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***UEFA, Governance, and the Control of Club Competition  
in European Football***

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# *UEFA, Governance, and the Control of Club Competition in European Football<sup>1</sup>*

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## **Introduction: The global governance of sport**

It is easy, and perhaps uncontroversial, to argue that sporting bodies have been left behind with the times, that organisations created in a different era, with a different set of demands no longer adequately reflect, serve, or regulate the sports they govern. The enormous popularity of football and global transformations have revolutionised both the economics and politics of the sport. Increasingly, administrators are no longer elderly patricians sitting in dusty offices poring over rulebooks, but commercial experts drawn from the world of business and finance. Yet whilst the finances entering sport have changed, the governance structures of some of world's most powerful sporting bodies have remained largely in tact. In his critique of the governance of world sport, Katwala has argued that some of the crises facing sporting organisations have therefore been less a crisis of commercialism than a crisis of governance (Katwala, 2000: 3). Avery Brundage, International Olympic Committee (IOC) president between 1954 and 1974 who spent \$75,000 of his personal fortune on the Olympics, accepted no expenses (Katwala, 2000: 12). Sir Stanley Rous, the epitome of the amateur administrator, failing to see the political potential of commercialised sport in the context of a decolonised world, was defeated by a platform of commercial and political transformation. The old amateur aristocratic guard – the 'guardians of the game' – have been gradually replaced by the ascent of a more astute, if also more Machiavellian, autocrat. Juan Antonio Samaranch of the IOC, Primo Nebiolo of the IAAF, and João Havelange of FIFA came to dominate their respective sports for more than two decades, embracing an agenda of commercial and global transformation, professionalism, and the market. Yet as Katwala states: 'What is striking in terms of sporting governance is not how much has changed but how little. Sport's global transformation has left sporting governance largely unreformed. Whilst the actors and motivations have changed, sports' governance structures, whilst sometimes subject to incremental change, have remained largely in tact' (Katwala, 2000).

Controversy in sport governance has affected a range of high profile governing bodies with issues ranging from doping controversies, such as in the Tour de France (Waddington, 2000), and Italian league football (Agnew, 2005); the transformation from amateurism to professionalism in Rugby Union (Malin, 1997); and match fixing in both football and cricket (Thomas, 2003; Wilde, 2001). The commercialisation of sport has led to sport governance being increasingly characterised by the battle for large financial spoils and the ambition for positions of prestige. Particular controversy has also surrounded the bidding process for major international sporting events, notably the Olympic Games and the FIFA World Cup (Jennings and Sambrook, 2000; Sugden and Tomlinson, 1998, 1999 and 2003). Furthermore, the spoils on offer have justly led to accusations that reform is suffocated by the primary impulse of self-interested incumbents to retain positions of influence and privilege. But, just as one should beware of fulminations on the commercialisation of sport, considered reflection is also required in the structural analysis of governing bodies. The detailing of corrupt practice and incompetence no doubt points to desirability of change, but it does not necessarily render the principles underpinning existing structures obsolete. Sport, and football in particular, is a dominant global cultural expression, and it would, perhaps, be churlish to argue that the growth of sport has been in spite of the role of the guardian organisations. Evolution and reform are requisites to the survival of any organisation, but revolution may obscure the benefits of a more conservative approach.

In this study of UEFA and the governance of European football, I assess the changing role and relevance of one of sport's most high profile organisations in the context of a dynamic and changing world. Through an understanding of 'governance', an appreciation of the complex and multi-organisational environment in which UEFA operates, and through a detailed analysis of the organisation itself and its operational procedures, we aim to gain a fuller appreciation of the pressures placed on football governance in Europe at the beginning of the twenty-first century. The report attempts to locate the political authority of UEFA in a rapidly changing environment in which external political institutions, other institutions of governance within the football industry, and powerful stakeholders such as the increasingly powerful elite leagues and clubs of Europe are



coming to play an increasingly influential and aggressive role. I will argue that even in a complicated environment increasingly characterised by strong commercial pressures, that the traditional organs of football governance, including UEFA in the European domain, are as important and critical to the ‘good governance’ of the game as ever. Throughout the report, particular focus is placed on the structure and control of competition in Europe. It is through this key aspect of the European game that issues of ‘governance’ are most easily identified. Control of the resources and structures of European club competition play a key role in the achievement of the organisational objectives of UEFA, such as promoting development, unity, solidarity, sporting outcomes and effective regulation within the game.

In section one, the report will address the changing nature of ‘governance’, analysing transitions in organisations from government directly and unilaterally, to a dispersion of decision-making influence through ‘networks’. Attention will also be drawn to the connection between the ‘system’ of governance that characterises an organisational environment, and outcomes – namely ‘normative’ or ‘good governance’. That means that the location of decision-making authority inevitably impacts on the success of an organisation in achieving both its own objectives, and also promoting what have been identified as key elements of what constitutes good governance. In the sporting context, particular attention will be paid to what has become known as the ‘European model of sport’ and the inherent value and necessity of organising football within that framework. The role of football’s traditional governing bodies – the national associations – will be analysed and contextualised. Specifically, we look at how the organisational structure of UEFA represents the theoretical model of sport, focussing on the hierarchy of governance in football (with the historical control of the national associations), but also looking at how UEFA’s structures will need to adapt and change to wider transitions.

Following this theoretical discussion, in section two will then concentrate on the key developments in European football since the formation of UEFA in 1954. This section will highlight in particular developments in the professional club game that have placed the existing structures of governance under pressure. Particular attention will be paid to the impact of changes in broadcasting technology, the changing political-economy of post-war Europe, the growth of commercialisation within the game and the changing behaviour and objectives of clubs. Through this discussion one can best identify how political power has shifted and placed the existing model of governance and control under pressure. Analysis will then focus on some of the key debates evident in European professional football today, namely the composition of competition, changing levels of competitive balance, policy proposals for change, the viability of the current structures of club competition, and the importance of maintaining a coherent philosophical framework when addressing potential change.

In section three, analysis will focus on the UEFA’s position within its environment. With reference to the influence of organisations operating within a stakeholder network, assessment will be made of political authority of UEFA in relation to the respective relevant stakeholders, and in relation to some of the specific challenges faced. Three specific organisational challenges will be analysed. These include the growing role of the European Union (EU) in policy making in sport, how decisions taken by the institutions of the EU impact on the ability of UEFA to govern effectively, how UEFA has sought to meet the political challenges posed by EU intervention, and how it might best address such challenges in the future. The role of professional footballers and the players’ unions will be analysed alongside the EU, given that the very specific challenges posed by players are most readily contested in arena of the free market provisions of European law. The most obvious example of this is, of course, the Bosman ruling made by the European Court of Justice. Attention will then focus on the major ‘internal’ stakeholders, that is, those stakeholders operating within the European football industry. Specifically, we will address the challenges posed by the elite leagues and clubs of Europe specifically in relation to the control of club competition and the response of UEFA to stakeholder demands will be critically analysed.

Having evaluated the political balance of power in the European game, attention will then turn in section four to how UEFA might best address some of the challenges it faces at the

beginning of the twenty-first century. This includes: sporting challenges (essentially how to generate a greater degree of competitive balance in both domestic and international competition); regulatory challenges, that is how best to utilise regulation as a means of consolidating control and also achieving sporting objectives; and governance challenges, that is how best to adapt the governance procedures of UEFA to meet the challenges posed by clubs and leagues, and retain the control necessary to protect and drive forward the 'European Model of Sport' in a changing era.

## **Section 1: Theoretical perspectives**

### **Chapter 1. 'Governance' and the football industry**

Crucial to an understanding of the governance of the football industry, and UEFA's role within it is an initial understanding of wider meaning of 'governance'. The term 'governance' has proved particularly difficult to define because of the many and divergent contexts in which it is used. It comes from the Latin word meaning to 'steer' or 'give directions'. The concept is now increasingly used, not only in a political context, but also alongside a range of organisations including public authorities, private companies and corporations, voluntary organisations, and public bodies. Governance has been studied in a wide range of contexts, including: political science (Leach and Percy-Smith, 2001, Newman, 2001, Pierre and Peters, 2000); public policy (Goss, 2001, Rhodes, 1997, Richards and Smith, 2002); and international relations (Clark, 1999, Rosenau and Czempiel, 1992). Definitions of governance have essentially been divided into two areas: an analytical and explanatory use of the concept on the one hand, and a normative and prescriptive use of the term on the other.

#### *i. Network football: an analytical approach to football governance*

For Rhodes, governance signifies 'a change in the meaning of government, referring to a new process of governing; or a changed condition of ordered rule; or the new method by which society is governed' (1996: 652-3). This analytical definition has been adapted and applied to the analysis of the governance of sport. Hindley for example, argues that 'governance recognises that no single actor has the capacity to control a diverse field of actions and interactions, flagging up new forms of governing, such as co-operation and partnerships' (Hindley, 2002). Similarly, Foster has argued that there has been an 'erosion of sporting autonomy' (Foster, 1993). Thus, 'governance' implies a 'network', and is used as an analytical tool which 'focuses on relations between organisations, thereby implying that policy emerges as a result of bargaining between organisations rather than a result of authoritative decision-making by a single actor or institution (Hindley, 2002). This view of governance in sport is also forwarded by Henry and Lee, which they refer to as 'systemic governance' (Henry and Lee, 2004). Environments are characterised by the 'interaction of organisations' and 'groups working within and across organisations. Sport, they suggest, is no exception, and is concerned with 'the competition, co-operation, and mutual adjustment between organisations in such systems' (Henry and Lee, 2004: 26). The authors contend that, in sport, as in other governing environments, systemic governance is part of the nature of globalising trends, emphasising a shift from 'government' to 'governance'. They argue that 'a profound shift has taken place in the way in which sport is managed in the national and international context. This shift is encapsulated in the move from direct control or government of sport to a governance of sport approach' (Henry and Lee, 2004: 38). In football this means that the hierarchy of governance, has been replaced by governance network, characterised by a multiplicity of organisations operating in a complex combination of legal, regulated and self-regulatory frameworks, in which it is impossible to see the governing bodies as sole authors of their sports' futures: 'the old hierarchical model of the government of sport, the top-down system, has given way to a complex web of interrelationships between stakeholders in which different groups exert power in different ways and in different contexts by drawing on alliances with other stakeholders'(Henry and Lee, 2004: 27). The implications of this are that significant change can only be achieved through negotiation between stakeholders, and that governing bodies no longer control by dictating policy outcomes, but must shape and cajole in order to achieve desired objectives.

In football, there has been some organisational analysis of the governing bodies, the environments in which they operate, their future role and influence, and the impact of their interaction with the environment in which they operate (Holt, Michie and Oughton, 2003; FGRC, 2003 and 2004). In their seminal critical sociology of FIFA, Sugden and Tomlinson assess the

development of FIFA in the context of political and socio-economic change. They chart the development of the organisation in the context of a post-colonial world in which the coalition of key political operators within FIFA and global business networks has led to divergences between FIFA's democratic façade and the operational reality (Sugden and Tomlinson, 1998). The authors draw critical attention to increasingly complex governance networks and the growing interdependence between governing bodies, and disproportionate influence of the various existing stakeholders. Sugden has developed this analysis focusing specifically on the concept of football governance as a network (Sugden, 2002). Using Castells's theory of 'network society' (Castells, 1996, 1997, 1998), Sugden places the development of football governance in the context of a capitalist society in which the 'nation state is being overridden by a network of international financial interests enmeshed through global communication networks'. He goes on to argue that 'empirical evidence gathered in and around FIFA's corridors of power supports Castells's thesis and strongly suggests that ... big business networks are the overriding influence in the global development and political control of world football' (Sugden, 2002: 62-63). This analysis provides a salient starting point for investigation into the European football confederation. Theories of 'systemic governance' and 'networks' provide an appropriate analytical device to assess the changing nature of governance within both UEFA and European football more widely. Such an analysis should enable an identification of the various centres of power and the interaction and dynamics impacting on the future governance of the European game.

*ii. For the good of the game? A normative approach to football governance*

Related to this analytical approach is a second usage of the governance concept – 'good governance' as a normative and prescriptive device. Both popular and academic analysis has critically focused on standards of governance of football in areas ranging from the governance of clubs (FGRC, 2003 and 2004), to the regulation of agents (Bower, 2003) and the performance of the governing bodies themselves (Conn 1997 and 2004a). The concept of 'good governance' has referred to ethical standards underpinning relationships, methods and instruments between organisations, which are founded on a number of common principles. The value of normative approaches to organisational behaviour has been widely discussed in debates about corporate social responsibility and business ethics (see for example Chryssides and Kaler, 1993). Detailed analysis of the various theoretical debates is beyond the scope of this research, but it is worth mentioning a number of factors that determine the need for 'good governance' in sport. According to Katwala, 'sport is a public good and so the goal of sporting governance is to ensure that sport is run effectively and in accordance with its values, while taking advantage of the ability to bring in additional private resources and spread participation of resources' (Katwala, 2000: 13). Katwala also argues:

The triumph of capitalism has paradoxically increased the obligations and vulnerability of private power. Multinational corporations are realising that trust relationships are their key assets, and are increasingly aware of the need to protect their social license to operate. Hence they are increasingly responding to public pressures, projecting themselves as corporate citizens, seeking to demonstrate their social impact and social responsibility ... multi-million pound multinational sporting bodies, charged with delivering global and public goods and whose leaders themselves speak proudly of "the Olympic family", "the people's game" and "the global family of football" can hardly expect to remain immune – to be protected from pressure by their status as independent associations ... only opening up and exercising power in a transparent and accountable way will enable sport to end the cycle of scandal and promote their own interests in an age of accountability, scrutiny and scepticism – not just to govern in the interests of their sports, but to protect the golden egg which sport's global transformation has laid (Katwala, 2000: 26).

So the ‘good governance’ of sport is seen to be in the best interests of the governing bodies themselves. Only through high standards and the application of universal principles can sporting bodies retain what authority they have, and secure their own financial and political futures. The growing wealth of certain governing bodies through increased commercial exploitation of their products, means that the wealth generated, which is often the result of the endeavours of others, must be treated equitably, with accountability and openness. Similarly UK Sport argues that ‘failures have a significant negative impact on the NGB [National Governing Body] and the sport: withdrawal of sponsorship; decline in membership numbers and participation; and possible intervention from external agencies’ (UK Sport: 7). Whilst the overriding popularity of football may lead to the view that poor governance may have only a negligible impact on the first two points, it should be remembered that football was not always as popular as it is currently. Effective governance will be necessary for the game to retain its pre-eminence and maximise its commercial and sporting potential. The threat of external intervention on the other hand is constant, particularly with reference to the European Union (EU), and so the competence of governing bodies will be a pre-requisite of the retention of their autonomy and influence. Indeed, there have been various calls for external agencies to play a greater role in the football governance. This was been particularly evident in England, following the Football Task Force Process<sup>2</sup> (Brown, 1999 and 2000: 260-261; Taylor, 2000). Similarly, Sugden and Tomlinson have argued the need for the EU to take an active role in ensuring the accountability of UEFA, and have proposed that FIFA should be brought ‘within the embrace of an accountable international organisation such as the United Nations (Sugden and Tomlinson, 2003: 280-281).

The desirability of ‘good governance’ also needs to be seen in the wider corporate environment. A number of codes of corporate governance have been released in the United Kingdom in the last decade with the objective of improving corporate performance (Cadbury, 1992; Greenbury, 1995; Hampel, 1998; Turnbull, 1999; Higgs, 2003). These reports were collated together to form the Combined Code (1998, 2003). Spectacular corporate collapses, such as occurred at Enron, have further served to concentrate attention on the growing significance of good corporate governance. These articulations of what constitutes good governance have also been adapted and addressed by sporting organisations. A ‘Governance of Sport’ conference held in 2001 concluded with a statement of ‘Good Governance Principles’ (The Rules of the Game, 2001). Similarly, UK Sport published the *UK Sport Good Governance Guide for National Governing Bodies*, produced by the Institute of Chartered Secretaries and Administrators. The guide addresses issues of governance in connection with individual board members, the organisations, stakeholder participation, and compliance.<sup>3</sup> Both the codes applicable to wider industry and those of a specific sporting nature offer an interesting reference point for UEFA in the wider debates about good governance. Reference will be made to these principles when addressing some of the issues of governance identified in the analytical approach to the governance of European football, although not schematically. Utilising a schematic framework alone would fail to capture the subtleties of understanding governance in the international sporting context. Analysis of an organisation like UEFA requires absorption into the wider issues, rather than a tick-box enquiry into whether the organisation fulfils a set of preconceived criteria.

Nevertheless, through analysis of the environmental landscape, and through analysis of the issues that define debates about the governance of European football, the application of the principles articulated in the various codes and reports will be salient when making recommendations about the future governance of European football. One needs to look deeply into

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<sup>2</sup> The Football Task Force was created by the Labour government following its 1997 general election manifesto commitment to investigate the growth and impact of commercialisation in English football. The Task Force was charged with looking into the impact of increasing commercialisation of English football, and to make recommendations.

