
CHAMBERS GLOBAL PRACTICE GUIDES

Sports Law 2024

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Trends and Developments

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Nagashima Ohno & Tsunematsu

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Stadium and Arena Reform in Japan and the Use of Public-Private Partnerships to Finance It

“Changing Sports to a Growth Industry” is one of the ten strategic public-private joint projects established by the Japanese cabinet under its “Japan Revitalisation Strategy 2016”. The Japanese government has positioned “stadium and arena reform” as one of the main pillars of this project, and is aiming to implement 20 stadium and arena reform projects by 2025. The latest “Third Sport Basic Plan” announced in 2022 by the Ministry of Education, Culture, Sports, Science and Technology, which sets guidelines for the development of sports in Japan for the next five years, also clearly states that the government will promote, with the help of the private sector, stadium and arena reform as a foundation for the growth of the sports industry and the revitalisation of local economies.

As the innovation and multi-functionalisation of sports facilities progress globally, the momentum to build state-of-the-art stadiums and arenas in Japan is stronger than ever, both in the public and private sectors. One of the latest examples is ES CON FIELD HOKKAIDO, which opened in 2023 as the home stadium of the Hokkaido Nippon-Ham Fighters, a Japanese

professional baseball club. The construction cost of the stadium was approximately JPY60 billion and was privately funded by the owner company of the club and its partner companies. The naming rights of the stadium were sold to ES-CON JAPAN Ltd., a real estate company, for more than JPY470 million annually, which is the highest ever in Japan.

Long-standing issues with sports facilities in Japan

According to research conducted by the Japan Sports Agency in 2023, there are 211,300 sports facilities in total in Japan. Among these, approximately 130,000 are school and university facilities, and approximately 52,000 are other public facilities. On the other hand, there are only approximately 30,000 private facilities.

One of the issues with public sports facilities, which account for a large percentage of sports facilities in Japan, is that they tend to place too much emphasis on reducing the maintenance and repair costs and emphasising the public nature of the facilities, such as by promoting their use by local sports communities through discounts to local residents. As a result, the comfort and convenience of spectators has not been properly taken into consideration, and the use

of public sports facilities by professional sports teams is often inflexible due to strict rules and conflicts that arise due to the need to allow local communities to use the facilities. In addition, the profitability of public sports facilities is often not pursued because the public sector does not usually have sufficient management expertise. Furthermore, almost half of the facilities are more than 30 years old, and it is difficult for some local governments to rebuild or make major repairs with public funds only. To solve these issues, co-operation and partnership between the public and private sectors is a central concept in the stadium and arena reform plan.

Designated manager

One of the types of public-private partnerships that has been established to properly manage sports facilities is the “designated manager” arrangement, which is currently used in many publicly owned sports facilities. Under the Local Autonomy Act, when a local government finds it necessary to do so to effectively achieve the purpose of a public facility, it can appoint a private company to manage the public facility as a designated manager. Professional sports teams can become the designated managers of their home stadiums or arenas and operate the facilities to maximise their business opportunities.

One issue regarding the designated manager arrangement is that there is little incentive for a designated manager to make an effort to improve the profitability of the facility if it only receives a fixed management fee from the local government, as opposed to an arrangement under which its income is tied to the revenue generated from the operation of the facility, such as ticket sales. In addition, the Local Autonomy Act requires designated managers’ management standards and the scope of their operations to be set out in advance in local ordinances, and this hinders designated managers, such as pro-

fessional sports teams, from investing in and flexibly operating the facilities, because of the practical difficulties of amending local ordinances in a timely manner to meet changes in the needs of the teams. Furthermore, although there is no statutory limit on the length of appointment of designated managers, appointments are commonly only for three to five years. This makes it difficult for the designated managers to make capital investments, and secure and train human resources, as there is no guarantee that they will be allowed to manage the facilities for a long period.

To solve these issues, some local governments allow the designated managers to receive revenue generated from the operation of the facilities, such as ticket sales. Some local governments also appoint designated managers for relatively long periods, such as ten years, to promote capital investment and sufficient training of human resources by designated managers.

Private finance initiatives

Another type of arrangement that is used in public-private partnerships is the private finance initiative (PFI). A PFI is a business scheme in which a private operator designs, constructs, maintains, manages and operates a public facility under the Act on Promotion of Private Finance Initiative (the “PFI Act”). In a PFI, a public organisation, such as a local government, publicly announces the basic policy of the PFI project as the administrator of the public facility, and selects a private operator to execute the project based on such policy. The selected private operator operates the project in accordance with a contract made between the public organisation and the private operator. PFIs allow private operators to improve the profitability of facilities and the quality of services by taking advantage of private-sector know-how.

Broadly, PFIs can be separated into types based on either the timing of the facility ownership transfer or the method of payment involved.

Classification by timing of transfer of ownership of facility.

- The build, transfer and operate (BTO) method – the private operator designs and constructs the facility, transfers the ownership of the facility to the public organisation, and then maintains and operates the facility.
- The build, operate and transfer (BOT) method – the private operator designs, constructs, maintains and operates the facility while retaining ownership of the facility throughout the project period, and then transfers the ownership of the facility to the public organisation at the end of the project period.
- The build, operate and own (BOO) method – the private operator designs, constructs, maintains and operates the facility while retaining ownership of the facility, and does not transfer the ownership of the facility to the public organisation even after the project period ends.

