

Not quite saying 'Super Bowl,' but cashing in on it

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Every year shortly before the Super Bowl, advertisers exhort fans to "get ready for the Big Game" (with a new HDTV), "stock up for the Big Game" (with pizza and ice cream) and score some "Big Game Savings" (on Doritos).



Pepsi is promoting its brands with a "Big Game Savings" promotion.

It is an American marketing ritual, a kind of nudge-nudge, wink-wink around existing trademark law.

Only the N.F.L.'s authorized sponsors of this product or that service can use trademarks like "Super Bowl."

Those without official ties to the league — even the ones spending at least \$2.4 million for a 30-second ad on the CBS broadcast of Sunday's game — are banned from using trademarked terms for fear that they will ambush the sponsors.

The Big Game is, or has been, the default euphemism for electronics retailers (CompUSA and Radio Shack), supermarkets (Winn-Dixie), computer makers (Dell) and networks competing against the Super Bowl (Fox).

"Just because it's the big game," Publix supermarket suggests in its current circular, "doesn't mean you have to serve the standard fare." (But wouldn't you do something different precisely because the big game is big?)

This year, Miller High Life is having fun with the taboo against illicit use of the Super Bowl name with an online campaign ("Little Guys on the 'Big Game' ") that will be seen during the Big Game (through commercial time it bought on CBS affiliates, not the network). It features

ads with small-business owners from around the country, which are intended to promote their sales. In one of the commercials, two Miller High Life deliverymen are shown loading cartons of beer.

DELIVERYMAN 1 Big game's coming up.

DELIVERYMAN 2 Here we go again.

DELIVERYMAN 1 Every year, those big muckety-muck companies prance out those fancy-pants commercials.

DELIVERYMAN 2 Thirty seconds of nonsense.

DELIVERYMAN 1 Dancing monkeys and talking babies.

DELIVERYMAN 2 This year, High Life should buy a commercial on the Big Game and give it to the little guys, the people who need it.

Julian Green, a spokesman for MillerCoors, said that the campaign's message of living the high life "unpretentiously" resonated in today's uncertain economy and was undiminished by not being able to use Super Bowl. He added, "The concept is beyond the limitation of saying, 'The Big Game.' "

The Miller Lite brand, also part of MillerCoors, has auctioned the chance for a fan to play host to the Hall of Fame running back Barry Sanders at home to watch the Big Game, to benefit the Jimmy V Foundation.

The rules of engagement with the league are so tightly drawn and well known that Kia Motors must say in the 15-second current teaser ads for its 2011 Sorento model, "See us in the third quarter of the Big Game." (When it will run a 60-second ad.)

For the N.F.L., protecting trademarks like its name, the names of its conferences, its shield and the teams' logos is as important as protecting Mark Sanchez is to the Jets.

Gary Gertzog, the league's general counsel, said: "There's been a decades-long practice of companies that do not have the official rights trying to create the mistaken impression that they do. They try to come up with clever ways to garner the association."

He said that any entities that the league believed were violating its trademarks would receive cease-and-desist letters to start. But they can face lawsuits, as Coors and Clear Channel Broadcasting have.

Even those that use Big Game as a legitimate stand-in for an Super Bowl can still run afoul of the league's rights if they combine it with other elements like the game's location, a depiction of the stadium or the names of the teams or the players.

In 2006, the league applied for a trademark for Big Game, even though another Big Game, the annual one between Stanford University and the University of California, dates to 1892, 75 years before the inaugural Super Bowl.

Gertzog said that the strategy was intended to prevent nonsponsors from using Big Game in the week or two before the Super Bowl — "not in July" — because the league felt that it constituted ambush marketing.

"We weren't trying to stop Stanford and Cal from using it," he said.

The two universities filed objections to the N.F.L.'s application with the United States Patent and Trademark Office, as did numerous companies, including Anheuser-Busch, KFC, Papa John's, Time Warner Cable, Domino's Pizza, Yum Brands and Dell. In 2007, the league withdrew its request for the Big Game trademark.

Craig Mende, a lawyer at Fross, Zelnick, Lehrman & Zissu, who represented nine companies opposed to the league's filing, said: "They had gone along with the N.F.L.'s desire that if they didn't have licenses, they should not be able to use 'Super Bowl.' But to force people not to use 'Big Game' made it impossible for companies to fairly communicate what they might do around the Super Bowl. It seemed that the league was overreaching."

Some companies, like P. C. Richard based in Farmingdale, N.Y., are fortunate. Although its current advertising tells consumers to prepare for the "big game" at its HDTV "sale of the century," the chain uses the Super Bowl XLIV logo because it sells a brand, Samsung, that is the league's official high-definition television sponsor.

Fonte: New York Times, New York, Feb. 6th 2010, Sports, online.