<sup>3</sup> In addition to this guide Deloitte Touche also produced a report for UK Sport, entitled, ‘*Investing in Change*’ – *High Level Review of the Modernisation Programme for Governing Bodies of Sport* (Deloitte Touche: 2003). The report aims to provide ‘optimum models for NGB performance; and change management action plans to help guide NGB performance’ (2003: 5) and provides a series of recommendations.

the organisational environment, analysing issues of ownership, influence and control, and how the structure of an organisation relates to its achievement of organisational objectives. The normative concept of governance will be extended beyond the application of universal principles enshrined in the various reports to include the analysis of the 'European model of sport'. This is discussed in detail below, and will form a crucial subjective aspect of this analysis of UEFA and the governance of European football.

### *iii. A framework for analysis: stakeholders and networks*

How does one consider an organisation like UEFA in relation to governance theory? UEFA cuts across organisational boundaries. The commercialisation of European football has not passed the organisation by. Its key products, the Champions League and the European Championship (EURO), generate large financial returns, which the organisation then distributes to the wider 'football family', predominantly its members, the national associations, and competing clubs, but also to various other stakeholder groups. So UEFA acts simultaneously as the corporate owner and exploiter of valuable commercial products, but also as a non-profit making distributor of its income. Cornforth (2003) delineates governance theory in non-profit making organisations, identifying the major perspectives and models of governance (see table 1).

The relevance of such theories to UEFA varies considerably, as does the congruence of the models. Agency theory, for example, the dominant theory of corporate governance since the pioneering work of Berle and Means (1932), contends that the primary role of the board in an organisation is to control its management. The board-management relationship is important in any organisation, sporting or otherwise and history has shown that sporting organisations suffer from a lack of co-ordination and compliance (see for example Sugden and Tomlinson, 2003). At the same time, however, UEFA has shown traits of stewardship theory, through the partnership between the executive committee (the board) and administration, which adds value to decision-making. UEFA's democratic structure combined with the need for efficient and effective managerial responses and strong executive leadership in a high profile business, and also stakeholder integration means that the organisation simultaneously reflects traits of different and sometimes opposing theories of governance. Cornforth refers to this as the 'paradoxical nature of governance', highlighting how 'tensions and conflicts' give rise to these paradoxes and how 'tensions are shaped by contextual factors' (Cornforth, 2003: 237).

In governance theory generally, criticism has often been levelled at research that has failed to take context sufficiently into account (Cornforth, 2003: 237). Similarly, it is a criticism that has been made of research into governance in the football industry (Williams, 2000). Network football means that any comprehensive analysis of governance in European football needs to pay due attention to such contextual factors. That context is of course complex. Organisations generally, and UEFA specifically, need to look inwards to their own internal organisation, but also outwards to their interaction with an external environment. For UEFA, that includes both stakeholders participating in football but without decision-making power (such as clubs, for example), and stakeholders outside of football altogether, but with power to influence (such as the institutions of the European Union).

According to Henry and Lee, the analytical concept of 'systemic governance' or 'networks' and 'prescriptive' and 'normative' approaches to how governance should operate, need to be broken down, but that they are also interrelated. It is therefore necessary to evaluate the relationship between the two. The ability to achieve 'good governance', or at least the objectives of an organisation, will depend to one extent or another on the context in which the organisation operates. The role and concept of 'stakeholding' therefore becomes particularly important in the governance process as the pressure affected by stakeholders may have consequences for 'good governance'. Analysis of UEFA's stakeholders is critical to any understanding of the influence and role of UEFA in the network of European football.

**Table 1: Theories of governance**

| <b>Theory</b>   | <b>Characteristics</b>  | <b>Board members</b>   | <b>Board role</b>  |
|---|---|--|--|
| Agency Theory<br><br>Berle and Means (1932)   | The owners of an enterprise (the principal) and those that manage it (the agent) have different interests. The owners or shareholders of any enterprise face a problem when managers start to act in their own interests. Corporate governance therefore is a means to ensure that management acts in the best interests of shareholders and primary role to ensure managerial compliance.  | Owner Representatives  | Compliance/<br>conformance:<br>Safeguard<br>owners interests<br>Oversee<br>management<br>Check<br>compliance         |
| Stewardship Theory<br><br>Donaldson and Davis (1991)<br>Muth and Donaldson (1998)                       | Assumes that managers want to do a good job and act as effective stewards of resources. Owners and Executives seen as partners. Board therefore has strategic role so should be chosen on basis of expertise and contacts to add value. Prime function of board is to add value to organisation by improving decision-making and relations with shareholders.   | Experts  | Improve<br>performance:<br>Add value to top<br>decisions<br>Strategy partner<br>Support<br>management                |
| Resource dependency theory<br><br>Pfeffer and Salancik (1978)   | Organisations are interdependent with their environment and rely on other organisations for resources and actors. Therefore need to find ways of managing dependence and ensuring they get resources and the information required. Board should reduce uncertainty by creating links with important organisations. The main functions of the board are to maintain good relations with key stakeholders, ensure flow of resources and help the organisation respond to external change, role of board across boundaries.  | Chosen for influence with<br>key stakeholders                              | Boundary<br>spanning:<br>Secure resources<br>Maintain<br>stakeholder<br>relations<br>Being external<br>perspective   |
| Democratic Model  | Job of the board is to represent interests of one or more constituencies or groups the organisation serves.<br><br>The role of the board to resolve or choose between interests of different groups and set overall policy.   | Lay representatives  | Political:<br>Represent<br>constituents/me<br>mbers<br>Reconcile<br>conflicts<br>Make policy<br>Control<br>executive |
| Stakeholder Theory<br><br>Freeman (1984)  | Organisations responsible to a range of groups in society not just 'owners'. Incorporation of stakeholders on boards means that organisations are more likely to respond to broader social interests than the narrow interests of one group.<br><br>This leads to a political role for boards negotiating and resolving the potentially conflicting interests of different stakeholder groups in order to determine the objectives of the organisation and set policy (Cornforth, 2003: 9)<br><br>Has developed mainly over debates about Corporate Governance in private sector about desirability and likely consequences (Hutton 1997, Tricker, 2000)<br><br>Principles less controversial in the non-profit sector, and the practice more common, although not always discussed in terms of stakeholder theory. | Stakeholder representatives:<br>elected or appointed<br>stakeholder groups | Balancing<br>stakeholder<br>needs:<br>Make<br>policy/strategy<br>Control<br>management                               |
| Managerial hegemony theory<br><br>Berle and Means (1932)  | Control moved to new managerial staff. Developed in the study of large business organisations – but also relevant to non-profit bearing in mind the growth and professionalisation of management.   | Owners' representatives  | Largely<br>symbolic:<br>Ratify decisions<br>Give legitimacy<br>Managers have<br>real power                           |
| Paradox model<br><br>Morgan (1986)<br>Hung (1996)<br>Tricker (2000)<br>Lewis (2000)<br>Cornforth (2003) | Morgan argues that theories of organisations do not match complexity and sophistication of the organisational realities. Necessary to take multi paradigm perspective in order 'understand and grasp the multiple meanings of situations and to confront and manage contradiction and paradox, rather than pretend they do not exist (Morgan, 1986: 339). Each theory focuses on small part, and no one is able to perceive whole picture of corporate governance.<br>Above theories are one-dimensional  |  |  |

Adapted from Cornforth, C. (2003: 6-14)

As Hindley argues: ‘the interrelated concept of stakeholding is also useful in differentiating between levels, and the nature of the involvement of interest groups in the policy process’ (Hindley, 2002). At the same time, stakeholder theory argues that the integration of stakeholders amounts to good governance, ‘ensuring stakeholder groups are capable of providing a counter balance to the focal organisation ... stakeholding raises interesting issues about how the concept may be operationalised – in particular, identifying those involved and affected by policy – and how to involve them in the policy process (Hindley, 2002). Analysis of UEFA in particular lends itself ideally to such a debate. With commercial and sporting values clashing in a high profile political world of distinct and contrasting demands, the level of stakeholder integration has become one of the dominant themes in the life of the organisation.

In order to link the analytical approach to governance through investigation of the governance ‘network’ that characterises it, and the normative concepts of governance, particular attention will be paid to Rowley’s development of a network theory of stakeholder influences (Rowley, 1997). Using Oliver’s framework for examination of organisational responses to external influences (1991), Rowley constructs a theory of which ‘accommodates multiple stakeholder demands and predicts how organisations respond to the simultaneous influence of multiple stakeholders’ (Rowley, 1997: 887). He contends that any comprehensive theory requires analysis of not just the level of stakeholder influence but also the nature of response. In order to achieve this consideration must be given to the multiple and interdependent interactions that simultaneously exist in the stakeholder environment. By using social network analysis to examine this one can map entire stakeholder structures, rather than individual stakeholder influences. Rowley bases his theory on two specific variables. He argues that ‘the *density* of the stakeholder network surrounding an organisation and the organisation’s *centrality* in the network influence its degree of resistance to stakeholder demands’ (1997: 888). Moreover, ‘since stakeholder relationships do not occur in a vacuum of dyadic ties, but rather in a network of influences, a firm’s stakeholders are likely to have direct relationships with one another’ (1997: 890). Social network analysis shows how the interaction between stakeholders constitutes a framework that can be studied and analysed in its own right’ (Galaskiewicz and Wasserman, 1994: xii).

Density is the relative number of ties in the network that link actors together. Rowley argues that ‘as density increases (and the number of ties between the network grows) communication across the network becomes more efficient. By virtue of having many ties, the network structure facilitates information exchange amongst all its regions’. The second consequence of density is the ‘diffusion of norms across the network as organisations imitate one another’s behaviours in an attempt to be perceived as legitimate players’ (1997: 897). This in turn leads to information exchange, shared expectations and the potential for coalition formation. According to the theory, a focal organisation (such as UEFA) attempting to resist pressure finds it difficult to play one stakeholder off against another as stakeholders produce strong and unified pressures. In less dense environments, information exchange is impeded by a sparse network structure and leverage is therefore weaker and expectation less.

Centrality refers to the degree of control the organisation has, and what Rowley refers to as ‘betweenness’. This means the frequency with which an actor falls on the geodesic paths between pairs of other actors (1997: 899). The extent to which it acts as an intermediary between its stakeholders is a significant factor influencing how much the organisation will resist stakeholder pressure. The consequence of this is that as the focal organisation’s centrality increases, its ability to resist stakeholder pressures increases (1997: 900). From these propositions of density and centrality, Rowley develops a framework in which the behaviour of organisations in relation to their network of stakeholders can be anticipated. In a high density, high centrality network, both the stakeholders and the focal firm are able to impact each other. They are highly susceptible to each other’s actions and have the capacity to influence. Additionally, a focal organisation faces an uncertain environment since its stakeholders are capable of forming a strong unified voice against it. The result is that organisations negotiate in order to reduce that uncertainty, and therefore become a ‘compromiser’ (1997: 901-902). In contrast, ‘under conditions of low density and high centrality,



the focal organisation will adopt a ‘commander’ role, attempting to control stakeholder behaviours and expectations’ (1997: 903).

This framework provides a useful tool in which to assess UEFA’s stakeholder environment. The organisation’s centrality to the governance of European football, and the relationships the organisation has with stakeholders, and the relationship stakeholders have with each other will go a long way to determining UEFA’s options in the coming decade. This can be achieved through breaking UEFA’s environment down into two separate entities: its internal environment (that is the stakeholders that play a formal role within UEFA’s structures); and its external environment (that is the stakeholders which interact with the organisation but outside of UEFA’s formal structures). Analysis of UEFA will take place with specific reference to what has become known as the ‘European model of sport’. The model, underpinned by a number of principles, has shaped the organisational environment of sport for the last century, but has recently come under increasing pressure. UEFA, and European football more generally, can therefore be used as a means to assess the sustainability of the model. Similarly, analysis of the model itself will also help delineate future roles, threats and opportunities for UEFA.

#### *iv. UEFA, FIFA and the ‘European model of sport’*

Football is organised within the parameters of a specific model of sporting governance that has become known as the ‘European model of sport’ (European Commission Directorate General X, Sport Unit, 1999; Szymanski, 2004a; Musso, 2003). It is important to recognise the importance of this model of sport to both UEFA’s structures and the wider football governance framework in Europe. As far as the internal environment in which UEFA operates is concerned, the place of each stakeholder is guided by the philosophy and historical development underpinning this method of sporting organisation. Explanation of the European model has commonly been made by drawing comparison with the organisation of North American sport. Such analysis has viewed American sport to be a branch of the entertainment industry, with a profit-making imperative, and with elite sport detached from grassroots and amateur participation. This is in contrast with the European model, characterised as having a broader social and cultural element, and with an integral connection between elite and grassroots sport. Economic analyses of the European model, and comparisons with, for example, the organisational structures of American football have concentrated on the economic efficiency of two approaches, and also considered the different sporting outcomes and potential consequences arising from the different systems (Szymanski and Kuypers, 2000; Hoehn and Szymanski, 1999; Szymanski, 2004b).

The European Commission has referred to a specific ‘The European Model of Sport.’ (European Commission Directorate General X, Sport Unit, 1999), articulating the various principles and organisational structures underpinning the model. These include the pyramid structure, and the monopoly role of governing organisations within it; the connection between grassroots and professional sport; the principles of promotion and relegation; and the national organisation of sport and its competitive structures. Simply, individuals came to together to play football and those individuals formed clubs. The clubs formed leagues and regional associations, to organise competition and the implementation of rules and representation on a local level. The regional associations frequently form the basis of the national association, which has sovereign authority over the governance and regulation of sport in each particular domain. The national associations are then members of UEFA, which organise club and national team competition, and FIFA, which regulates the game at global level and organises a quadrennial World Cup competition for national teams. It is the international framework of the game, and its multi-organisational structure that affords the national associations their authority, forming the basic organisational cell of the global governance framework. According to Musso: ‘In Europe, sports federations have a historical legitimacy to run the professional sports system’ (Musso, 2003: 22).

The organisation of football in this way, with a hierarchical integration of the elite and the grassroots of sport affords the organisation of football a unity and universality in which everything

from the laws of the game to the organisation of leagues and cups operates within a single organisational framework. The integrated governance structure also means that the national associations, confederations and FIFA effectively enjoy a monopoly position of control over the regulation and organisation of football. There is a single governing body for each national territory, a single confederation in each continent sanctioned by FIFA, and a single worldwide federation. The rules of these bodies forbid football to be organised outside their own structures, and ensure that leagues and clubs are, theoretically, subordinate to the national associations. As the European Commission states: 'by means of rules, usually involving sanctions for those taking part in championships which have not been organised by the international federation, these organisations try to maintain their position' (European Commission Directorate General X, Sport Unit, 1999: 3). The monopoly position of the sporting governing bodies also affords the national associations the authority to require clubs to release players for international fixtures organised by the national associations. As Szymanski argues, 'soccer associations of Europe wield enormous power' (Szymanski, 2004a: 31).

UEFA's position in the pyramid is less obvious than one would first imagine. Whilst the organisation of football in Europe can be seen in the context of the 'European model', the hierarchy of governance extends beyond European parameters. Whilst the confederations, including UEFA, have a role in governance by electing their continental representatives to the FIFA executive committee, UEFA fulfils a different role to FIFA and the national associations. FIFA was formed in 1904, before any of the other confederations, and 50 years before UEFA. Composed of the national associations regulating football in their own domestic territories, FIFA was formed in order to ensure unity of regulation across a globe in which football had become almost instantly popular. The formation of FIFA prior to the continental confederations (of which the South American confederation CONMEBOL was the first in 1916) means that the regulatory role of the confederations was bypassed, and that the national associations joined together to form FIFA to co-ordinate this function. Whereas UEFA controls and regulates *competitions* within its domain, it does not have a wider regulatory role, as do FIFA and the national associations. The historical quirk, in which the formation of FIFA predated the formation of the continental confederations, has meant that the pyramid of governance is not geographically coherent. In a perfect geographical pyramid of governance one would expect the confederations to regulate football in each continent, and to be members of FIFA. The dual membership of national associations of both UEFA and FIFA is also at the heart of some of the tensions between the two organisations.

Within the governance pyramid there is also a system of competition, which is defined by the principle of promotion and relegation between leagues. Clubs performing in the lower leagues can aspire to higher leagues, and, equally, clubs performing in the higher leagues are at the annual risk of relegation to the lower leagues through poor sporting performance. Clubs qualify for European competition, organised by UEFA, on the basis of performance in national competitions ensuring interdependence between all levels. It is this aspect of the European model that draws the most frequent comparisons with the organisation of American sport. All the major sports in the United States operate closed leagues, with entry and exit limited to changes in franchise with continued and new participation depending on financial rather than sporting performance. Within this context players are often shared between teams through the 'draft' system in professional sport in which players are selected from college teams. The weakest team gains the first selection in an attempt to maintain a high degree of competitive balance. According to Musso, 'the pyramid form of sports organisation and the promotion/relegation system are a common feature and a guarantee of the sporting dimension, which is superior to the economic one' (Musso, 2003: 22).

