



BIROn - Birkbeck Institutional Research Online

Hamil, Sean and Michie, J. and Oughton, C. and Warby, S., eds. (2000) Football in the digital age: Whose game is it anyway? Edinburgh, UK: Mainstream Publishing. ISBN 9781840183290.

Downloaded from: <https://eprints.bbk.ac.uk/id/eprint/29173/>

Usage Guidelines:

Please refer to usage guidelines at <https://eprints.bbk.ac.uk/policies.html>
contact lib-eprints@bbk.ac.uk.

or alternatively

1. Whose game is it anyway?

Sean Hamil, Jonathan Michie, Christine Oughton and Steven Warby

The background to and purpose of this book is indicated in our preface above. The purpose of this introductory chapter is to place the various events referred to in that preface, and the substantive analyses of the following chapters, within an overall context.

Introduction: The business of football

There has long been a keen interest in all things football – as a cultural and sporting activity in Britain. The business and regulation of professional sports has failed to arouse the same passion, however. This is in contrast to the United States where sport has attracted serious attention from business, financial and academic analysts, and where there is a large literature on these issues. This, however, is changing rapidly – the business of football has been transformed in Britain over the past few years and so has interest in all aspects of the game, including the money, the power and the corporate battles. Over the last five years the growing importance of televised football as the key software in the expansion of non-terrestrial television services, the flotation of clubs listed on the stock exchange under ‘Leisure, Entertainment and Hotels’, and the tensions between this new commercialism and football’s cultural purpose, has seen interest explode into the financial and political spheres of public life, sparking significant debate over the future of the football and media industries in the UK, Europe and globally.

As a result, the governance of the game has assumed growing importance. It is seen as an issue on which government has to have a positive policy agenda. It is crucially important for competition policy (with particular reference to public-interest concerns) and the concentration of media power. Media companies are taking stakes in the leading clubs (most recently in the UK with Granada in Liverpool FC, NTL in Newcastle and BSkyB in Leeds Sporting, Manchester City and Sunderland FC to add to their continued stake in Manchester United). These issues are acquiring growing importance in the run-up to the renegotiation of the Premier League’s broadcasting rights in 2001 (see Chapter 8, ‘Sneaking in through the back door? Media company interests and dual ownership of clubs’ by Adam Brown).

The speed with which this transformation has taken place has created a highly fluid and confused situation. Increasingly the regulation of, and strategic planning for, the sector is being undertaken not in the headquarters of the traditional regulatory bodies of the Football Association and the Football League, but in the boardrooms of international media companies, and in regulatory arenas such as the government’s Football Task Force; the Monopolies and Mergers Commission (MMC)¹ (with its enquiry into BSkyB’s bid for Manchester United); the Office of Fair Trading (OFT) and Restrictive Practices Court (RPC) (with the OFT challenging the Premier League’s collective sale of television rights in the RPC and losing a case for the first time in history); and the European Commission and other European institutions.²

This same period has seen the emergence of independent supporters associations, the explosion of fanzine culture and organisation, the establishment of the Football Supporters Association, and in 1999 the founding of the Coalition of Football Supporters, bringing the various supporters’ groups, including the National Federation of Football Supporters Clubs, together in a single national organisation. Alongside this have emerged serious attempts by supporters to take ownership stakes in their clubs and create democratic structures to allow the supporters to have a voice. This development was welcomed in 1999 by the Football Task Force and officially endorsed by the

government with the announcement in October 1999 by the Secretary of State for Culture, Media and Sport of a new unit to be established within the Football Trust³ to assist supporter-shareholder groups. The supporter-shareholder movement received a major boost earlier in 1999 with the organisation of Manchester United shareholders against their own board's attempt to sell out to BSkyB, and the subsequent founding of Shareholders United, holding a block of shares in the club, to ensure that all interests of supporters, including emotional, are taken properly into account by the board of the plc.⁴