Classification by method of payment of fees.

- Service fee type – the public organisation receives fees from users of the facility, and the private operator receives service fees from the public organisation.
- Financially independent type – the private operator does not receive service fees from the public organisation but receives usage fees directly from users of the facility.
- Mixed type – the private operator receives service fees from the public organisation and also receives usage fees directly from users of the facility.

Under the PFI Act, private operators can make proposals to public organisations to establish a policy for implementing PFI projects. This is beneficial to professional sports teams in that it might enable them to operate their home stadiums and arenas in accordance with their own terms and conditions. In fact, in 2019, a private company submitted a proposal for the restructuring, development and operation of a part of the Todoroki area in Kawasaki City. Kawasaki City subsequently decided to implement the project as a PFI project with a consortium led by the private company. Kawasaki Frontale, a football club in the Japan Professional Football League, is a member of the consortium, and DeNA Kawasaki Brave Thunders, a basketball club in the Japan Professional Basketball League, has committed to co-operate with the consortium.

Concessions

Concessions are a type of PFI and were introduced pursuant to amendments to the PFI Act that were made in 2011. The public organisation retains ownership of the facility and gives the right to operate it to a private operator. The private operator pays a concession fee to the public sector as consideration, operates the facility and receives fees from users of the facility. In recent years, the Japanese government has been promoting concessions as a form of public-private partnership. The “Basic Policy on Economic and Fiscal Management and Reform 2022” that was established by the Japanese cabinet in 2022 clearly aims to increase concessions in stadium and arena projects. In addition, the “Action Plan for PPP/PFI Promotion” and “Guidelines for Utilisation of Concession for Stadiums and Arenas,” which were both established by the Cabinet Office in 2022 are key public documents to promote concession projects for stadiums and arenas.

From the public sector's perspective, receiving concession fees from the private operator while transferring the risks associated with the operation of the facility to the private operator is an attractive way to utilise public facilities. Soliciting investment and service improvement by private operators is also a positive aspect of concessions. From the perspective of private operators, concessions are often granted for a term of ten years or more with limited grounds on which the public organisation can revoke concession rights during the concession period, and this makes it easier for private operators, such as professional sports teams, to make capital investments and train human resources from a long-term perspective. It is also attractive for private operators to be able to set the amount of the fees to be collected from users of the facility as they wish, without having to obtain the public organisation's approval. Further, under the PFI Act, security rights can be created over concession rights, and this provides comfort for financial institutions that provide loans to private operators.

Ariake Arena is the first sports facility in Japan to be operated under a concession arrangement. The arena, owned by the Tokyo Prefecture, was constructed as a venue for the 2020 Tokyo Olympic and Paralympic Games, and a concession arrangement was set up for its maintenance, management and operation after the Games. The members of the consortium that won the bid include private companies that were experienced in the operation of sports facilities and the holding of events, such as live music concerts. The consortium is expected to utilise the know-how of these private companies in the maintenance, management and operation of the arena.

Since concessions include the right to maintain, manage and operate the facility, but not the right

to construct the facility, when a new stadium or arena is constructed and is expected to be operated under a concession arrangement, it may be useful to concurrently use other PFI methods for the design and construction phase of the stadium or arena. In recent years, the Aichi Prefecture has adopted a method that combines the concession method, which enables stable and relatively flexible project management in the long term, and another method of PFI in a new arena project. By combining these two methods in the same project, from the beginning, the arena is expected to be developed in a way that ensures a high degree of flexibility in its future operation. The project also aims to build a scheme that maximises the use of the private sector's expertise.

Other forms of public-private partnership

Other forms of public-private partnership for publicly-owned sports facilities include the "management permit" arrangement under the Urban Parks Act and the use of fixed-term building lease contracts.

The management permit arrangement allows private operators to manage facilities located in urban parks with the permission of park managers. This arrangement can be useful when managing and operating publicly-owned sports facilities in urban parks under a public-private partnership. For example, Yokohama Stadium, the home stadium of Yokohama DeNA BayStars, a professional baseball club, is located in an urban park in Yokohama City called Yokohama Park, and is operated by the club under a management permit arrangement.

An example of a fixed-term building lease contract scheme is Ookini Arena Maishima, which is owned by Osaka City. The arena was previously managed and operated under a designated manager arrangement, but in 2015, it was

switched to a fixed-term building lease contract that was made with the private company that manages Osaka Evessa, a professional basketball team. As a result of this, the public organisation that owns the arena was no longer required to pay management fees to the private operator, and became able to receive rent pursuant to the fixed-term building lease contract, thereby reducing its financial burden, and enabling the professional sports team to manage the facility more flexibly.

Conclusion

As described above, there are various methods of implementing public-private partnerships that involve publicly-owned sports facilities. It is not easy for professional sports teams to develop and own large-scale sports facilities by themselves, as it requires a large amount of funds and a large area of land. Thus, it is important for them to understand the framework of those public-private partnerships and to solicit public organisations to collaborate with them and to select an appropriate business method for publicly-owned sports facilities. Professional sports teams need to encourage public organisations to adopt a more long-term, stable and flexible method of implementing public-private partnerships in order to improve their profitability.