Two further crucial elements distinguish the organisation of sport in Europe and the United States. Firstly, American sports are largely self-contained with a single market for players. Each sport (basketball, American football, baseball, ice hockey) has a single competition, which is controlled by the clubs themselves. The elite clubs do not compete against clubs at different levels of game, nor do they form a representative national side to compete against other nations. In Europe, the opposite is true. Secondly, clubs compete in a variety of different spheres (i.e. between

different levels of the national game, in an elite national league, and then in the European domain), competitions are organised by the clubs themselves (i.e. the leagues), by national associations (i.e. cup competitions), and then by supranational competition organised by UEFA (Champions League and UEFA Cup) and FIFA (World Club Championship). The national associations draw players from club football to represent national teams. The governing bodies therefore license competitions, and also organise competitions under their own auspices. Furthermore, in North American sport, investors look for direct returns, and aim to be 'profit-maximisers'. In contrast, European football clubs have tended to be 'utility-maximisers' with multiple objectives including sporting success, security, profit, and the health of the league (Sloane, 1971).

The level of influence of the various bodies integrated into the structure of the national association differs from country to country, reflecting divisions between amateur, semi-professional and professional football, and clubs and leagues. However, it remains the case that all participate within the context of an integrated whole and that all other organisations are subordinate to the national associations. The subordination of the leagues in football's rule books is a vital element in understanding the governance of sport in Europe. Whereas in the United States, the governing body *is* the league, in Europe the national associations are separate from the leagues and superior in the governance structure to them. This privileged position of the national associations is protected in the statutes of the national associations, UEFA, and FIFA:

Leagues or any other groups affiliated to a Member of FIFA shall be subordinate to and recognised by that member. The member's statutes shall define the scope of authority and the rights and duties of these groups. The statutes and regulations of these groups shall be approved by the member (FIFA, 2004: Article 18.1: 13).

Leagues or any other groups of clubs at association level shall only be permitted with the associations express consent and shall be subordinate to it. The association's statutes shall define the power apportioned to any such group, as well as its rights and obligations' (UEFA, 2004b: Article 8.7: 10)

According to Hoehn and Szymanski, In the United States, 'each league governs its own competition, but has no jurisdiction over rival leagues ... in contrast, the essentially European character of football organisation is its unitary structure with a hierarchy of governing bodies and leagues' (Hoehn and Szymanski, 1999: 206). The subordination of the leagues to the national associations, recognises that in a multi-organisational context, in which clubs compete across levels and across borders, and with interdependence between those levels in terms of both the development and provision of players (in contrast to the draft system from colleges in the United States), and finance from the elite to the grassroots, there should be a body that looks at the overall interests of the game at all levels. The national associations are therefore normally composed of some kind of representative combination of football across the various levels. That said, leagues are increasingly challenging the sovereign authority of the national associations, and increasingly seeing themselves as 'governing bodies'. The financial growth of the leagues, discussed in the following section, has been accompanied by the quest for greater regulatory authority, and greater authority within the structures of the national associations. The elite leagues are, therefore, normally represented to a high degree recognising the important financial contribution of the professional leagues. But the structures also reflect the belief that there is a responsibility at the top end of the game to redistribute revenue to other areas of the pyramid – what the international governing bodies refer to as 'solidarity'.

UEFA's role as the sovereign organiser of European club competition informs its position in the governance of European football – how the organisation interacts with its internal and external environment – and also allows the organisation to promote 'solidarity' within and between the various levels of the game. The maintenance of the objective within the parameters of what is possible remains a key goal and responsibility of the organisation. Interestingly, only certain aspects

of the European model are embodied within the organisation's statutory objectives (see Appendix 1). The first objective, to 'deal with all questions relating to European football' attempts to endow UEFA with wide authority with the aim of consolidating unity within the European game, and their position of pre-eminence. The objectives also look to protect the national model of governance by safeguarding and respecting 'the overall interests of the member associations' (UEFA Statutes). To a certain extent, the objectives are conspicuous by what is not there rather than what is. There is no reference to financial 'solidarity' between different levels of the pyramid, no reference to the pyramid itself, nor any reference to the right to participate in a competition through the principle of promotion and relegation. These aspects of the European model form a basic part of the *raison d'être* of UEFA, and help to justify its existence as the organiser of competition beyond the purpose of financial enterprise. Although the absence of statutory reference to these aspects is perhaps surprising, UEFA's very public pronouncements illustrate that they form a core part of the organisation's mission statement in its recent strategy document:

UEFA's core mission is to promote, protect and develop European football at very level of the game, to promote the principles of unity and solidarity, and to deal with all questions relating to European football. UEFA is an association of associations, based on representative democracy, and is the governing body of European football. Football is the priority in everything we do. Working closely with our member associations we aim to:

- Organise successful competitions for professional, youth, women's and amateur football.
- Increase access and participation, without discrimination on grounds of gender, religion or race, and support growth in the grassroots of the game.
- Achieve commercial success and sound finances without distorting the sporting qualities of our competitions.
- Use UEFA's revenues to support re-investment and re-distribution in the game in accordance with the principle of solidarity between all levels and areas of sport.
- Target specific aid and assistance to help member associations with the greatest need.
- Promote positive sporting values, including fair play and anti-racism, as well as safe and secure match environments.
- Run an anti-doping programme aiming at preserving the ethics of sport, safeguarding the players' health and ensuring equal chances for all competitors.
- Act as a representative voice for the European football family.
- Ensure a coherent approach to decision-makers and opinion-formers on issues of relevance to European football.
- Maintain good relations with other continental football Confederations and FIFA.
- Ensure that the needs of the different stakeholders are properly reflected in UEFA's thinking.

These aims should be pursued with an approach based on democracy, solidarity, fairness, transparency, accountability, entrepreneurship, professionalism, pride, and respect for the many stakeholders within European football ... UEFA's goal is to provide leadership but also top quality services for all our members and stakeholders. In UEFA we aim to lead, to serve, to continuously improve in all areas and to be ahead in everything that we do. In all that we do we care about football (UEFA, 2005b: 7)

In justifying its control of European competition, UEFA therefore regularly invokes the principle of 'solidarity' as a guiding organisational principle. Within UEFA there remains a strongly held belief that the elite game should continue to make a contribution to supporting other levels of the pyramid:

I think European sports are based on a lot of voluntary work. It's a part of society and a social pattern in a way. In many places, in North American it is more based on schools and entertainment in a way ... the background and development of sports is different ... A talented player is not identified by a professional clubs. He or she is identified by a volunteer somewhere or in a school somewhere, and they are picked by the clubs when they come to a certain level of education ... in all these earlier parts there has been a club, or school, or a district or a football association involved. And there is an obligation in my opinion for the professional side to distribute wealth to the other part of the family or the pyramid (Lars-Christer Olsson, chief executive, UEFA, personal interview, 16th November 2004).

In the golden jubilee history of UEFA it is argued that 'like the top of a tree, football – and not just top class football – can only flourish if it is healthy from the roots to the tip and it is cared for and nurtured accordingly' (Jenni, 2004: 366). Similarly:

Solidarity is one of the central pillars of UEFA's work. We deploy a number of mechanisms to ensure that football's financial rewards are shared among Europe's national associations, leagues and clubs, right through to the grassroots level. One important means of solidarity is the UEFA Champions League, the pinnacle of club football in Europe. At this level there is no doubt that football becomes a commercial activity as well as a sport but the TV and marketing success is a vital component in the solidarity mechanisms utilised by UEFA. It is central to our values that something should always be given back from the top level (UEFA, 2002: 10).

Solidarity is manifested in a number of ways, but primarily in the development of its assistance programmes and through redistribution between clubs across UEFA's 52 members competing in UEFA competitions. According to UEFA, monies diverted from its key commercial projects are of crucial value to the smaller member associations, which 'allows them to function and to invest in the grassroots, which would otherwise be impossible' (UEFA, 2002: 12). To achieve this UEFA organises, in partnership with national associations, three assistance programmes. The HatTrick programme, running until 2008 with a budget of 400 million Swiss francs, offers assistance to the national associations of Europe (replacing projects such as the East European Assistance Bureau and Kiosk programmes), the Meridian Project is a co-operative venture with the Confédération Africaine de Football (CAF). UEFA also has a charity portfolio.

The Champions League has been a key development in UEFA's ability to promote 'solidarity'. This occurs both in the way the organisation distributes income to its competing clubs (enabled through UEFA's central marketing of the organisation), and also through the payments made to non-competing clubs. Besides income paid out to the competing clubs, revenue generated in the 2003-04 season was distributed in four different ways: 65.4 million Swiss francs remained with UEFA to fund its activities such as the costs of refereeing; 52.4 million Swiss francs was given to associations and leagues to be given to medium and small sized clubs for youth development; 23.7 million was set aside for 'parachute payments' to clubs knocked out at the early stages of the UEFA Cup and Champions League; and 20.5 million Swiss francs paid to member associations, with 15.6 million of that to promote football in their respective countries (UEFA and TEAM, 2004: 32). According to UEFA:

It is central to the UEFA philosophy that something should always be given back from the top level, to help develop football from the 'grass roots' upwards. The UEFA philosophy means that clubs from the small and less wealthy countries should always have the chance to play against the biggest and the best. Thus, UEFA policy is inclusive and not exclusive. True competition is about excitement and uncertainty and, above all, the chance for the weak as well as the strong to follow their dreams. For these reasons the UEFA Champions League is founded upon a clear principle of financial solidarity" (UEFA, 1998: 5).

## Chapter 2. The organisational structure of UEFA

Through assessment of UEFA's structures in the context of changes to the environment and stakeholder network, we can gain an understanding of some of the challenges facing the organisation at the beginning of the 21<sup>st</sup> century. As Sugden and Tomlinson have written in relation to FIFA (1998), whilst the statutory framework cannot shed sole light on the loci of power – the influence of personalities and interests, and the realities of human behaviour are, clearly, considerable – nor can we fully appreciate the dominant issues and pressure points on UEFA, and its capacity to govern effectively, without reference to the framework in which it operates.

Whilst the European model of football is based on a relatively coherent logic, and vertical hierarchy, within that framework is a complex multi-dimensional milieu, an array of organisations, entities and individuals with frequently diverging interests. The overall framework itself is simple enough, but the position of these organisations and interests within this framework is hotly debated. It is those debates that will affect the future direction of European football, and it is those debates that UEFA must recognise in relation to its organisational structure. Analysis of the governance structure of UEFA and the governance of European football needs to consider a number of things. These include the role and influence of stakeholders and their integration into the current organisational framework; an understanding of how governance and the integration of stakeholders relates to the sustainability of the European model of sport, and its key aspects; and the importance of the management of change.

### *i. The pre-eminence of the national associations*

One can see the European model of sport embodied in the organisational structure and statutes of UEFA. Like FIFA,<sup>4</sup> UEFA is an International Non-Governmental Organisation (INGO), based in Switzerland and operating under Article 60 *et seq* of the Swiss Civil Code. The Code gives UEFA its legal status as an organisation under the following remit: 'Associations which have a political, religious, scientific, artistic, charitable, social or any other industrial object, acquire the status of a person as soon as they show by their constitution their intention to have a corporate existence' (Swiss Civil Code, Article 60). The articles as laid out in the UEFA statutes shape the structural form of UEFA. It is this structure, identified in figure 1, that fundamentally affects the organisation of football in Europe, the composition of competition, and critically the relationship and dynamics between football's various stakeholders. The statutes are therefore crucial to a thorough and perceptive understanding of UEFA.

Since the formation of UEFA on 15<sup>th</sup> June 1954, half a century after FIFA, UEFA's membership has been comprised solely of the national associations, rising from 30 at the birth of the organisation to the current 52 national associations. The statutes state:

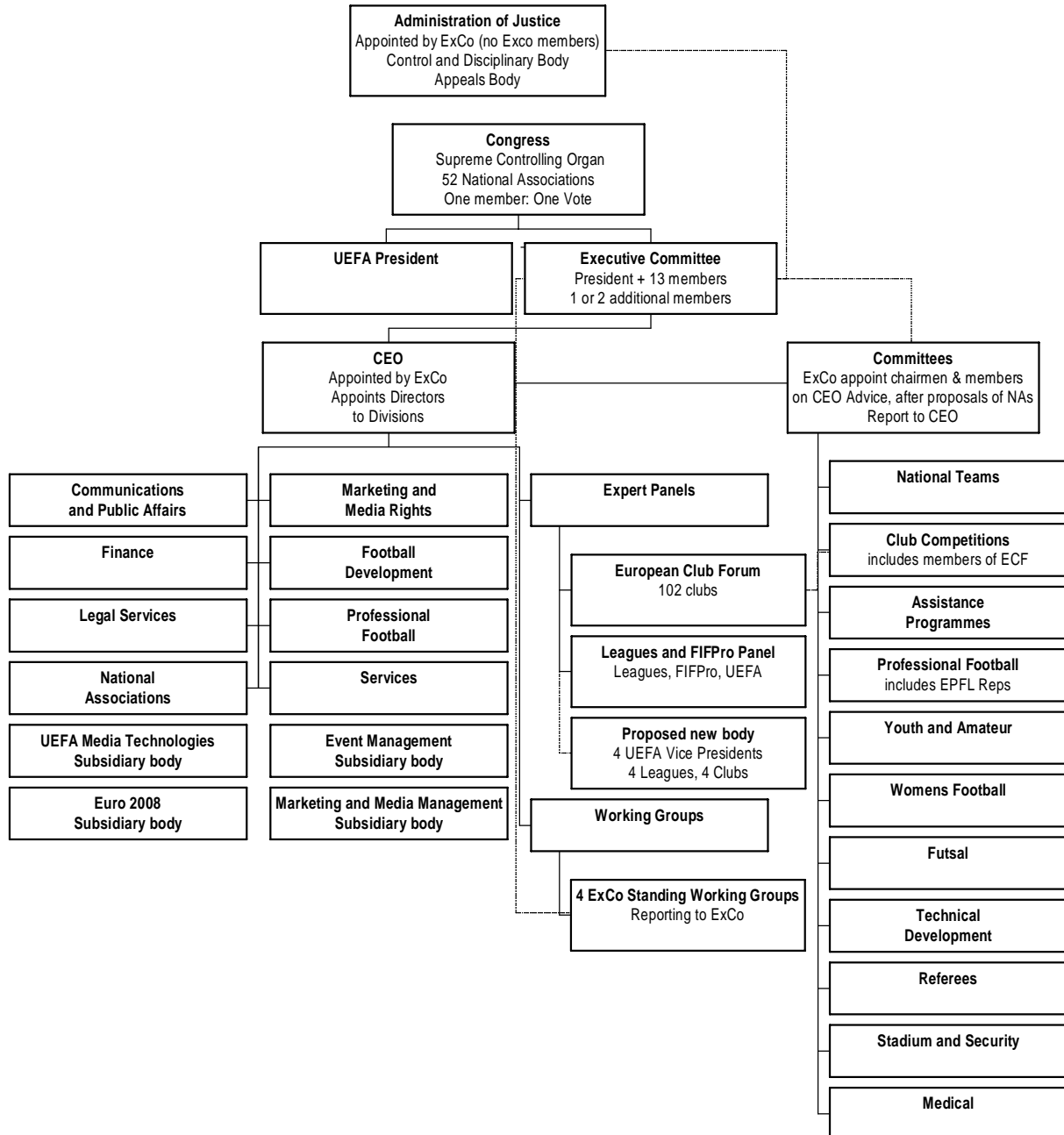
Membership of UEFA is open to national football associations situated in the continent of Europe, based in a country which is recognised by the United Nations as an independent state, and which are responsible for the organisation and implementation of football-related matters in the territory of their country. (UEFA, 2004b: article 5)

That the membership of UEFA has only ever comprised the national associations has gone a long way to shaping the nature of the organisation, its objectives, ethos and the wider trajectories of European football governance. Central to the exclusive membership of the UEFA is the notion that it is only the national associations that can balance the wider interests of the game – the grassroots/amateur game, as well as semi-professional, professional and elite game, technical and sporting progress, and the breakdown between international and club football:

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<sup>4</sup> See Sugden, J. and Tomlinson, A. (1998) *FIFA and the Contest for World Football*, Polity, Cambridge.

The clubs, as the common denominator of football, recruit players, teach them the basics and develop them. The clubs themselves get together to form regional or national leagues while the national association, as the supreme authority in each individual country, oversees the game at all levels, delegating responsibility as appropriate to leagues, regional associations and others. The national association is thus the protector of the game within its borders, and represents its country internationally (UEFA, 2004a: 140).



**Figure 1: the organisational structure of UEFA**

Clubs and leagues are represented within the structures of the national associations, and as such represented within UEFA through that particular vehicle. The national associations, as members of UEFA, benefit from a number of rights, and must adhere to a number of obligations. Members are, for example, entitled to enter competitions organised under UEFA’s auspices, as are clubs affiliated to member organisations. Obligations include compliance with the statutes as laid out, and the laws of the game as decided by the International Football Association Board (IFAB). That the leagues and clubs are theoretically subordinate to national associations, and as such

subordinate in the European sphere through the membership of UEFA is crucial in understanding the network of European football governance.