These same issues are being faced across Europe, as demonstrated by the international contributors to this volume. But despite the pervasiveness of this change within the game, the debate about how the challenges raised should be addressed has been characterised by often confused commentaries. This is perhaps best demonstrated by the widespread surprise expressed on the business pages of the main broadsheet newspapers at the MMC's decision to recommend rejection of BSkyB's bid for Manchester United.⁵ Of course, as any reading of the MMC's report into the bid will confirm, this decision was entirely logical and predictable when judged against the most conventional anti-trust criteria, leaving aside any wider public-interest considerations. Perhaps it is the peculiar economics of successful sports leagues, where a key requirement is to maintain and nurture healthy competition rather than eliminate competitors as in conventional marketplaces, which has served to inhibit a true understanding of the dynamics of the football marketplace. Whatever the reason, there is certainly a need for more penetrating analyses as to the true nature of the challenges facing football. And that is what we have tried to provide in this volume by bringing together such a wide range of commentators to present their views on where the game is going. The succeeding chapters seek to place the key challenges in context under nine headings, each addressing a key issue facing the game.

Part I: Another Fine Mess

In the first and introductory section the scene is set for the analyses which follow. Four contributions present an overview of where the game is now and where it may be heading. Firstly Gerry Boon, in Chapter 2, 'Football finances: too much money?', reviews the scale of change in the finances of football over the recent past in the UK, Europe and globally, drawing on data from Deloitte & Touche's authoritative *Annual Review of Football Finance* series.⁶ He urges that the new global developments be appreciated, not as something inevitable that has to be accepted fatalistically, but rather as presenting opportunities that, if properly grasped, could be harnessed for the good of the game. In Chapter 3, 'Reforming football's boardrooms', Professor Tom Cannon and Sean Hamil reflect on the tensions that the use of plc status by clubs to float on the stock exchange has created with traditional fan-bases, and bemoan the incompetent management prevalent in much of the game, across plcs and non-plcs alike. 'The players' perspective' is given in Chapter 4 by Gordon Taylor, chief executive of the Professional Footballers Association, discussing recent changes in the game, making particular reference to the impact of the Bosman ruling, the outcry over spiralling players' wages, and the argument that more effective regulation of the game is required. In Chapter 5, 'Why football needs a regulator', Rogan Taylor, a member of the Football Task Force, considers the current state of the regulation of the game by the Football Association and argues that it is the FA's abandonment of its traditional regulatory role and its unwillingness to engage with supporters that has led to the widespread call for an independent regulator. This is a call which the author supports and is returned to in the final part of this book.

Part II: Implications of the BSkyB/Manchester United case

The government's blocking of BSkyB's attempted takeover of Manchester United in 1999 – on the recommendation of the MMC – raised crucial questions about the relationship between football clubs and media companies. The MMC report blocked the proposed merger for two main reasons. Firstly, that it would have distorted competition in the broadcasting market by allowing BSkyB to sit on both sides of the negotiating table, and secondly that it would have adversely affected the quality of football, particularly if it had triggered a series of similar takeovers, by widening the gap between the richest and poorest clubs and by allowing BSkyB a say in organisational aspects of the game. This ruling had the initial effect of discouraging other media companies from attempting to take over football clubs. For example, the cable TV company NTL decided not to pursue its intended takeover of Newcastle United plc after the MMC's ruling and the announcement that the Competition Commission (formerly the MMC) were to turn their attention to the NTL-Newcastle deal.⁷

Peter Crowther, consultant to Rosenblatt Solicitors, outlines the background to the case in Chapter 6, 'The attempted takeover of Manchester United by BSkyB', and sets out the competition and broader public-interest arguments against the attempted takeover that were made in the submission to the MMC by the organisation Shareholders United Against Murdoch, for whom Dr Crowther acted in this case. Nicholas Finney, a member of the MMC panel for the BSkyB/Manchester United enquiry, explains in Chapter 7, 'The MMC's inquiry into BSkyB's merger with Manchester United PLC', how the panel reached their decision to recommend that the bid be blocked, and the implications both for future mergers between media companies and for the future regulation of football.

In response to the MMC decision, BSkyB have bought into Leeds Sporting (owners of Leeds United FC), Manchester City and Sunderland FC, while retaining what is the largest single shareholding in Manchester United.⁸ NTL have retained the shareholding that they took in Newcastle United at the time that they were contemplating a wholesale takeover, and Granada TV have bought a stake in Liverpool FC. These developments are analysed by Dr Adam Brown in Chapter 8, 'Sneaking in through the back door? Media company interests and dual ownership of clubs', highlighting the dangers that these developments pose for football if allowed to proceed unchecked.

