(16) in particular.

Any contract drawn between the University and a non-University entity under these policies for commercial use of facilities and any written approval for such use from Legal and Executive Affairs shall:

- (1) Provide for recovery of costs for such usage to ensure that the State will not be required to spend any public funds to accommodate those renting/using the premises during the authorized period;
- (2) Note the authorized use of facilities does not in any way constitute University or State endorsement of the using entity, its products, views, objectives or program content; and
- (3) Be limited to uses that do not interfere with primary University uses for which the facilities were intended.

IV. GIFTS-IN-KIND, GIFTS OF MONEY, SPONSORSHIPS, ACKNOWLEDGMENTS AND ENDORSEMENTS

A. Definitions

Gift-in-Kind is a product or service donated, in lieu of a cash gift, to a University department, college, program, or unit.

Gift of Money is a cash donation or pledge made directly or through the University of Wisconsin Foundation to a University department, college, program, or unit.

Sponsorship is a non-University underwriting of a specific University event, publication, or special activity (such as scholarship fund drive) that represents the equivalent of a Gift-in-Kind or a Gift of Money insofar as the non-University sponsor provides or pays for advertising, promotion, materials, awards, and/or other items or services of value related to the specific event, publication or activity. Sponsorship and an Acknowledgment of Sponsorship are not Advertising as that term is used herein. However, the provisions of these policies related to unacceptable and acceptable Advertising (at II.E. above) apply to the evaluation of acceptable Sponsorships.

Acknowledgment is recognition of financial or material contributions to a University unit or Registered Student Organization (“RSO”) when the RSO is using University facilities. Any Acknowledgment must be secondary and subordinate to the name, marks and other representations of the University or RSO, and must conform to these policies pertaining to the use of non-

University names and marks in University materials or on University materials and property. For IRS UBIT purposes, an Acknowledgment of Sponsorship may include information about a sponsor's location, telephone number, internet address, value neutral descriptions of a sponsor's products or services and sponsor's logo, established slogan, brand or trade name.

Endorsement shall mean any statement or depictions which can be reasonably construed or imply a preference by the University, by any of its units or employees, speaking or acting as representatives of the University, or by an RSO for one non-University interest over any other.

B. Specific Policies

These policies are not intended to diminish appropriate support of University activities by non-University entities, but rather to ensure that University events and facilities are not inappropriately used as vehicles for promoting commercial interests. It is the responsibility of any University group or RSO involved in the sponsorship, development, arrangements or publicizing of any such activities to comply with and to enforce compliance with these policies.

Gifts-in-Kind involving products (but not services) require formal acceptance by the Regents on recommendation of (1) the appropriate department head and (2) the Chancellor. Policies regarding the acceptance of a Gift-in-Kind are found in GAPP-2 and in Research and Sponsored Programs Notice 84-1.

In certain cases the would-be donor may request, or the intended recipient may wish to offer, specific public recognition of the gift beyond the customarily provided, after acceptance by the Regents. Such recognition, or Acknowledgment, must be consistent with the general principles of these policies and cannot result in an overt or implied Endorsement of an entity, product or service, result in or in any way give the appearance of personal gain, or be construed as being conditioned upon acquisition and/or use of additional or other products or services from the same source.

In cases where a Gift-in-Kind or Gift of Money is offered to the University in anticipation of specific public recognition, or Acknowledgment, the Gift-in-Kind or Gift of Money may not be accepted, nor may any gift-related Sponsorship be allowed or acknowledged, except under a written contract/agreement or until Legal and Executive Affairs, or its designee, has been contacted and has formally approved in writing the proposed recognition. In addition, should a Gift-in-Kind or Gift of Money involve the naming or dedicating of any University facility, Regent Policy 96-1 must be followed.

University departments or RSOs receiving sponsorship for programs or events held in University facilities may provide an Acknowledgment of that support.

University departments or RSOs holding or publicizing events in University facilities shall not make statements or engage in activities which would constitute an Endorsement of a particular Non-University interest or organization, or its products. Limited exceptions may be granted to RSOs sponsoring events in support of charitable organizations.

Faculty and academic staff members are reminded that acceptance of individual gifts is governed by Chapter UWS 8 of the Wisconsin Administrative Code entitled, "Unclassified Staff Code of Ethics". In particular, the code states, "*it is a violation for unclassified staff members to seek financial gain for themselves, their immediate families, or organizations with which they are associated through activities that conflict with the interests of the University of Wisconsin System.*"

Classified staff acceptance of gifts-in-kind is governed by ER-MRS 24.04(2) of the Wisconsin Administrative Code which states that "*The state must, by necessity, specifically prohibit those activities that will cause a conflict of interest to the employee or the State of Wisconsin. Therefore: (a) no employee may use or attempt to use his or her public position or state property, including property leased by this state, or use the prestige or influence of a state position to influence or gain financial or other benefits, advantages or privileges for the private benefit of the employee, the employee's immediate family, or an organization with which the employee is associated.*"

Individuals and groups connected with the University's athletic department are also referred to the applicable provisions of Sections 11.2 (Contractual Agreements), 11.3 (Limitations on Compensation and Remuneration), and 12.5 (Promotional Activities) of the NCAA Manual.