### *ii. UEFA's internal organisation*

The organisational structure of UEFA consists of four specific organs: The congress, the executive committee, the chief executive, and the organs for the administration of justice. Convened on an annual basis, congress is the supreme controlling organ of UEFA. The key powers of congress are receipt and consideration of the executive committee's, chief executive's, and auditor's reports, the election of the UEFA president, election of members of the executive committee, election of the European members of the FIFA executive committee, amendment of the statutes, and the consideration and taking of decisions on proposals (UEFA, 2004b: article 13, paragraph 2). UEFA has always stressed its democratic framework and critical to this is the right of each member association to one vote each. Thus, as far as the statutory framework is concerned, the national association of Germany has the same voting power at congress as the national association for the Faroe Islands.

The executive committee of UEFA consists of the president of UEFA and thirteen other members each proposed by different member associations, and each holding an active office within that member association. The committee may also elect one or two additional members. The executive committee has 'the power to make decisions on all matters which do not fall within the legal or statutory jurisdiction of the congress or another organ' and manages UEFA 'except to the extent that it has delegated responsibility to the chief executive or administration, or unless such responsibility is delegated by the statutes' (UEFA, 2004b: article 23, paragraphs 1-2). The executive committee has what is referred to as 'untransferable and irrevocable duties' including overall control of UEFA and the issue of necessary instructions, definition of organisational structure, appointment of the chief executive, and approval of the chief executive's business plan (UEFA, 2004b: article 24, paragraph 1). The powers and duties of the president are to represent UEFA, chair congress and executive committee meetings and have the casting vote in cases of equality. Essentially the role of the executive committee is the equivalent to that of a board in an ordinary company dictating the strategy and general direction of the organisation. It is elected by the member associations and appoints a management team, lead by a CEO to administer the day-to-day business of the organisation. Again, the composition of the executive committee is drawn exclusively from the national associations.

The executive committee is served by the UEFA chief executive (CEO) and his administration. The CEO is the highest operational-management organ of UEFA. The key duties of the chief executive include the following: representation of UEFA; arrangement and management of the administration; appointment of management and dismissal of staff; submission of an annual business plan; delegation of duties to executives. The CEO also reports from the standing committees of UEFA to the executive committee. Finally, the organs for the administration of justice comprise control and disciplinary body, the appeals body and the disciplinary inspector, these organs have jurisdiction to deal with 'all disputes of a sporting nature relating to UEFA matters which arise between member associations, clubs, players or officials' (UEFA, 2004b: article 60, paragraph 1). Members of the judicial organs are appointed by the executive committee, but may not be either the executive committee itself or the other standing committees of UEFA. This allows for its members to be completely independent of other structures within UEFA, with the context of a self-regulatory framework.

### *iii. UEFA and stakeholder integration*

The structure of UEFA ensures that *de jure* decision-making lies exclusively with the national associations. The integration of stakeholders in the governance network and the structures of UEFA therefore becomes of critical importance. This is achieved through UEFA's consultative



mechanisms: committees, expert panels and working groups. The standing committees 'advise the chief executive, who may delegate certain of his duties to a committee' and the terms of reference are drawn up by the CEO (article 37). Similarly, the chief executive may 'appoint expert panels for special duties, and working groups for special limited (in time) duties'. These bodies, along with memorandums of understanding that UEFA has with specific groups, constitute the means through which UEFA's key internal stakeholders are consulted. The various national leagues for example are represented on the Professional Football Committee, the relationship managed through a memorandum of understanding between UEFA and the European Professional Football Leagues (EPFL), which is discussed further in chapter six. Similarly, the clubs participating in UEFA competitions are represented in the European Club Forum (ECF), an 'expert panel' which has the subsequent right to elect a board, which then elects members to the club competitions committee. Representation of the players is also facilitated through the 'Leagues and FIFPro panel' which consists of representatives of UEFA, the EPFL and the international players' union FIFPro.

Whilst issues arise in the relationship between the various organs, such as congress and executive committee, and executive committee and administration, the key internal relationship within this structure is an understanding of the relationship between the standing committees and panels to the decision-making process. It is through the committees that the stakeholder network is integrated into the structural processes of UEFA in addition to the expression of the views of stakeholders through the national associations. The voices of the leagues, the clubs, the players, coaches, medics, referees and others are heard in UEFA through these particular vehicles. The most important facet of this relationship is that the committees and panels are mainly consultative rather than decision-making despite the fact that delegation to the committees is permissible within the statutes. The consultative nature reflects the historical development of the governance of the game, in which the national associations are empowered as the overall guardians of the game, and the leagues and the clubs with their narrower sectional interests express their views through consultative mechanisms rather than decision-making power.

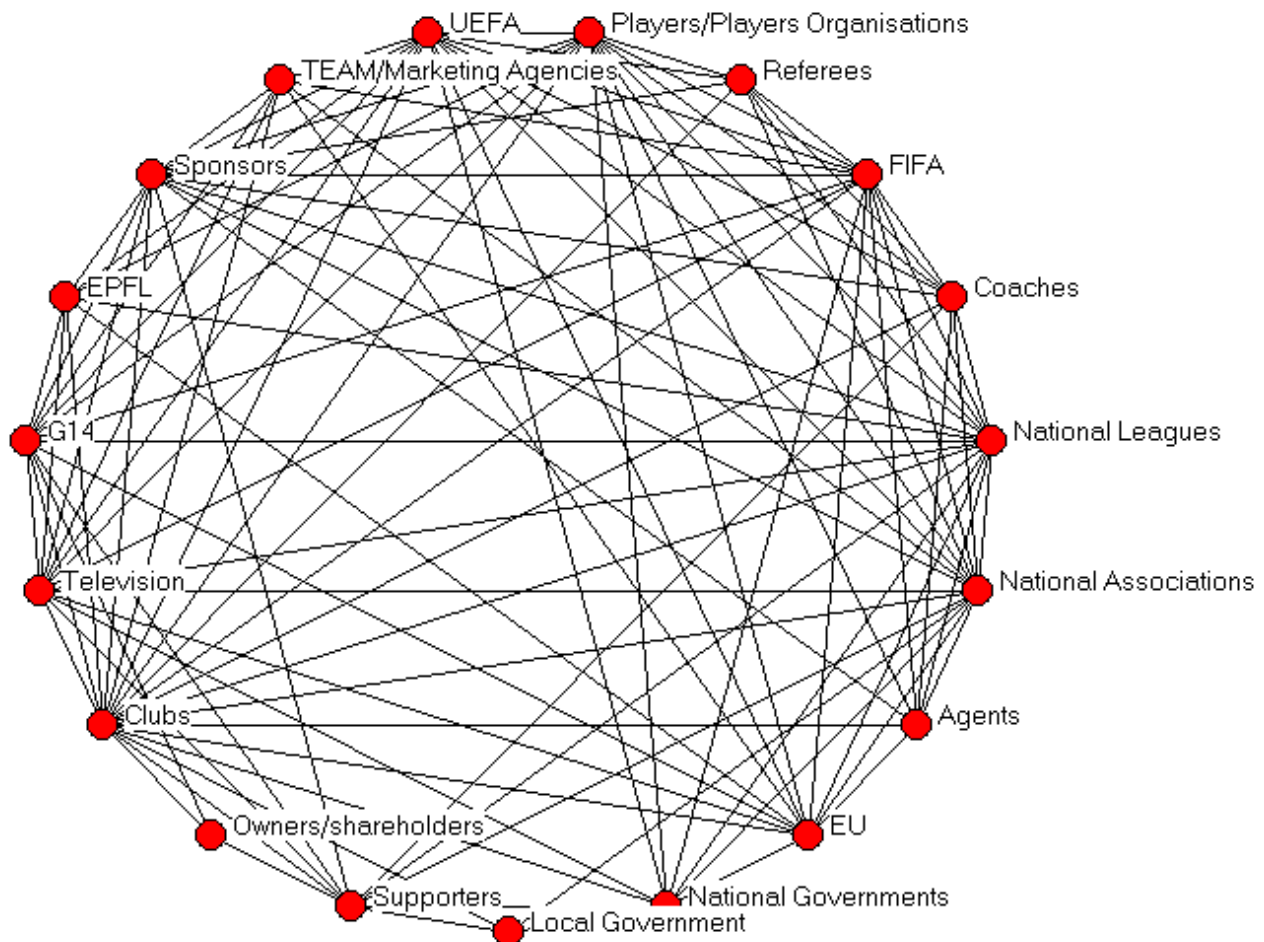
Of course, stakeholders do not just utilise the opportunities to apply pressure offered by UEFA. A complex network of governance exists in which stakeholders in European football increasingly interact with one another as well as with the established authorities. Whilst we can see how stakeholders are integrated into procedures of UEFA, the reality of the environment in which UEFA operates is an increasing dense and convoluted network of groups, individuals and interests, characterised by alliances that seek to shape the direction of football governance in specific self-interested directions. This potential for new alliances between organisations, sponsors, the media, and political institutions has destabilised the governance framework of European football. According to Musso, 'today the genuine European model of professional sport is living on borrowed time' (Musso, 2003: 24). The transformations that have taken place in European football and their consequences for the governance of European football are detailed in the following section, and will determine the extent to which this is true.

## **Section 2: European football in transition**

### **Chapter 3. The commercialisation of European football: the pyramid under pressure**

The governance of European football operates in a multi-layered, multidimensional, multi-organisational environment. UEFA's relationship within the structures of football is complex enough before one begins to consider the development of institutions and organisations operating outside the football framework. UEFA then could be said to operate in both an internal ('football') and external ('non-football') environment. The internal environment itself breaks down into two interrelated but organisationally separate entities. Within the internal environment there are football organisations that form a part of UEFA's governance organ, and those, such as FIFA, that whilst impacting on UEFA, and composing a part of the internal football environment, are not formally integrated into the organisational structure of UEFA.

The changing nature of governance in sport has meant that UEFA must negotiate a complex network of stakeholder interest. The interaction of specific organisational interests both inside and outside football, combined with social, economic, technological and political and legal developments has conspired to alter the parameters of authority of the traditional governing organisations. UEFA, like many other organisations in the sporting sphere, cannot govern unilaterally, but must take into account the interests and influences of the many stakeholders operating in network football. Figure 2 illustrates the dense spider's web of relationships and the interaction, interdependence and pressures that exist between the various organisations.



**Figure 2: the stakeholder network of European football**

It is a far cry from the simple theoretical hierarchy of governance typical of the European model of sport governance discussed above. That is not to say such a model is redundant. On the contrary, the actual structural relationship between the organisations still accords with the hierarchical framework. What it does mean is that when taking decisions UEFA must recognise the influence and role of stakeholders with a capacity to impact on the pre-eminent position of UEFA within the governance framework. One can gauge the changing influence of the various interests by charting the progress of European football since UEFA's formation in 1954, and the formation of the European Cup shortly after. Through an analysis of this development we can see the major trends which are shaping the nature of football governance in Europe, and the issues that UEFA must deal with if it is to continue in its present role as organiser of European competition.

The future of the European football pyramid has been become increasingly threatened in the last two decades. Social, legal, economic, political, technological developments inevitably shape the environment in which sporting organisations operate, and a number of interacting factors have combined to undermine the existing structures. Increased commercialisation has manifested itself in a multiplicity of ways, and is at the heart of some of the key pressures on existing governance mechanisms. Those charged with the responsibility of governing European football are well aware of the growing pressures placed upon them. According to former UEFA CEO Gerd Aigner:

The Bosman Ruling of 1995 has meant that a small number of clubs have become excessively powerful, both financially and from a political and sporting point of view. At the same time, political structures have begun to break down, a process which is evident in many different ways. Creating an international lobby on behalf of a number of major clubs from within the EU is a huge challenge for UEFA and its member associations – a challenge which must be met if the existing principles that govern football are to continue in the future (UEFA, 2003a: 7)

Four years after the pronouncement of the Bosman ruling by the European Court of Justice, football in Europe finds itself under constant threat from economic circles. Club budgets have exploded, players' salaries have reached astronomical heights, transfer fees have been replaced by contract buy-out clauses, and a desire for more and more money has led to initiatives such as the quoting of clubs on the stock market. At the same time, plans for new competitions surface again and again, with the sole objective of procuring a greater abundance of financial resources. For the game's authorities, retaining control of this tumultuous world is an arduous task (UEFA, 1999: 12).

To enable football to preserve its identity, we will have to protect the game from every excess, prevent splits and breakaways, and maintain football's balance in all areas. Professional football in particular is affected by excesses, and this sector must steer clear of them to ensure its harmonious development (UEFA, 1999: 12)

In recognising the changing world inhabited by UEFA, Aigner also recognised the challenges faced by the governing bodies in their attempts to maintain the structures of governance that have traditionally regulated the game. In order to evaluate the position of UEFA in relation to its wider environment it is important to first assess some of the developments that have changed the face of European football and which pose challenges to the existing framework of governance. The most significant manifestation of the growing commercialisation of the game has been the increasing financial concentration with the elite leagues and clubs of Europe, and the lower levels of the pyramid. The overall growth of revenue has been unevenly spread causing instability in the existing organisational structures. The reasons behind these increased disparities in wealth can be traced to a number of broader developments. Primary amongst them is the growth and technological development of broadcasting in Europe.

*i. A brief history of club football in Europe: 1954 to 1992*

If there is one thing we can say confidently about football at the beginning of the twenty-first, it is that it cannot be divorced from the wider world. Through the last century and a half of the game's short but remarkable history, the dominant local and global trends can be seen through the lens of this cultural phenomenon. The development of the 'people's game' bears witness to many of the dominant socio-economic and political trends of the last century – the growth of an industrialised and increasingly affluent society, the rise and fall of nationalism, commercial and technological advances, the growth in transnationalism and globalisation. Football is the dominant spectator sport, delivering television audiences over which channels and sponsors scramble. If football is a cultural expression of the world, then it is in Europe where that expression is financially dominant. Brazil's mastery and vision has illuminated five World Cups, but Europe remains both the economic powerhouse and the historic sporting centre.

At a macro level, the sport constitutes an extraordinary success story of civil society. Few pastimes or associations of civic organisation can boast the same level of global penetration, consumer and participatory interest. Yet, football, like anything, has frequently been caught between the desire to maintain the cherished traditions that have sustained it, and the imperatives demanding modernisation and transformation. The slow and evolutionary nature that has characterised the game has no doubt been instrumental in football's growth and success, yet as the world changes, football changes with it. For the guardians of association football, the challenge at the beginning of the twenty-first century will be to marry the modernising imperatives with the traditions that have guided football to its unchallenged position as the world's dominant sport. Nowhere can those challenges be greater than on the continent of Europe, where football and economics have increasingly clashed.

Following the formation of the Football Association in England in 1863, the growth of football in Europe developed at a remarkable pace becoming 'Britain's most durable export' (Walvin, 1994: 96). The first market for export was North West Europe at the end of the nineteenth century and the sporting word was spread by English and Scots travelling as diplomats, students and other migrant workers (Wagg, 1995a 104; Mason, 1986). In Italy, football became popular with the aristocracy and the 'business-bourgeoisie' because it 'embodied their ideals – the value of the English industrial revolution and the myths of the English aristocracy' (Lanfranchi and Wagg, 1995: 125). Football in southern Europe quickly developed a style of its own in terms of both playing style and support, and the game grew in both popularity and intensity. According to Lanfranchi and Wagg: 'in the face of a passion so firmly anchored in the culture of and being of the Italian or the Spanish male, the games of *calcio* and football were never confined to the working class; instead they expressed local rivalries or regional oppositions' (1995: 127). FIFA was founded in 1904 by France, Belgium, Denmark, Netherlands, Sweden, Switzerland and Spain and by the outbreak of World War I, football had entrenched itself across the continent. According to Walvin: 'Once the game developed local roots, it invariably followed the lines of the British game, with a rapid nationwide proliferation of clubs, the evolution of cup competitions modelled on the FA Cup, local leagues and the emergence of professionalism, thanks to the game's increasingly profitable spectator appeal ... by the turn of the century, British clubs, both amateur and professional, had begun to visit their counterparts in Europe, visits which, in their turn, helped to stimulate further the European interest in the game and formed the first tentative steps towards the modern international game' (Walvin, 1994: 106).

Whilst prior to World War Two the development of football on an international level had proceeded at a remarkable rate, it was in the post-war era that the men of European football began to realise the scale of football's potential. UEFA was founded in 1954, with the objectives of representing the football associations of Europe. When Wolverhampton Wanderers' defeated Honved of Hungary and subsequently declared themselves to be the 'Champions of Europe', Gabriel Hanot of the French sports newspaper *L'équipe*, perhaps piqued by the assumption (and as a means to drive midweek sales), brought together officials from clubs across Europe with the

intention of formulating a continental competition consisting of the league champions of each of the European associations. FIFA insisted that the competition be organised by UEFA and thus in the 1955-56 season the European Champions Clubs Cup was born.