Part III: The new commercialism and PLCs

Critics argue that football is losing its social purpose as supporters are exploited by exorbitant ticket and merchandise prices, with many traditional supporters being priced out of grounds. On the other hand, the game has never been so popular and has opened up to a new audience as it has modernised. These developments are discussed in Chapter 9, 'The changing face of football: a case for national regulation?' by John Williams, who also outlines possible ways forward.

Mark Goyder, of Tomorrow's Company, outlines in Chapter 10, 'Tomorrow's football club: an inclusive approach to governance', how plc status can incorporate a social-responsibility dimension, developing themes from the Royal Society of the Arts' *Tomorrow's Company Report*. In Chapter 11, 'Football, fans and fat cats: whose football club is it anyway?', Kevin Jaquiss discusses the sort of issues posed in any attempt to make a football club more responsive to its supporters and local community.

Part IV: International Developments

The attempt to organise a breakaway super league from existing UEFA structures demonstrates that recent developments in Britain are not unique, just more advanced. Part IV analyses these

developments and the likely response to them from football's governing bodies. In Chapter 12, 'International developments and European clubs', Andy Walsh of the Independent Manchester United Supporters Association provides an overview to these developments and of the other contributions to this section, and calls for supporters to link up internationally to counter what are after all international threats and challenges. Alasdair Bell reports in Chapter 13, 'Sport and the law: the influence of European Union competition policy on the traditional league structures of European football', on the UEFA perspective on how football might best be regulated internationally and how the international bodies such as UEFA can best work with national governments to ensure that international and European developments can be compatible with healthy national leagues and national teams.

Representatives from supporters groups in Germany and Spain outline how moves toward plc status have changed the game in their countries, and the consequences of these developments and of supporter resistance to them. In Chapter 14, 'Commercialisation and fan participation in Germany', Stuart Dykes represents the fans' organisation for German club Schalke 04 and reports on efforts there to secure greater fan representation in the running of the club. L'Elefant Blau is an association of Barcelona fans established in 1997 with the aim of democratising the running of the club and preserving its original and still current status as a non-profit sports association. They report in Chapter 15, 'The struggle for democracy at FC Barcelona and the case for a European independent regulator of professional football', on their work, and support the call for more co-operation by such supporter groups across countries, especially at a European level.

Part V: Financing and accounting for clubs

Supporters of plc status have argued that this is the only effective structure for clubs that wish to finance stadium reconstruction, and that it offers a real vehicle for supporter ownership of their club. Critics argue that there are alternative means of raising money, and that plc status has often been used as little more than a mechanism for incumbent owners to cash in at the expense of fans' loyalty. The issue of plcs is discussed in this section, as is the more general issue of the difficulty facing football clubs of balancing the financial performance of the club with performance on the field, as these two areas of a club's activity may conflict. An introductory note by City of London fund manager Nigel Hawkins assesses the performance of football club shares as financial investments and highlights the idiosyncratic nature of this investment market (Chapter 16, 'The financial performance of football stocks').

In Chapter 17, 'Playing in a different league', Tony Dart provides an overview of management accounting issues in the football industry, outlining the past record of generally poor financial management, the difficulties facing lower-division clubs, and the various challenges that football clubs face, such as asset-stripping developers seeking to purchase clubs to use the grounds for property development (for example at Brighton). Lee Manning, of corporate insolvency experts Buchler Phillips, explains the practical consequences of football clubs' traditionally unsophisticated approach to accounting and financial management drawing on his firm's experience as receiver at, amongst others, Millwall FC (Chapter 18, 'Football club balance-sheets: fact or fantasy?'). In Chapter 19, 'Business management issues', Robert Matusiewicz, consultant to a number of football clubs and also a FIFA agent, discusses how recent trends have affected the quality of business management at football clubs and speculates on likely future developments in this area. Stephen Morrow discusses in Chapter 20, 'Achieving best practice', how football clubs present particular problems in terms of valuation of their balance-sheets and considers the tensions thrown up between small, and institutional and incumbent-dominant, shareholders by the flotation of football clubs.