V. USE OF INCENTIVES

The University recognizes that the abilities to negotiate and to provide certain special incentives, as part of a bargained-for exchange of money, goods, or services, is common business practice, and can be an effective tool for attracting Advertising, gifts, Sponsorships, and other promotional revenue if handled in a manner consistent with State and University policies.

Any granting of incentives shall be covered by written contract.

It is further recognized that there are practical limitations on the availability of such incentives, and their use must optimize the return or advantages they generate for the University. These resources are made available only for University business purposes.

Complimentary and reduced price tickets to any University athletic event for which an admission fee is normally charged are prohibited under Wis. Stats. 36.39 with the following exceptions:

- (1) Reduced price tickets for persons 62 years of age or older, minors, and students;
- (2) Complimentary and reduced price tickets permitted by rules of intercollegiate athletic conferences in which the UW System participates if the Chancellor of the institution participating in the Athletic event has approved the furnishing of such tickets; and
- (3) Complimentary and reduced price tickets for individuals who perform duties directly related to the conduct of the athletic event for which they are issued.

Therefore, whenever athletic or other event tickets are part of a bargained-for exchange under this section, the consideration in money, goods, or services to the University under the required contract must at least equal in value the dollar value of the tickets to be provided.

VI. USE OF NAMES, LOGOS, SYMBOLS, AND MARKS (TRADEMARKS)

A. Ownership

The University's names, logos, symbols, and other identifying marks are trademarks owned by the Regents. The use of University trademarks on any goods, merchandise or service or as part of a promotion or advertisement, must comply with the University's licensing policy as established by the Licensing Office and Legal and Executive Affairs, Regent Policy 91-6 on Collegiate Licensing adopted on May 10, 1991 and the approved usage design specifications.

The University's trademarks include those set forth in Appendix H and others that may subsequently be adopted, used and/or registered. The contents of Appendix I will be revised and updated from time to time.

B. Advance Approvals of Uses

All uses of University trademarks, and of all their variations or revisions, must conform to established design specifications. If the use does not conform to those specifications, the Licensing Office must approve the use in advance in writing.

At its discretion, particularly when there may be no clear precedent for approval or disapproval, the Licensing Office may refer requests for approval to its advisory board which shall promptly review such requests and make a recommendation to the Licensing Office. The Licensing Office will take the board's recommendation into account in responding to the request.

Any request for use of University trademarks that is submitted for approval and is then revised in order to meet the conditions prescribed by the Licensing Office must be resubmitted for written approval. Individuals or units may incur liability for unapproved or unlicensed purchases or uses made while such individuals are acting on behalf of the University or any of its units, which bear any University trademarks. Failure to secure the written approval or conditional written approval of a proposed use of a University trademark may result in the forfeiture of advertising/licensing revenue or an equivalent dollar value of the service in question. The person or unit may be billed for this amount.

C. Uses by University Departments and Units and Registered Student Organizations

1. Internal Use. University departments and administrative units and RSOs may use the University's trademarks on internal publications and other non-commercial items (i.e., posters, books, slides, etc.) as long as their use conforms to established design specifications. If the use does not conform to established design specifications, the Licensing Office, or its designee, must approve the use in writing in advance. No department, unit or employee of the University or RSO shall use or develop any variations of the University trademarks, or approve or consent to the use of the University trademarks by any other entity or organization, without prior written authorization from the Licensing Office. That office reserves the right to institute a review process for such uses to ensure adherence to these policies.
2. Purchases of Products or Services using University Marks. Purchases or other acquisitions by University departments or units or RSOs of products or services using University trademarks must conform to the established design specifications. If the use does not conform to established design specifications, the Licensing Office must approve the use in writing in advance. Such uses are not exempt from licensing or licensing fees and/or royalties if such products or services are to be available for resale to the general public.
3. Exemptions from Fees and Royalties. Purchases or other acquisitions by University departments or units or RSOs of products or services using University trademarks, when purchased or acquired for internal University or RSO consumption, and not for resale, are exempt from licensing fees and/or royalties. Purchases or other acquisitions of products using the University trademarks intended for resale to a limited audience (e.g. unit personnel, RSO members)

may be exempt from licensing fees and/or royalties with the advance written approval of the Licensing Office. In all cases, such purchases or acquisitions (a) shall be from current UW-Madison licensees and conform to established design specifications; or (b) must be approved in writing in advance by the Licensing Office.