According to King, UEFA's role in organising the competition occurred somewhat by chance: 'Fortuitously, UEFA, the Union of European Football Associations, had been established the year before but, as yet, had no clear role. The development of European competition offered the new institution the ideal opportunity to establish itself and UEFA agreed to administer the new competition, under whose auspices the European Cup quickly established itself as the premier club competition in European, and indeed, world football' (King, 2003: 38). Co-incidental or not, UEFA's organisation of the competition consolidated its role in European football as the sovereign organisation with regard to pan-European competitive structures.

The formation of the European Cup in 1955, and its subsequent progress, has impacted on the European game. From the outset, concerns were voiced about the possible consequences would be for domestic football and the national associations. The English authorities, ever sceptical of foreign initiatives in the development of football, were characteristically introspective and opted out of the tournament in its opening year. The Football League persuaded Chelsea, English champions at the time not to enter, concerned as it was about the knock-on effect in the domestic league (Walvin, 1994: 169). Manchester United, under the guidance of Matt Busby ignored the Football League's position and entered the competition in 1956. Subsequently, 'since the establishment of intra-European competition, managers spoke of the need to 'get into Europe' (Wagg, 1995: 103). The formation of the competition marks perhaps the most important transformation in European football – from a system of domestic club football operating unilaterally, to a dual system in which certain clubs would feature in both domestic and international club football. In the short and medium-term, and becoming more pronounced in the long-term, such duality has created a divergence between the financial needs of professional clubs operating solely in the domestic sphere, and those operating regularly in both domestic and international sphere, undermining any pretence of egalitarianism in domestic leagues.

The formation of the Champions League in 1992 has been frequently cited as the point at which UEFA capitulated to the financial interests of the big clubs. However, finances were at the centre of initial moves to develop European competition. King argues that European sport was 'never determined by sporting considerations alone where only exciting play and the honour of winning were relevant' although the sporting motivations of the players and coaches of the day and the honour and distinction of defeating Europe's greatest clubs are recognised (King, 2003: 41-42). He surmises, for example, that although the 'sporting rationale for two-legged games was significant' the 'primary' reason for having two-legged home and away ties was 'financial' (2003: 45). Whilst this is debateable, King reasonably argues that attempts to see the transformation of the European Cup into the Champions' League as a 'betrayal of the early years of the European Cup' are a misrepresentation (2003: 46). The competition has always provided an extra means by which the top clubs could generate revenue. Yet at the same time, one has to take care when drawing comparison between the imperatives driving the development of the European Cup today, and the shaping of the competition in the early years. Developments of different eras can certainly be seen as being part of the same continuum. But whilst revenue generation has always been, and will continue to be, a defining issue, the balance struck between the sporting interests of the competition and the financial demands of the elite participants has unquestionably changed.

## *ii. Broadcasting and technology: the growth of clubs and leagues*

According to Wagg: 'in the industrialised world, and indeed many other parts of the globe besides, football is primarily a TV show. The game is now experienced by hundreds of millions of people and the principal means of their experiencing it is via their TV sets' (Wagg, 1995: 120). Whilst this may have some semblance of truth from a spectator point of view, it omits to consider the millions of people playing the game. Morrow has more accurately written: 'there can be little doubt that

television, or more especially satellite television, has been the most important contributory factor in the new business era of football' (Morrow, 1999: 4). Since the inception of the television in the 1930s, public service broadcasting, available free-to-air through all television sets dominated. Little competition existed between rival channels, and if it did, there was often collusion to ensure that the costs of purchasing sports content remained stable, and remained low. The deregulation of broadcasting by European governments who saw the financial gains to be accumulated, in conjunction with the rise of satellite and subsequently digital technology under the ownership of influential media moguls such as Rupert Murdoch and Silvio Berlusconi, brought new competition to the marketplace and has transformed the consumption of football and impacted critically on the organisation of football since the early 1990s (King, 2003: 97-99). The revived popularity of football at the beginning at the 1990s ensured that the game became the means through which new pay-TV technology could be sold to the public. Football is, as has so often been stated, 'killer content'. According to Horsman: 'In the US, sport had always been a powerful magnet for audiences. Indeed the emergence of pay-TV in the US market, particularly from the mid-70s, had already proved the point' (1998: 90). Football's intrinsic popularity derived from a multiplicity of sources including the simplicity of the game itself, its entrenchment in the culture of European nations and societies, and the tribal associations of club support, allowed the game to become what Murdoch famously referred to as the 'battering ram' for satellite television. The securing of the rights to Premier League football in England transformed BSkyB from a loss-making enterprise with a reputation for being 'a working-class phenomenon, of interest only to those living in council flats' (Horsman, 1998: 89) into a 'profitable and very significant network on the European scene' (King, 2003: 102).

The changing relationship between football and broadcasters, and in particular the transformation in the way football is broadcast, from terrestrial free-to-air television, to cable and satellite, and digital pay-TV have set in train a number of developments posing challenges to the governing bodies of football. This development, predominantly funded by the consumer through monthly subscriptions, and to a lesser extent by advertising, lead directly to an explosion in the value of television rights to league football across Europe, and most predominantly in the largest national markets (United Kingdom, France, Germany, Spain and Italy), with football migrating to satellite and digital platforms. One consequence of this is that the value of television rights *vis á vis* other sources of revenue, namely gate receipts, has risen in significance. The price paid by television companies to national leagues is now related to the size of the market in which that league operates, leading to enormous differentials in income between clubs operating in the big five markets and those outside. As an example, the revenue earned from broadcasting deals by Celtic and Rangers in 2003-04 was €24.3 million and €1.3 million respectively. By comparison, Manchester United and Juventus, in the same season, earned €94.5 million and €30.1 million respectively (Deloitte, 2005b). Assuming that all else is equal, the market in which a club operates becomes a critical factor revenue differentials. The widely held consequence of this, the victory of Porto in the 2004 Champions' League notwithstanding, has been to hamper the ability of clubs from outside the big five markets to compete effectively in UEFA's flagship competition. The growth in broadcasting revenues, in conjunction with the liberalisation of the player market has initiated fierce competition between clubs for the most talented players. The value of the markets in which clubs play has gone a long way to determining the likely contestants for the biggest prizes. Moorhouse refers to this as 'big clubs, small markets, major problems' (Moorhouse, 2002 and 2003). Whilst the extent of the problem maybe exaggerated, Celtic and Rangers, for example, are amongst the twenty wealthiest clubs on the continent with turnovers of €104.2 million and €86.2 million respectively (Deloitte, 2005b: 15) Nevertheless, it is true that these clubs are constrained from both a sporting and financial perspective by the national league in which they compete. Such a development clearly places pressure on the national organisation of football, as Celtic's efforts to join the English Premier League bear testament.

Furthermore the explosion in the value of rights has exacerbated differentials between the continent's elite clubs and the rest. As the European Commission also points out, 'The income

received from the sale of broadcasting rights is transforming the sports world and widening the gulf between amateurs and professionals and between the top and bottom of sport in Europe' (European Commission Directorate General X, Sport Unit, 1999: 9). Even in countries where deals are negotiated collectively by leagues, rather than individually by the clubs, a certain proportion of revenue is often divided according to the number of television appearances, although this is not the case in some countries, such as Germany. Needless to say, the more popular clubs in those leagues command greater exposure and as such a greater proportion of the available television revenue. For example, in the 2003/04 season in England, winners Arsenal earned £33.2 million. This was £10 million more than sixth placed Aston Villa and more than double bottom of the table Wolverhampton Wanderers (Deloitte, 2005a: 15). In leagues where collective selling has been abandoned in favour of clubs selling the rights individually, the differences are even more pronounced. In the 2002-03 season in Spain, 'the league's five largest clubs – Real Madrid, Barcelona, Atletico Madrid, Deportivo La Coruña and Valencia – accounted for nearly 60 per cent of the 20-team league's income in 2002/03 with the country's two 'superclubs' – Real and Barcelona – contributing over 35 per cent between them. By comparison, in England, the largest 5 represent 46 per cent of total Premiership turnover' (Deloitte, 2004: 13). According to Deloitte, 'the polarisation is more pronounced in Serie A, where the five biggest Italian clubs – Juventus, AC Milan, Inter Milan, Roma and Lazio – accounted for around 70 per cent of the leagues €1,162 million of revenue in 2002/03 with the two highest earning clubs – Juventus and AC Milan – contributing over 35 per cent of income (2004: 13).

Such discrepancies in income, already in existence, but heightened by developments in the relationship between football and television, have, it has been argued affected the 'competitive balance' of national leagues.<sup>5</sup> Since 1992, of the big five leagues, competitive balance has declined in England, Germany and Italy (Michie and Oughton, 2004: 18-21). It is argued that a decline in competitive balance can lead to a decline in demand and a consequent failure to maximise financial returns (Borland and McDonald, 2003). Whilst this is debateable, one possible consequence is that a decline in competitive balance in the national leagues may fuel a desire to seek new, more competitive structures elsewhere. Indeed, King argues that this process is already underway. The national context has diminished in favour of a transnational milieu in which the big city clubs of Europe increasingly compete as equals (King, 2003: 112). King argues that we should not concern ourselves unduly with the declining competitive balance at a national level as new competitive balances are developing interpreting changes in competitive balance between European and domestic competition in the context of developments in broadcasting technology articulated above and moves towards the individual sale of television rights (King, 2003: 115). He argues 'the old competitive balance of the post-war era is being replaced by the era of transnational, deregulated markets. Yet that does not imply the end of all competitive equality. On the contrary, a new balance is emerging between the clubs of Europe which is drawing the giants of each national league together in an increasingly ferocious and evenly matched struggle for transnational supremacy ... the competition is becoming more and more uncertain at European level' (King, 2003: 115). The development of the Champions League is testimony to the influence of the largest clubs, the co-ordination of that influence through organisations such as the G14, and the influence of commercially driven organisations such as Media Partners will mean sustained pressure on existing models of governance.

### *iii. The changing political economy of Europe: The free market and the European Union*

King places the changing nature of the football industry squarely within the context of developments in the political economy of Europe in the last two decades of the twentieth century. In his critical appraisal of the transformation of English football in the 1990s, *The End of the Terraces*, King charts the decline of the post-war political settlement characterised by state intervention in the

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<sup>5</sup> The literature on competitive balance in sports leagues is vast and expanding in reference to both American and European sport.

economy as a means to generate growth, full employment and the need for state protection against the vagaries of the market (King, 2002: 25-26). The post war consensus was buttressed by the Fordist systems of mass production generating an unprecedented period of affluence in the 1950s. The economic boom that sustained the post-war consensus came under increasing pressure in the 1960s with falling profits, and by the 1970s, the consensus had entered a new era of contention following the collapse of the Bretton Woods monetary system, strained relations between labour and capital, increasing global competition and the oil crisis of 1973 (King, 2003: 23-24). According to King, 'this post-Fordism and the Thatcherite ideas which transformed its creation constituted the framework for football in the 1990s' (King, 2002: 26-27). King sees the transformation of English football in the context of 'organic developments which were very substantially determined by framing concepts established in certain conjectural moments. The adoption of certain free-market principles in the organisation of labour relations in the 1960s initiated a course of development which by the 1980s demanded the reform of football in line with the new political economic realities which those free-market principles had brought about' (King, 2002: 67-68). Thus the growing influence of the clubs in an increasingly commercially and financially autonomous business, culminating in the breakaway of the top division, can only be understood by reference to the British political economy in the 1970s and 1980s.

King's compelling analysis is developed further on a pan-European scale in *The European Ritual* (King, 2003). King argues that globalisation and increasing economic competition reduced the unilateral control of the European governments, and that political and economic integration was becoming increasingly necessary by the 1980s. King recognises the contrasting political economies of European nations – France and Germany remained, for example, more interventionist than the United Kingdom – but argues that 'as multinational corporations became increasingly important actors on the global stage and as financial markets became more international and less stable, European nation states have been forced to adopt an increasingly laissez-faire approach to the economy' (King, 2003: 14-25). The political economy of Europe increasingly was liberalised through the accelerated development of the EU. The Single European Act of 1986 legislated for a free market in goods, services and capital, creating a single market across Europe in which the authority of the nation state was superseded by a transnational regime (King, 2003: 25). At the same time that Europe was becoming increasingly characterised by neo-liberal economics, following the breakdown of the post-war economic consensus, so too was sport, and football in particular, following an increasingly commercial free-market orientated approach. This rapid commercialisation of football at the end of the twentieth century generated growth in external political interest: 'Professional sport is increasingly best understood as a commodity that has developed complex and symbiotic relationships within the global media complex and sports marketing industry' (Caiger and Gardiner, 2000a: 1). In such a context, it is of little surprise that the EU would take an increasingly interventionist approach, and indeed that those operating within professional sport would seek to use the institutions as a means to protect and extend their own interests. As Boyes argues: 'the economic activity prompted by the commodification of sport has provided EU law with an entrée into sporting regulation in relation to the competency to ensure effective competition' (Boyes, 2000: 73).

The growth and development of the European Union have therefore had an undeniable impact on the governance of football both in Europe, and on a global level. From the 1970s the EU started to take greater interest in the regulations imposed by sporting governing bodies with regard to the application of EU law. In 1974, *Walrave and Koch v UCI*,<sup>6</sup> the European Court of Justice (ECJ) established professional sport as an economic activity, and as such established that the regulations of sporting organisations normally assumed to be autonomous would be subject to the application of EU law where an economic impact existed. This was consolidated by the ruling of the ECJ in *Dona v Mantero* in 1976.<sup>7</sup> Sporting bodies, perhaps underestimating the significance of these rulings continued to remain at arms length from the increasingly important political

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<sup>6</sup> *Walrave and Koch v UCI* [1975] 1 CMLR 320

<sup>7</sup> *Dona v Mantero* [1976] 2 CMLR 578



institutions of Europe. Much of the interest in sport regulation, evident in both *Walrave* and *Dona*, revolved around the rights of sportsmen and women in the context of the freedom of employment protected by European law. The consequences of these initial interventions into the governance of sport would be evident in the approach of the EU to sport in the following two decades, with decisive effects. This has been the case in two particular areas, notably in the growing influence of players and their agents through the application of freedom of movement and the application of competition policy to football, particularly in regard to the central sale of television rights. In both areas it has been observed that the consequences have been to consolidate the power, wealth and influence of Europe's largest clubs.

Certainly political interventions impacted on established trends in European football, placing pressure on the existing governance system. The Bosman case<sup>8</sup> marked a sea change in the regulation of player markets in football, dismantling national boundaries in club recruitment policy and team selection. The details of the case are well articulated elsewhere so it suffices here to summarise the outcomes. Firstly, the European Court of Justice found the rule stating that an out-of-contract player could only move between clubs if compensation was paid to be incompatible with article 48 of the European treaty. Additionally, the restriction on the number of foreign players entitled to play in both domestic and international sporting competitions was also outlawed, thus rendering redundant the gentleman's agreement that UEFA had with the European Commission known as the 'three plus two' ruling. This allowed clubs to field three foreign players, alongside two other foreign players who had been with the club for a minimum period of time and who were adjudged to be 'assimilated'.

The impact of the Bosman ruling is widely held to have been considerable, although there remains divergence of opinion over the long-term consequences. The ruling has certainly led to an increase in wages, as clubs have sought to tie players up on long contracts with the carrot of higher wages (often enabled by the absence of a transfer fee), in order to prevent them from leaving on free transfers at the end of their contracts (Morrow, 1999; Szymanski and Kuypers, 2000; Simmons, 1997). This has been true across Europe. Between 1995-96 and 2002-03, wages rose in the Spanish Primera Liga from €175 million to €608 million (17 per cent annual growth); in Germany from €172 million to €492 million (14 per cent annual growth); in Italy from €256 million to €845 million (16 per cent annual growth); in France from €161 million to €450 million (14 per cent annual growth) and in England from €243 million to €1,209 million (22 per cent annual growth) (Deloitte: 2005a, 18).

King argues that it is the larger clubs, with increased revenue from television, that have been better able to cope with such wage inflation, and that smaller clubs have become 'almost unviable' (King, 2003: 79). Whilst this is clearly an exaggeration, and not supported by evidence, it is certainly true that clubs have come under increased financial pressure, but that has been the case at all levels, and not just in the lower divisions. In Italy for example, it has been reported that Serie A had total debts of €2.5 billion (Deloitte, 2004a: 17), with the problems at Lazio, Parma well chronicled. The collapse of Leeds United also shows that the English Premier League is not immune to the problems encountered by the wage-fuelled race for success. Certainly, wealth has been concentrated on the top end of the game. However, locality remains an important issue in the consumption of football, and despite the growing concentration of resources amongst the elite, football continues to thrive at a multiplicity of levels. Alongside globalisation there may be processes of 'glocalisation' taking place as one consequence of increased commodification at the top end is the reconnection of supporters with their own locality, and this is sustaining local professional clubs.