Part VI: The Restrictive Practices Court case and league balance

Organised sport has traditionally sold its TV rights collectively on a league basis. In the United States, sports leagues are specifically excluded from anti-trust legislation. The OFT's case against the Premier League at the Restrictive Practices Court (RPC) threatened this principle in the UK but was rejected on the grounds that the league brings substantial benefits to the game such as the promotion of competitive balance by redistributing income from leading to lagging clubs and redistribution from the Premier to the Football League. In Chapter 21, 'The Restrictive Practices Court case, broadcasting revenues and league balance', Professor Peter Sloane presents an overview of the economics of professional sports leagues, making particular reference to the outcome of the RPC case and the implications of the advent of pay-per-view televised games. Professor Martin Cave outlines the background to the OFT's decision to bring the case against the Premier League in Chapter 22, 'Football rights and competition in broadcasting'. Dr Stefan Szymanski, an expert witness on behalf of the OFT in the RPC case, presents the arguments against collective selling in Chapter 23, 'Hearts, minds and the Restrictive Practices Court case'.

Richard Scudamore, an expert witness on behalf of the defence and at the time of writing chief executive of the Football League argues that the collectivity and exclusivity of the existing contract is essential not only for redistribution within and between the Premier League and Football League, but also to ensure that the market for live televised football is not flooded and attendance at grounds diminished. The potential for inequality to emerge if the current collective agreement were to end is illustrated by the fact that matches featuring the top five Premiership clubs account for over 70% of all of BSkyB's viewers. It is notable that this was the first time the OFT has ever lost a case in the Restrictive Practices Court. This outcome appears to have been largely as a result of a lack of appreciation on the part of the OFT of the positive benefits that come from league collectivity. Also central to the case is the role of match-going fans. In Chapter 24, 'The Restrictive Practices Court case: implications for the Football League', Scudamore reports the case made before the court. He stresses in particular that the role of match-going fans is crucial to the long-term health of the game, not only because of the revenue collected directly, but also because all other revenues, including broadcasting revenues, depends ultimately on match-going fans sustaining the game.

Part VII: Nurturing the grass-roots: local clubs and community involvement

The role of the Football Trust and local councils as partners in stadium development and, in the case of the latter, in the provision of wider sports facilities, is critical for the health of the game at the grass-roots level. In Chapter 25, 'Partners for progress', Tom Pendry, chairman of the Football Trust and also of the House of Commons All-Party Sports Group, presents his vision for the future of the game. This is best secured, he argues, by a structure that recognises that the professional game is only the apex of a much larger and deeper movement stretching into local communities and grass-roots football.

Local councils have also played an important role in many clubs' attempts to address the problems of racism and hooliganism which have afflicted the game. Piara Power outlines in Chapter 26, 'Kick racism out of football', the work of the anti-racist 'Kick it Out' campaign, and describes how clubs, local authorities and fans can work together to improve the game by combating racism and thus ensuring that 'community involvement' really does involve the whole community. Tony Clarke reports in Chapter 27, 'The future of football: safe in whose hands?' on the experience at

Northampton Town FC where an active partnership between an independent supporters' group and Northampton Council secured the financial future of the club. In Chapter 28, 'The Football Task Force and the grass-roots', Task Force member Chris Heinitz draws on his experience in promoting local government sporting and leisure activity, and outlines practical strategies for nurturing football's grass-roots through local government partnerships.

Part VIII: The Football Task Force

The Football Task Force was asked by the government to develop a blueprint for how a game, perceived to be in crisis, might move forward. Key figures from the Task Force, and the Department of Culture, Media and Sport (DCMS) discuss the extent to which it has met its objectives. Andy Burnham presents an overview of DCMS policy on football in Chapter 29, 'The Task Force and the future regulation of football', with particular reference to the work of the Task Force itself. Nic Coward, of the FA, reports on the FA's views of the Task Force's work, and on what role the FA might play in securing the various aims as set out in the Task Force's published reports (Chapter 30, 'Facing football's future: the Task Force and beyond'). In Chapter 31, 'The Football Task Force: a Premier League view', Mike Lee gives the FA Premier League's response to the Task Force's work and reports in particular on the joint report submitted to the Task Force by the FA, the Premier League and the Football League. This joint document opposes the establishment of an independent regulator but does propose two other measures. First, that best-practice guidelines be established in key areas such as ticketing and merchandising, and secondly that an Independent Scrutiny Panel be established to conduct a regular health check, or audit, of governance in the game.