An indisputable effect of Bosman is the growth in bargaining power of both the top players and their agents. Players have utilised their new freedom to cross Europe looking for improved salaries in the big leagues. Additionally, players with high salaries and extended labour rights have accumulated power at the expense of the national associations and also the clubs. The increased

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<sup>8</sup> Union Royale Belge des Sociétés de football Association ASBL v. Bosman (CJEC 1995b)

bargaining power of the players has also led to a growth in influence of his representative, who lodges himself between the player and the club as a gatekeeper. Such a position enables the agent to both drive up salaries and also claim compensation from the clubs as the crucial person involved in facilitating a transfer (Magee, 2002: 219). The transfer of Wayne Rooney from Everton to Manchester United illustrates ideally the pivotal and lucrative role of the agent, the willingness of the clubs to deal negotiate, and the impotency of the governing bodies when it comes to regulating (Conn, 2004b).

Whilst the Bosman ruling has been the catalyst for certain discernible trends, the decision has been subject to much hyperbole from the football authorities, those within the game, and others. King on the other hand has argued that 'the meltdown of European football predicted by the representatives of the international regime simply has not happened since the Bosman case. Certainly, there have been very significant changes to European football since 1995 but chaos has not descended' (King, 2003: 92). King suggests that 'hyperbolic' views held by representatives of the national structures reflect the fear that a transnational player market threatens the national basis of football's organisation (2003: 90-91). There is no doubt an element of truth in this. Yet King may be guilty of similar hyperbole in asserting that the liberalisation of the player market marked a critical moment in which 'free market free market logic was established as the fundamental principle of European football ... in a single stroke, the principles of national sovereignty and the separation of national markets which were a prime feature of the international regime were replaced' (King, 2003: 77).

Deregulation of labour practices in the football industry resulting from the intervention of the European Court of Justice has also been accompanied by the increasing intervention of both domestic and international competition authorities in the methods by which television rights are sold by leagues. It has been argued that in selling rights to league football centrally the clubs are variously: operating as an inefficient cartel; restricting access of matches to consumers and thus artificially raising the cost to the consumer; and offering exclusivity leading to the restriction of competition (Szymanski and Kuypers, 2000; Harbord and Szymanski, 2004; Tonazzi, 2003). The central selling of television rights has been successfully challenged in Italy, Spain, Greece, Portugal and the Netherlands. In Spain, central selling by the national football federation was ruled illegal by the Spanish Tribunal for the Protection of Competition. The ruling was appealed, and it is still undecided by the Supreme Court. In the meantime, a number of clubs have since negotiated individual television deals (Heubeck, 2004: 8). In July 1999, the Italian competition authority ruled that collective selling was a restrictive agreement, and that the rights to sports events rested with the host clubs, and that the role of the league as the organiser of the competition was not so significant to justify ownership of the rights (Tonazzi, 2003: 28). Similar, but unsuccessful challenges were made elsewhere. In Germany, the Supreme Court ruled in 1997 that the German football federation (DFB), because of its minimal contribution to the event, did not have the right to sell broadcast rights to the UEFA Cup. This decision was, however, overturned by the German government under pressure from the Deutsche Fussball Bund (DFB). In England, the FA Premier League won a case against the Office of Fair Trade in the Restrictive Practices Court on the basis that collective selling was in the public interest (Tonazzi, 2003: 26). In 2002 in the Netherlands the Dutch competition authority prohibited the joint selling of TV rights, although the league has subsequently returned to central selling (Henk Kesler, director, KNVB, personal interview, 20<sup>th</sup> January 2005).

So challenges to central selling by the national competition authorities have had mixed success. The DG Competition of the European Union has investigated a number of television deals struck by the national leagues, including the FA Premier League, the Bundesliga, and the French League. As stated earlier, the disparities of revenue evident in Spain and Italy, exacerbated enormously by the breakdown in central negotiation, have fundamentally impacted on the competitive viability of their respective national leagues, illustrating one more element of the breakdown of collectivism, and increasing power of the largest clubs. Furthermore, it is argued that a domino effect will ensure that the growth of individual selling in Spain and Italy generates an increasing likelihood in the other major European markets (King, 2003: 108; Dobson and Goddard,

2001: 438). However, whilst noting the divisive effects of individual selling arrangements have, an unequivocal statement of future trends is difficult to make. Whilst the competition authorities have come to challenge existing arrangements, successfully in some cases but not others, there appears to be willingness to compromise, evidenced by the number of deals struck between the DG Competition and the national leagues. Although the competition authorities and the European Union have taken a keen interest in the sale of the television rights, wholesale change to individual selling has failed to materialise.

*iv. The growth of the clubs: corporatisation and branding*

Transformations in elite football following the deregulation of broadcasting markets and technological development have been accompanied by changes in club structure. The structure of clubs in Europe has varied from country to country, and continues to change, reflecting the historical differences between the development of football in different nations. In Germany, until recently clubs were structured as an 'e.V' meaning 'registered club' – a public non-profit-making sporting society (Hesse-Lichtenberger, 2003: 28-32). In France clubs used to be one of a number of structures including 'a corporation with a sporting objective', 'a mixed economy company' and an 'association' (Bourg and Gouget, 1998 quoted in Hoehn and Szymanski, 1999). Now, however, several specific legal structures have been created in order to cope with the needs of clubs in terms of financing and commerce. The sport law of 1984, revised on several occasions, makes it compulsory for professional clubs to create a company in order to manage this commercial side. Most professional clubs are now incorporated as an SASP (professional sport limited companies), a legal structure created in 2001. Those companies cannot go public, but are allowed to distribute dividends and to pay their directors. Though the historic association must no longer control a majority shareholding in this company, it still retains control over the registration number – needed to participate to any competition – and over the brand name. Both structures have to sign a contractual agreement, with a limited duration, to cover the use of those.

Many clubs across the continent continue to operate as members' clubs or associations based on democratic principles. These clubs include some of Europe's most famous names including Barcelona and Real Madrid. Club structures have changed at different times in different places. For example in England, clubs changed from associations to limited companies at the end of the nineteenth century, as a defensive means to limit the liability of those in charge (Conn, 1997: 134). More recently, on the continent of Europe transformations have been predominantly based on de-mutualisation and incorporation. A combination of debt, and the view that mutual and other structures imposed commercial constraints and the ability to raise investment has led to a series of changes. In Italy, clubs incorporated in the 1960s. In Spain, the Sport Law of 1990, and the Decree of July 15<sup>th</sup> 1991 obligated professional football teams with losses to transform into joint stock companies (Sociedades Anónimas Deportivas, SAD).<sup>9</sup> Most recently, the Deutsche Fussball Bund (DFB) allowed clubs to transform their structures from member associations to a number of different corporate vehicles in 1998 so long as the member association retained 50 per cent plus one vote of the overall shareholding. In England a large number of clubs made the transition from private to public limited companies as a means to generate investment. Indeed, it has been persuasively argued that club proprietors seized on the economic and technological conditions as a means of self-enrichment (Conn, 1997).

Inevitably, with the elite clubs operating in an increasingly competitive European environment, structures have changed according to the demands of the clubs themselves. The belief that corporate structures allow for a greater degree of commercial and financial flexibility, has been consistently invoked by clubs who fear that they will be 'left behind' unless the changes towards greater commercial freedom are accepted (Walsh, 2000: 121). Whilst this justification has been

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<sup>9</sup> Only four teams in the top two divisions did not change: Athletic de Bilbao, Barcelona, Osasuna, and Real Madrid. See Garcia Villar, J. and Placido Rodriguez Guerrero, 'TV Revenues in Spanish Football: Old Solution, New Problems'.

questioned<sup>10</sup> (Conn, 2005a), the changes in structure have added to the increasingly commercial ideology evident in the football industry. The conversion in many countries of sporting clubs into corporate structures has transformed the *raison d'être* of many football clubs (Walsh, 2000). Football clubs in the 1970s and 1980s clubs were considered to be 'utility maximisers' which sought playing success whilst endeavouring to remaining solvent, rather than seeking profit (Sloane 1971, 1980). Football clubs structured as PLCs, on the other hand, have a legal obligation to maximise profit for the shareholder, thus creating a dual purpose to what might previously have been considered an entirely sporting operation. Manchester United have always argued that the structure of a PLC assists its pursuit of sporting success, and that only by winning on the field can the company deliver financial success to its shareholders, creating a virtuous circle. That the club consistently delivered trophies through the 1990s has meant that it has been difficult to question where its greatest priority lies. Should the company enter a trophy-less period, with substantial investment in the team required, it will be interesting to see how the company balances the need to deliver both prizes and profits.

The inflation resulting from the growth in television revenue has also led to consequent inflation in the sums required to deliver footballing success. Remarkably, the era in which Jack Walker, a multi-millionaire steel trader, could buy a football club, and use part of his £300 million fortune in Blackburn Rovers to purchase the Premiership title is now over. The purchase of Chelsea by Russian billionaire Roman Abramovich, and his investment of over £400 million in the pursuit of success (Hamilton et al, 2004: 28), demonstrates the new reality of football finance. Other clubs have also been pursuing wealthy backers in an effort to keep pace, for example Liverpool.<sup>11</sup> The consequence has been to distance the elite clubs from both less successful clubs within their own leagues, and clubs further down the pyramid. Moreover, greater pressure will be placed on the democratic structures of governance that have helped shaped the game, by an altogether different beast. Judging the motivations of individual owners may be a complex task, but it is unquestionably the case that the stewardship of clubs is changing with the times, and that the influence of the corporate wealth embodied in the likes of Berlusconi, Malcolm Glazer, and Roman Abramovich may continue to grow disproportionately.

Similarly, increasing revenues from television have impacted on other areas of the game. Developments in broadcasting also go beyond the indisputable economic facts. In line with broader globalising trends and in the context of European integration, television has opened up areas of European football that were previously considered exotic and distant. Not only is the viewer largely spoilt for choice with regard to domestic football, he or she can access a multitude of leagues across Europe and beyond, further eroding the emphasis traditionally placed on the domestic game in all but a few countries. According to Wagg, 'we are seeing, via the merging of television and football and the advent of satellite TV, the internationalisation of football culture at the level of consumption (1995b: 121)'. Such a trend can be seen in the growing popularity of the Spanish Primera Liga shown on BSkyB. The globalising effect of television has eroded rigid national boundaries, and the importance of locality. Overstating the case, Wagg observes, 'One thing is certain though: at top league level, truly national football in Europe, if it ever existed, has disappeared and national leagues, in any event, have different publics (via satellite) in different countries. Belgians can support Fiorentina, Swedes can follow Manchester United, Dutch can support Barcelona, and there will of course, be no going back' (1995b: 122). Nevertheless, the growth of European competition through the Champions League make the results of Arsenal relevant to supporters of Valencia, and the result of Barcelona relevant to the supporters of Chelsea. Similarly, the multi-national movement of players leads to interest in leagues in which potential transfer targets play, and the progress of compatriots abroad. The media and public interest in Michael Owen and David

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<sup>10</sup> Conn for example has argued that since the flotation of Manchester United in 1991, the club has raised a total of £23 million from the Stock Market but that the total paid out in dividends was £61.74m. See Conn, D. (2005) 'United's anti-Glazer campaigners seek return to the spirit of the railway' in *The Independent*, 19<sup>th</sup> February.

<sup>11</sup> Liverpool appointed Hawkpoint to flush out options for new investment. It was reported that there was interest from the Prime Minister of Thailand and American businessman Robert Kraft.

Beckham's progress for Real Madrid epitomises the growth in such transnational interest in the game.

This process has served to consolidate the popularity, market power and consumer popularity of the biggest clubs. The clubs have sought to expand this popularity further, both in their own national markets (from which clubs still draw the most substantial part of their income<sup>12</sup>), and also international markets, epitomised by the increasingly exotic pre-season tours embarked upon by Europe's biggest clubs. The commodification process, in which clubs increasingly build and market themselves as brands, further consolidates their position in the market place. Such a process cannot be divorced from the changing nature of football 'fandom'. Supporting football is increasingly seen as a 'consumer act' (Crawford, 2004: 4) and the growth of the clubs should be seen in a 'complex organic dialectic between deregulated global capital and the fans who constitute its market' (King, 2003: 135). Whilst King sees the exciting new competitive possibilities generated by these transformations, Sandvoss sees the alienating result of the 'McDonaldisation' (see Ritzer, 1993 and 1996) of European football which sees the continent's elite clubs using global branding to remove their association with both locality and nation, becoming multi-national corporations (Sandvoss, 2003; see also Duke, 2002 and Bryman, 1999). Of course, supporters/consumers will not act uniformly to such transformations. As Williams states, "the so-called 'rationalisations' of the TV dominated processes of sports globalisation in football are not simply a case of a dominant global sports culture flowing, in a single direction, to uncritical and passive sports consumers ... sport still means something – and it means something different and local – to all those who continue to attend, watch and creatively consume it" (Williams, 2004). Whatever the merits of such developments, processes of consumption are clearly changing.

Of course, the wealth and influence of particular clubs is not simply a result of 'rationalisation' or 'globalisation', but also very much an extension of sporting success. This success, in conjunction with broader trends has rationalised the club market in European football to the point where the 'elite' clubs have assumed not just greater wealth and influence, but a greater level of interest, and a heightened position in the consciousness of the consumers of European football. Neutral supporters are likely to continue to root for the underdog, perhaps even more so. But the fact they may do so is evidence in itself of the fact that certain clubs are considered in different terms to the majority of their competitors. These clubs also continue to solicit the best players. It is difficult to imagine, for example, a player like Andrei Shevchenko playing for half of the clubs in the G14, let alone a club outside of it. Certain clubs have assumed a position in which they are difficult to turn down, notably clubs such as Real Madrid.<sup>13</sup> The growth in prestige of the biggest clubs is therefore recognised by the players themselves, and if the best players will only play for a small number of elite clubs, then this can create only a virtuous circle of both economic and sporting success.

#### *v. The growth of the clubs: Media Partners and the Champions League*

A number of key developments have occurred to the structure of the European Cup at various points in its history. The elimination of Juventus by Real Madrid in 1986 in the second round, and Napoli in 1987 by the same side ultimately led to seeding in the competition (King, 2003: 139). Various proposals advocating the idea of European league had been made at various stages. The concept, however, was most seriously advanced in the late 1980s by Silvio Berlusconi, who employed Saatchi and Saatchi executive Alex Fynn to develop a blueprint. Whilst the Champions League

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<sup>12</sup> Manchester United for example, often cited as having expanded greatly in overseas markets, from 1<sup>st</sup> August 2003 to 31<sup>st</sup> July, earned £9.43 million abroad out of a total of £159.65 million, only 5.9 per cent (Manchester United, 2004: 61)

<sup>13</sup> Commenting on Michael Owen's transfer from Liverpool to Real Madrid England coach Sven Goran Eriksson said: 'I absolutely do not blame Michael for making the move, because the chance to join a big club like that might not come around again. If you have the ability you just have to say yes, otherwise it would keep you awake at night wondering what might have happened. It was the same when I was offered the chance to manage England. It did not take long to think about, there are some things you just cannot turn down' (Wilson, 2004).

would not take shape for another four years, Fynn claims that it was these proposals that ‘set the ball rolling’ (quoted in King, 2003: 141). In 1990, representations were made by Rangers FC, proposing the introduction of a league stage into the format of the European Cup. This was ultimately achieved in the 1991-92 tournament with the replacement of the quarter-finals and semi-finals with two groups of four, the winners of which went directly to the final. The introduction of the ‘league’ stage in 1991-92, and the subsequent renaming and re-branding of the competition in 1992-93 marked a pivotal turning point in European competition.

Over the course of the next decade the competition would undergo a number of transformations. In 1993-94, the group stages would lead to the semi-final rather than the final, and the following season, 1994-95, four groups replaced the first and second rounds. In 1997-98, the group stage included six groups with the winners and certain runners up entering the quarter-final stage. Also, for the first time in the history of the competition, teams other than the national champions from Europe’s top ranked leagues were also able to enter. The growth and development of the competition has initiated a transformation in the wider European game, arguably undermining the traditional, national competitive structures, ushering in an era of heightened economic and sporting interest in the European spectacle. Pressure applied by the clubs certainly played an important role in the transformation of the tournament, but other forces were also at work. Guided by the commercial transformations evident in European football, the marketing organisation, Television Event and Media Marketing (TEAM) was formed by Klaus Hempel and Jurgen Lenz two former executives of ISL who had worked under Horst Daßler. The growing demands of the clubs the late 1980s and early 1990s played into the hands of ‘TEAM’s market opportunism’ (Sugden and Tomlinson, 1998: 77) who understood completely the rewards that could be generated by the astute exploitation of the golden triangle of football, sponsorship, and television. UEFA itself also understood the commercial potential of expanding Europe’s flagship competition:

Competitions will always be adjusted. The senior most important fact in the development of football as a world sport and a successful European enterprise is the fact that we have had leaders able to adjust according to development of the environment. The development of the Champions League was, in my opinion, not so much driven by wishes from the bigger clubs, as the needs of the television companies ... Hempel and Lenz were early in this process and they created with Johansson and Aigner the concept for the Champions League, based on the needs of the television which means that the major markets had to be better represented, so you couldn’t stick to the knockout competition and you have to agree to a certain number of matches otherwise the programming doesn’t fit ... these ideas were before the demands came from the clubs (Lars Christer Olsson, UEFA chief executive, personal interview, 16<sup>th</sup> November 2004).

Whilst Olsson may underestimate the role of the clubs in the process, TEAM unquestionably played a seminal role in the development of the tournament. The relationship between the governing bodies and event management companies has been the subject of some analysis. Sugden for example, has referred such companies as the ‘cement of network football: the go-betweens who line up the corporate and media partners and stage-manage the spectacle’ (Sugden, 2002: 67). ISL was highly influential in the commercial development of FIFA, and as such played a pivotal role in consolidating the political authority of its two most recent presidents Joao Havelange and Sepp Blatter (see Sugden and Tomlinson, 1998 and 2003). TEAM has also been considered to have had a similarly influential role in European football: ‘Watching FIFA and UEFA’s hugely influential partners of the Havelange and Johansson eras – ISL, TEAM, or other equivalent agencies of personnel – police the commercial and company icons of the fully commodified modern football stadium, checking every detail of their constructed world like bodyguards protecting an American president, is to catch a glimpse of who controls international football’s golden triangle in an expansionist phase of the people’s game’ (Sugden and Tomlinson, 1998: 99). There is little doubt that TEAM was instrumental in the expansionist phase, educating UEFA and driving change in

which UEFA itself was one of number of commercial beneficiaries, not least of course TEAM itself.

The commercial development of the tournament by TEAM and UEFA's has revolutionised the nature and articulation of European competition. The change in structure attracted much criticism, with football commentators recognising the commercial impetus behind the transformation of the revered European Cup. UEFA and TEAM made the conscious decision to brand the competition in a way that emphasised the link to the past, to the old European Cup, thus legitimising changes in the competition by relating them to great teams and great players of previous eras (King, 2004): 'Tradition is extremely important for the viability of the Champions League. Sports matches have meaning when there is a historical context that fans and players recognise (King, 2004: 331). As a consequence, he suggests, an important task for UEFA in the 1990s was to connect the Champions League to the European Cup to provide it with the necessary historical context and stimulate 'a sense of familiarity and legitimacy' (King, 2004: 332). This was achieved through the choice of prestigious colours (black, white and silver) and images (the 'starball'), and through the choice of a classical anthem ('Zadok the Priest', by Handel).

The re-branding and restructuring of the Champions League allowed UEFA to market the tournament in a different way. Whilst the clubs had previously sold the commercial rights to their home games individually, UEFA's ownership of the Champions League and the commodification of the tournament allowed the organisation to step in and centrally control the marketing of the tournament. The rebranding of the competition, in conjunction with the spiralling value of television rights, enabled UEFA and TEAM to 'optimise' the revenues from both television and commercial sponsorship through the integration of a platform of blue chip sponsors advertising their wares on perimeter hoardings and through television exposure, official Champions League literature and merchandising, and through broadcasters.<sup>14</sup> The European Cup was thus transformed from an exclusive 'Champions-only' contest, to a commodified and commercially exploited product, with greater emphasis placed on markets, guarantees and commercial considerations.

Inevitably, the transformation of the competition has been subject to both popular and academic criticism. Most notably, the Champions League has been held to be responsible for the growing domination of the elite clubs in their domestic markets, impacting negatively on competitive balance. As UEFA recognised and exploited the commercial trends in sport through the Champions League, and attempted to consolidate its own authority through offering the clubs greater financial opportunity, the expansion of the competition consolidated the wealth of the biggest clubs, providing a financial premium that has marked the competing clubs out against those competing solely in domestic competition. Appendix 2 shows the premiums paid to clubs competing in the Champions League since the tournament started, by UEFA from their commercial exploitation of the competition. The figures do not, therefore, include the extra match day revenues generated by clubs.

The leading clubs, in the largest markets have therefore received almost CHF 300 million in the last three years alone as a result of the Champions League. The revenue stream has therefore become an increasingly important revenue stream for the participating clubs. The more clubs compete, the more they generate, but simultaneously the more they become dependent on the revenues generated from the Champions League and the consequent need to qualify, as evidenced by the spectacular collapses of Leeds United and Borussia Dortmund. In that context, it is hardly surprising that the competing clubs are looking increasingly to secure their position within the competition and lobbying for increasing guarantees within the competitive environment.

The desire of the elite clubs for greater guarantees with regards to competition entry has been subject to particular criticism. Similarly, the manner in which Champions League funds are distributed has also been attacked. According to Morrow, the Champions League is arguably 'football's closest approximation to a hermetic competition' and that 'while domestic league championship success was the requirement for entry to the old European Cup, such sporting success

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<sup>14</sup> UEFA's current commercial partners in the Champions League are Heineken, Sony Playstation, Mastercard, and Ford.

is no longer necessary nor indeed sufficient to gain automatic entry to the league stages of the competition' (2003: 22). The introduction of UEFA co-efficients, a system of grading clubs on the basis of their own performance, and the performance of clubs from the same national association, is accused of creating a system that is essentially 'self-perpetuating' (Morrow, 2003: 23) which reinforces market advantage and playing success' (Moorhouse, 2002: 76). It may be the case however, that 'sporting' considerations have been too narrowly defined. Whilst qualification for the European Cup may have been limited solely to national champions, it is unlikely that such a procedure produced a tournament of greater sporting quality. It simply cannot be plausibly argued that the elite competition of European football would be of a higher 'sporting' quality, or even ethos, with the champions of Albania in the group stages rather than the runners-up, third or fourth placed team from England, Italy or Spain, which is why the UEFA Cup was of a higher standard before the transformation of the Champions League.

The desire to formulate a competition of genuine sporting quality and equality seem to be as justifiable selection criteria as the sole selection of national champions, especially given that some of those national champions would be producing a quality of football more typical of the lower divisions in some of the larger nations. It is true to say that the competition benefits clubs from the bigger, wealthier markets, but that also recognises that the bigger, wealthier markets have most frequently produced, with some clear exceptions, the highest standard of football. The entry requirements are no more or less sporting, but the means by which the selections are made have changed. Indeed, one could argue that the system is now more meritocratic, given that the competing clubs are of broadly a far higher standard than was previously the case. Whilst it is probably true to say that such a system of entry reinforces the participation of the elite clubs and nations, the opportunities remain open for clubs from the smaller nations to enter. Inevitably, the tension exists between the extent to which the Champions League should embody the right of the 52 national associations to compete, and the extent to which it should comprise the elite football competition of Europe, with the aim of raising sporting standards. The reality is that more of one necessarily compromises the other, and it will be UEFA's ongoing task to manage and balance these two objectives in the coming years.

The manner in which Champions League revenue is distributed has also been subject to some criticism (Morrow, 2003; Moorhouse, 2002). In 2003-04, of the CHF 885 million generated, CHF 631 was paid to the clubs, with the balance split between national associations, leagues and clubs, and UEFA, to 'foster solidarity' and to fund running costs (UEFA and TEAM, 2004: 32-33). Perhaps most interesting, however, is the method used to distribute the money paid to competing clubs. The money paid to clubs is divided approximately equally between the 'fixed amounts', paid on the basis of participation and progress in the tournament, and the 'market pool', distributed 'according to the proportional value of each TV market represented by the clubs taking part in the UEFA Champions League, and be split among the number of teams (4, 3, 2, or 1) participating from a given association'.<sup>15</sup> Of the market pool, half is distributed on the basis of league performance in the prior season (see table 2), the other half distributed according to the number of matches played in the competition. The four factors therefore comprise: how many clubs from a market compete in the Champions League; the league standing of a club in the previous season; performance in the Champions League; and the performances of other clubs from the same country in the Champions League. This means of redistribution has, unsurprisingly, been subject to some criticism, given the discrepancies between sporting achievement and financial reward (Morrow, 2003: 22-27; Moorhouse, 2003: 74-77). For example, in the 2003-04 Champions League, Manchester United, reaching only the last sixteen, earned CHF 42.496 million, compared to Champions Porto (CHF 29.980 million), finalists Monaco (CHF 40.081 million), semi-finalists Deportivo La Coruña (CHF 28.175 million) and quarter-finalists AC Milan (27.106 million) (UEFA and TEAM, 2004: 35).

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<sup>15</sup> UEFA (2004) 'Financial memorandum concerning the 2004/05 UEFA Champions League'. Letter to UEFA member associations, for the attention of the President and General Secretary from the UEFA CEO, 19<sup>th</sup> August. In 2003-04, nearly 50% of the money generated allocated through the market pool (CHF 311 million out of total CHF 631 million).



**Table 2: Champions League market pool shares**

|                   | <b>4 teams</b> | <b>3 teams</b> | <b>2 teams</b> | <b>1 team</b> |
|-------------------|----------------|----------------|----------------|---------------|
| <b>Champions</b>  | 40%            | 45%            | 55%            | 100%          |
| <b>Runners up</b> | 30%            | 35%            | 45%            |               |
| <b>No. 3</b>      | 15%            | 20 %           |                |               |
| <b>No. 4</b>      | 15%            |                |                |               |

Source: UEFA

Morrow contends, supported by the raw facts, that the consequences are ‘marked in their sporting iniquity’ (2003: 24) and that given that the competition is pan-European, the television should also be considered in pan-European terms (2003: 26). Furthermore, he argues that UEFA’s own regulations contradict the principle of solidarity through the game: ‘Clubs from countries with low populations or that are economically poorer are inevitably disadvantaged by the system. Top clubs from these nations are now being hit twice: first, by the lower revenues available from their domestic television deals: second by UEFA’s inequitable system of distributing income from its club competitions. In these circumstances, success becomes almost a self-fulfilling prophecy, as the reward mechanisms are skewed towards the successful clubs in larger countries, with little or no consideration towards wider issues of sporting competition’ (2003: 26-27). Similarly, Moorhouse argues that “nominating clubs as ‘representing’ media markets is a very unusual way of thinking about European football” (2002: 75). Whilst such arguments, with regard to both competition entry and distribution of funds, undoubtedly carry weight, it is important to look at the wider rationale. The role of the clubs in defining the parameters of entry and revenue distribution has been crucial. UEFA, as Moorhouse correctly states, cannot redistribute ‘just as it pleases’ (2002: 76). Under the old European Cup, the clubs had been able to negotiate their own television rights, and so in order to acquiesce to the central marketing by UEFA, payments would obviously have delivered in a way in which bore similarity to the previous arrangements. The benefits to UEFA are obvious in that whilst the big clubs from the big markets benefit, UEFA is able to redistribute some of the revenues elsewhere in the game. Additionally, whilst the market payments do not reflect sporting performance, there may be other logical ‘sporting’ reasons for operating such a system. The Champions League has clearly distorted domestic competition, affording the competing clubs a substantial premium. Should prize money for the Champions League be based on complete parity, then the smaller national competitions would become even more iniquitous.<sup>16</sup>

#### *vi. Media Partners and the challenge to governance*

The growth of the Champions League has also had a second, political impact. The growth in the number of games increased communication between clubs, so that they became increasingly aware of mutual issues and problems they experienced. It also led to an increased awareness of their political strength in the environment of European football. The growth and popularity of the Champions League consolidated these trends so that clubs were no longer solely focused on competition, but also on developing relationships based on shared complaints, as well as competition. The growth of the tournament therefore led to a realisation amongst the clubs of their own weight in the market places and the opportunities that could be exploited in the future. The result of UEFA’s own transformation of the European Cup into an expanded event with a concentration of the biggest clubs from the strongest football nations was to bring into question their own role as the organisers of the competition. Increasingly affluent and influential, and increasingly aware that their own market power, there has been a diminishing dependence of the clubs on the patronage of the established governing organisations. In both the domestic and

<sup>16</sup> In some countries, for example, there is evidence that continuous participation in the Champions League consolidates the possibility of success in domestic leagues. For example, in Norway (Rosenborg); Czech Republic (Sparta Prague); Ukraine (Dynamo Kiev).

international sphere, the elite clubs have increasingly looked to flex this expanding political muscle. It is in this context that talk of a 'European super league' has become increasingly common.

The closest that such an outcome has come to reality was a proposal made by the Milan based media organisation Media Partners in the summer of 1998. Underpinned by the ideology of the free market, and supported by a coalition of influential operators in European football politics, Media Partners proposed a European league competition operating outside of UEFA structures. Media Partners gathered some of Europe's largest clubs together in order to develop European club competition in a way that would be more profitable for those clubs. The clubs had been increasingly dissatisfied by the level of income accrued by UEFA through the Champions League, and also the manner in which it was distributed. This was particularly evident with regard to the commission of TEAM (King, 2003: 145; Curry, 1998).

The proposal consisted of 32 clubs split into two divisions. Sixteen of those clubs would be considered 'founder members' and who would be guaranteed participation for the first three years. The selection of those founder members would have been based on 'sporting criteria' from the previous ten years, with the other 16 chosen on the basis of domestic performance. The top eight clubs from each league would then have played in a round robin or knock out to decide the winner. An additional cup competition was also proposed on top of this elite contest (Harris, 1998). The inclusion of 16 founder members for the first three years was required in order to secure the investment needed to lure the clubs from the established structures into the new competition. The investment bank JP Morgan had underwritten the proposals to the tune of £1.2 billion (Harveson, 1998). The Media Partners proposal was the first to seriously introduce a 'closed' element into competition and also to eliminate the rights of all UEFA's members to participate in the competition, thus undermining the national basis of competition. Similarly, the fact that the competition would have taken place outside UEFA's auspices would inevitably have meant that the trickle down to smaller clubs and smaller nations would have been compromised.

The result of the Media Partners proposal was to galvanise UEFA into action. On the back foot, UEFA engaged in whistle-stop diplomacy with the clubs. Gerhard Aigner flew across Europe in a reactive, but ultimately successful, attempt to keep the clubs within the established competitive framework. In order to achieve the continued participation of the leading clubs, UEFA had to agree to radically reorganise the structure of competition, which was done in time for the 1999-2000 season. The Champions League was reformed, increasing the first group stage from six groups to eight groups of four. The top two teams in each group would then qualify for the second group stage, in which the top two teams from each of four groups qualified for the quarter-final stage, with a knock out to follow. This new format increased both the number of guaranteed games for the participating clubs, and increased revenues for the clubs from television and other marketing activity. In the 1998-99 season, for example, Manchester United earned CHF 19.7 million when winning the tournament (UEFA and TEAM, 1999). In 1999-2000, despite only reaching the quarter-finals, the club earned CHF 35.4 million (UEFA and TEAM, 2000). The increased revenue generated by the new television deal was due to a number of variables, not least the introduction of pay-TV, but there is little doubt that the changes introduced increased the value of the competition for both the biggest clubs, competing in the biggest markets (King, 2003: 149-150). The financial premium afforded to clubs in the Champions League has therefore not only had the effect of increasing divisions within national leagues, but also increased divisions between the clubs competing in the Champions League through the consolidation of the market pool payments.

What have been the consequences for the governance of the European game? The answer to this lies in extent to which the clubs were seriously considering breaking away from the established structures. Certain teams were particularly enthusiastic about the proposals, notably Real Madrid, which was looking to alleviate a debt estimated at over £100 million and Manchester United, the public limited company with a statutory responsibility to maximise profit for shareholders. Indeed, according to Hecht, the club was curious to know, why, if the proposals were good enough for Manchester United, they could not ultimately be agreed (personal interview, 15<sup>th</sup> February 2005). Other clubs, however, took a more 'instrumental' approach to the proposals, utilising the

opportunity provided by Media Partners to pressure UEFA into both driving the revenues upwards and re-directing a greater proportion into the bank accounts of the clubs (King, 2003: 147). UEFA had been slow to appreciate the changing demands of the clubs and the transformations taking place in European football, but ultimately there were enough factors pulling the clubs towards UEFA to head off the threat posed by Media Partners. Hecht describes the instincts of the clubs in the following colourful terms:

There is a fantastic movie with Woody Allen, where they want to rob a bank. And to do that they lease a shop in front of the bank in order to get into the bank from underneath. But to have a cover Woody Allen's wife is good at making cookies. So just to pretend they are doing something in the shop other than digging they start making some cookies, and to pretend, they start selling them ... and so it goes on. These guys are really driven by their dream, and the dream is rob the fucking bank. And the cookies are so good that the people start queuing ... they are making zillions with the cookies but they don't know where to put the zillions, they are just bothered with the money, and then they finally dig the hole and they go into a barber shop. In my view, if you take that metaphor, people are always limited by their cultural parameters. So they saw me, these Italian guys walking in with this super league concept and they didn't see the cookies, they saw their hole to rob a bank. They used me to rob a bank. And they were not able to shift. It was obvious there was a bank to rob, but their narrow-mindedness allowed them to see only that at the end of it (Rodolfo Hecht Lucari, president Media Partners, personal interview, 15<sup>th</sup> February 2005).