Dr Adam Brown, a member of the Task Force, discusses the work of the Task Force in the context of the regulation of football, and makes two essential points which fit well with the book's concluding chapter from Brian Lomax. First, that the great debate over whether there should be an independent regulator or not should not allow us to be deflected from the key point, that what is required is proper and appropriate regulation and governance. How this is brought about is a secondary, albeit important, question. And secondly that the two issues of regulation or governance on the one hand, and increased supporter involvement (including through ownership) on the other, should not be seen in isolation from each other, and far less should they be seen as alternatives as some have done. On the contrary, the two should be seen as complementary and self-reinforcing. To improve the degree of supporter ownership and involvement will require regulatory intervention. And good regulation of the game will depend crucially on increased supporter involvement in the game at all levels. (Chapter 32, 'The Football Task Force and the "regulator debate"'). These are conclusions with which the editors of this book, and the authors of this chapter, would endorse wholeheartedly.

Part IX: Do we need an OFFOOT?

Finally, then, Part IX of the book considers the question explicitly of what sort of regulation is required. In a period of extraordinary change should football be left to regulate itself when what happens in the game now has implications that go beyond the football pitch to the heart of the emerging media industries so central to the government's project to modernise Britain? Or does it need government regulation to protect the cultural distinctiveness of the game, and to guide its development in the twenty-first century? The three chapters in this section reflect on what sort of regulation and governance is required.

In Chapter 33, 'Why football needs an independent regulator', Gerry Sutcliffe MP explains the reasons behind his ten-minute Bill in the House of Commons proposing that football should have an independent regulator. The independent fanzine movement, and the emergence of the Football

Supporters Association after the Hillsborough disaster, have been important manifestations of the desire of supporters to play a more active role in the development of the industry. The Independent Manchester United Supporters Association and Shareholders United Against Murdoch played an important part in opposing BSkyB's attempted takeover of Manchester United. Around the country independent fan organisations are now promoting the concept of the mutualisation of football clubs to make them truly accountable to fans. Alison Pilling, chair of the Football Supporters Association and a leading light in the formation of the Coalition of Football Supporters, outlines the new initiative to construct a single body representing all football fans and discusses the likely view of this body on regulatory issues in Chapter 34, 'Uniting the fans'. And Brian Lomax in Chapter 35, 'Self-regulation or regulation?', discusses how the appropriate regulation and governance of the game should best be pursued. Regarding the question of whether an independent regulator is required or whether instead the FA remains the appropriate body, the author reports his experience as a probation officer where the appropriate decision might be to allow the FA just one more chance.

Conclusion

As indicated above and also in *A Game of Two Halves?*, in our view there are serious threats to the game of football in Britain and Europe generally – threats from increased commercialism, the move to plc status by football clubs, the attempts by broadcasters to use football to sell subscription television, and the inflation in ticket prices. However, there are also some encouraging signs. Amongst these we would list the 1999 defeat of BSkyB's attempt to take over Manchester United and the defeat, also in 1999, of the OFT's attempt to break up the Premier League's collective selling of TV rights. Added to these, the work of the Football Task Force has been a hugely positive development.⁹ The October 1999 announcements by Culture Secretary Chris Smith were extremely welcome, firstly regarding the intended redistribution of money from the Premiership TV contract to the game's grass-roots and secondly regarding government support for supporter-shareholder groups and the trust holding of shares by fans.

We would totally reject any fatalistic view that the game has changed and that nothing can be done about it. In our view there is just as much scope for action now as there ever was. Indeed, as many of the authors of the present volume demonstrate, there are perhaps greater opportunities for democratising the game today than there have ever been. While the floating of clubs as plcs has had a number of negative implications that do certainly need to be tackled, it has at least weakened the grip of the old owners who in many cases were a major part of the problem. We do not want to go back to the good old days. As the following chapters demonstrate, there are new opportunities opening up which, if properly grasped, could lead to a greater degree of democratic involvement and accountability than was ever witnessed in the past. We hope that the present book will play some positive part in those opportunities being taken rather than squandered.