Implicit in Hecht's reference to the Woody Allen film, and the metaphor he uses is recognition of the conservatism of the clubs in terms of their 'cultural parameters'. The clubs, having always played in UEFA competitions, wanted to realise more of their income generating potential by 'robbing the bank', and it was through the Media Partners proposal that they achieved that, and at the same time failing to fully appreciate the inherent value of the Media Partners proposal itself.

The Media Partners proposal clearly illustrated how the clubs, with the aid of an outside organisation, which, unlike TEAM, was 'less relationship driven and more service driven' (Rodolfo Hecht Lucari, personal interview, 15<sup>th</sup> February 2005), were able to place UEFA under severe pressure and make political advances at the expense of UEFA and the national associations. Indeed, one could argue that the pioneering partnerships between the international governing bodies and event marketing agencies – notably between ISL and FIFA, and UEFA and TEAM – provided an organisation like Media Partners with the impetus to act. By bringing their own competitions into the commercial sphere, the organisations helped create an environment in which the structures of competition would become an arena of contest, raising questions about 'the extent to which football culture has become shaped by an inexorable commercial logic' and 'an increasingly commodified cultural product in a structured environment of an intensifyingly exclusive type' (Sugden and Tomlinson, 1998: 97-98). UEFA and TEAM therefore helped create an environment increasingly open to the prospect of external intervention and exploitation.

The threat of these outside agencies is fully recognised by the UEFA/TEAM axis: "Do we feel under threat, yes in a way of course, because at the end of the day it wouldn't be very difficult for a marketing agency if they have got a proper strategy to sit down with a group of top clubs and say, 'Do you fancy giving this a go?' ... It does not take a genius to work out that someone soon will say, 'all right, we'll give that a go'. Yes there is a threat" (TEAM chief executive Richard Worth, quoted in King, 2003: 144). What the proposals also demonstrated was that the clubs would be able to organise competition outside of UEFA auspices, and indeed that there may be very sound financial reasons for doing so. Indeed, it may be that the institutional relationship between UEFA and the clubs – that the clubs could only communicate with UEFA through their national associations – constitutes one reason why the clubs were willing to seek alternative competitive solutions. At this juncture, UEFA had either been unable, or unwilling, to insert itself 'between' the clubs and the national associations. The lack of efficient and direct lines of communication was a

cause of frustration to clubs who felt unable to influence the direction of European competition as they would have wished, resulting in the brinkmanship of the summer of 1998. New links and relationships in the stakeholder network of European football, between the clubs and outside agencies, were utilised to consolidate the influence of the elite clubs.

However, whilst the emerging ability of the clubs to forge potentially lucrative alliances outside of the established structures is one part of an increasingly complex stakeholder interaction, the ultimate outcome of the Media Partners proposals was the decision of the clubs to remain within the 'football family'. The clubs are subject to a number of co-existing pressures. Primarily, the clubs remain highly committed to the domestic leagues and any move away from the established organisations would place the continued participation of the clubs in the domestic leagues in jeopardy. The national leagues remain the economic foundation of the competing clubs, and the threat of expulsion clearly provided an impetus to remain within the existing framework. Whether such a sanction would, or indeed could, be used by UEFA, the national associations or leagues, is a moot point, but the possibility is there, and the clubs are aware of it.

Also, a considerable pull on the clubs is the awareness that they are part of an historical system. There are elements within that system that the clubs will consistently seek to change, for example their level of influence and input into decision-making, and the extent to which they can consolidate their market potential. It is, however, a system in which the various different actors, to one extent or another, depend on each other. The unknown extent of the inevitable political fallout in the event of fissure is a disincentive to seek divorce: 'The only problem with Media Partners was that it was out of the system. It was not an evolution, it was a revolution and I don't think European football wants another revolution' (Umberto Gandini, organising director, AC Milan, personal interview, 14<sup>th</sup> February 2005).

The desire to maximise market potential is no doubt strong, but the clubs also operate within the framework of an 'association' in which there is an omnipresent requirement to act within the established rules. It is only through the participation of the clubs within this framework that they can continue to operate on a day-to-day basis. Whilst, of course, the opportunity to leave the established structures exists, this continual need to participate and compete weakens the impetus to search for alternative solutions: 'The problem is we have too many things to do, too many games to play, there's no space to think ... it is very difficult to get the key persons all together on the same subject. The G14 is very strong when there is something at stake. So if we have an identity of views on the subject then we can do things, but if we don't have a concrete goal then we just lose it' (Umberto Gandini, organising director, AC Milan, personal interview, 14<sup>th</sup> February 2005). On issues of unanimity, such as the desire for compensation for releasing players for international fixtures, the elite clubs have demonstrated the willingness to seek legal redress from external bodies. Creating unanimity of view on a breakaway structure is more difficult to achieve.

The Media Partners proposal challenged the *status quo* of the UEFA monopoly. Ultimately, though, the outcome of the turbulence was for the elite clubs to remain within the established structures, Europe's elite had demonstrated their capacity to wring concessions from UEFA on threat of exit. Although exit remains an unlikely outcome, the new realisation of the influence of the clubs has changed the governance landscape, and the parameters of power, within European football. Whilst the clubs had started meeting more regularly prior to the intervention of Media Partners, there is little doubt that the episode consolidated the awareness of the shared interests of the clubs, leading to the formation of the G14 organisation:

The G14 was created by me ... for the first time in their lives they were proposed something. They didn't know each other, they were like children at school doing something naughty, very shy. Therefore in 1998 in July you're thinking 'oh, sixteen guys who have a consistent set of problems are meeting for the first time ... are we joking here?' (Rodolfo Hecht Lucari, president, Media Partners, personal interview, 15<sup>th</sup> February 2005).

For Hecht, the surprise was the clubs hadn't already established a level of contact commensurate with their obvious level of interest. Whilst his proposals ultimately failed, they facilitated the emergence of a new and potentially influential group. As Banks argues: 'The 1998 breakaway European Superleague saga showed Europe's top clubs just how much they could achieve by threatening to go it alone and they decided to keep the pressure on UEFA by forming their own pressure group, G14' (Banks: 2002, 129) The consequences of this are discussed further in chapter six.

*i. Rationalisation, regulation, and redistribution*

The processes of socio-economic, technological and political change have all impacted significantly on the governance of the football industry in Europe. Driven by developments in broadcasting technology, and aided by a growing free-market ideology of Western Europe, entrenched within the European Union, and in conjunction with wider processes of globalisation, power balances in global network of football governance have unquestionably shifted serving to challenge the historical model of the organisation of sport in Europe. The growing commercialisation of the elite game, and the application of free-market ideology to the football industry have created what might be termed 'super-brands' in European football. Divisions in revenue have been exacerbated as clubs have increasingly sought to drive revenues by readjusting the various redistributive mechanisms. The prospect of relegation, or non-qualification for the Champions League, has also become an increasing source of fear for competing clubs, as the economic consequences of success and failure have intensified. The financial differentials between leagues have widened to the point that proposals to restrict the movement of clubs between leagues, have been advanced as a means to control the levels of risk involved (Hoehn and Szymanski, 1999; Szymanski, 2002). UEFA has of course been implicit in these changes through the creation and expansion of the Champions League. The competition has expanded the financial rewards available to the elite clubs, simultaneously intensifying the dependence on European football and exacerbating divisions within domestic leagues.

The spiralling wealth of professional football, and the changing economic base of European football as identified by Andreff and Staudohar (2000), has thus placed the existing governance model under sustained pressure in the last decade. The national model of competition and governance looks increasingly vulnerable. The dominant economic drivers, the elite clubs seek new forms of interaction in a transnational environment. Redistribution, in terms of vertical solidarity between the different levels of the game, and horizontal solidarity between clubs at the same level of the game, is under ever-increasing threat as commercially aggressive clubs, under new corporate ownership structures, and with diversified corporate objectives, seek to maximise the available revenues and redirect the financial cake. In this transformed context, the institutions of governance have come under pressure to reflect more greatly the financial contribution of the elite professional game within the decision-making structures. The feared consequence of the diminishing competitiveness of national league structures is the breakdown of the national organisation of sport *per se*. If clubs were to operate in pan-European leagues – either cross-border leagues, or a single European league system – that would necessarily entail an emasculation of the national associations, and, it is argued potentially threaten the future of national team football (Peter Gilliéron, general secretary, Swiss Football Association, personal interview, 2<sup>nd</sup> March 2005).

That there are pressures on the established governing bodies of sport in Europe, in an increasingly transnational environment is clear. However, despite agreement about the processes evident in the football industry and the challenges they pose, there are considerable divergences about what can and should be done. Responses to the transformations have tended to focus around two specific approaches. On the one hand it is seen that the development of structures will continue to reflect the application of free-market imperatives to football in Europe (King, 2003; Szymanski and Kuypers, 2000). It is argued that a natural rationalisation, a 'self-propelling process of concentration' (King, 2003), is taking place, ultimately and inevitably leading to a greater degree of competition between economic equals. Szymanski, in particular has been fulsome in his enthusiasm for, and confident in his prediction of, the 'inevitable' outcome of a European league structure. By way of contrast, regulatory approaches have focused on the need for proactive intervention by the governing bodies, notably in the form of greater distribution of income, and also through external political intervention in the processes of football governance, in order to arrest the transformations occurring in European football, and to reinforce the existing structures of governance and

competition (Hamil et al, 1999; Hamil et al, 2000; Michie and Oughton, 2004). Whilst each of these approaches has considerable merit, it is the contention here that neither offers a comprehensive approach to the challenges faced by football's governing bodies, or fully appreciates the complex environment in which the respective organisations operate.

The regulatory approach holds that a greater redistribution of revenue, within and between leagues, would lessen the inequalities that are serving to undermine the current structures of competition (Findlay et al: 1999; Horton, 1997; Conn, 1997 and 2004). It is argued that 'in the absence of redistribution, sports leagues have an inherent tendency to become dominated by a handful of leading clubs' (Findlay et al, 1999: 136). Inherent in such proposals is the accusation that the governing bodies have been weak in resisting the mushrooming processes of commercialisation and political influence of the clubs. The development of football's governance structures in England provides a pertinent example of this. The FA, it is argued, abandoned 'its responsibilities by christening and anointing the Premier League breakaway' (Lomax, 2000: 273-4). Similarly, the formation of the Premier League 'constituted an abdication of their right to govern football for the common good' (Conn, 1999: 49). As well as the formation of the Premier League, which consolidated the wealth of the top division clubs at expense of those below, later changes to the structure of the FA consolidated the influence of the Premier League within the FA itself, with damaging consequences for the neutrality of governance (Taylor, 2000; FGRC, 2003). There is no doubt that the FA spectacularly mismanaged the structural changes in English football in 1990s. This is accepted by then FA chief executive, Graham Kelly: 'We at the FA missed a golden opportunity. The clubs were desperate for their freedom, and they would have given virtually anything to be granted that. We could have done so much more to get it right, by saying that the FA is here for the good of the game ... we were guilty of a tremendous, collective lack of vision' (quoted in Conn, 2004a: 297). But although the criticism levelled at the FA is legitimate, it does deflect attention from the wider processes of political and economic transformation, the growth of emergent technologies and the changing corporate objectives of the clubs following a period of sustained trauma for the English game. These processes are cogently articulated by King (2002). Perhaps the most revealing aspect of Kelly's comment is that at no point does he seek to deny the necessity of change, arguing only that it was mismanaged. Indeed, the identification of the 'desperation' of the clubs points directly to the requirement of change rather than the opposite. As King argues: 'In the light of the anachronistic nature of the Football League by the mid-1980s, and football's own disjunction with wider society, the free-market argument became the dominant argument for reform because it suggested resolving the crisis of football which was most in line with the organic political economic developments within the game and would bring football back into line with wider historical developments (King, 2002: 96). Williams shares King's view of the changing world and argues that analysis has often failed to place the new business of football, in 'social, political, economic and global shifts which have underpinned and sustained such developments' (Williams, 2000: 102). Whilst criticisms of the governing bodies carry considerable weight, they do not alter the fundamental conditions that existed in a specific historical context, which served to drive change in the structure of the English football industry.

The mismanagement of change by the Football Association was followed by calls for the introduction of independent or statutory regulation to buttress regulatory authority over stakeholders (Hamil, 1999; Taylor, 2000; Brown, 2000). Such calls, however, come with their own problems, particularly in the context of the international dimension of European club football. Countries have long taken differing approaches to sport, often reflecting divergences in political culture and ideology with regard to the role of the state. In France, for example, where the state is traditionally strong, political intervention in sport is accepted as a legitimate part of the policy process, as former French international, and FIFA and UEFA executive committee member Michel Platini explains: 'In France, the football belongs to the first minister. Then he gives the responsibility to the minister of sport. The minister of sport gives responsibility to the president of the national association, and he gives the permit to the league to organise a professional league' (personal interview, 21<sup>st</sup> March 2005). By contrast, in England the dominant political ideology is one of non-intervention, in which

individuals and businesses seek as far as possible to distance themselves from external intervention.<sup>17</sup> Nations are, then, essentially characterised as having either an ‘interventionist’ or ‘non-interventionist’ approach to sport regulation<sup>18</sup>. Critically, however, it is considered that in countries in which the government has traditionally played a more ‘hands-on’ role in sports governance, it is argued that the greater conditions imposed by government on sporting clubs hinder the ability to compete on equal terms (Szymanski, 2004b 12). Arresting the dominant trend of greater orientation towards the free-market on a national level therefore becomes highly problematic as clubs consistently assert the need for economic freedom in order to compete with their continental rivals. If that is the case then only a pan-European intervention would be likely to be successful. UEFA has sought to achieve something like this by seeking formal exemption from the political and legal environment (UEFA, 2003).

Calls for the increase in redistribution, both within leagues and between leagues also fail to take into full consideration a range of factors inhibiting the realisation of such proposals. First of all, clubs in a powerful economic position understandably, although perhaps unreasonably, resist the call to share their revenues as they seek to gain a competitive edge over their rivals on top of a natural and inherent disinclination to subsidise others. The historical trend has been towards less redistribution rather than more. In England, for example, gate-sharing mechanisms in the Football League disappeared in 1983, and the emergence of individual selling of television rights in a number of countries across Europe also points clearly to a decline of the collective interest. Additionally, the duality of league structure militates against a level of redistribution that would make any tangible difference to the current levels of competitive imbalance. Redistribution within domestic leagues is heavily resisted by the larger clubs due to the fact that they require additional funds to compete in European competition. Even the dominant clubs in the English Premier League, the largest grossing league in Europe, would resist more equitable distribution, as it would serve to erode their competitive advantage over their European rivals. More recently, it has been suggested, as a means to improve competitive balance within domestic leagues, that greater redistribution of Champions League revenue to non-competing clubs would make ‘the threat of a European breakaway less likely’ (Michie and Oughton, 2004: 37), the argument being that a more competitive domestic league would negate the impetus to seek a more competitive environment elsewhere. Whilst theoretically attractive, in actual fact the opposite is likely to be true. The big clubs already consider themselves to redistribute more widely than they see reasonable, as the following club representatives suggest. Any attempt to further ‘tax’ the big clubs would heighten the impetus towards breaking away from the existing structures:

The whole concept of redistribution and trying to level the playing field is not an easy area. I think to try to interfere with some of those market forces to try and balance out competition is very difficult ... the panacea is to say you’ve got twenty teams in the Premier League, you start to kick a ball in earnest on the 12th August each year, all of the media and the pundits are saying, ‘God I don’t know, he could win it, and its all equal’. It’s not going to happen (David Gill, chief executive, Manchester United FC, personal interview, 28<sup>th</sup> January 2005).

Of course, solidarity is an important principle, but it’s very difficult as King Canute found, to turn the tide. And bucking the market is sadly, phenomenally difficult ... turning the clock back is virtually impossible. At the end of the day there aren’t many of the big clubs that are profitable, and I’d rather keep the bigger clubs making bigger losses than the smaller clubs.

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<sup>17</sup> For example, in 1997, the British Labour Government set up the Football Task Force to look at and address concerns raised about the growth of commercialisation within the football industry. Whilst a majority of the Task Force favoured the introduction of external regulation, this was never seriously considered by the government. The reasons for this have been debated (see for example Brown, 1999 and Bower, 2003), but it is probable that the view that governments should not unnecessarily intervene in the autonomous organisation of sport was an important factor.

<sup>18</sup> For two in depth studies into different approaches to sport in Europe see Chaker, 1999 and 2004.



So to cut off revenues from bigger clubs, doing that is not going to be easy (Rick Parry, chief executive, Liverpool FC, personal interview, 17<sup>th</sup> February 2005).

As well as the duality of structures militating against greater redistribution, the very existence of an open league system with promotion and relegation is also a disincentive to redistribute. It is argued that both profit and competitive balance can only be achieved through closed leagues, as only the security of closed leagues allows its members to behave in a fashion in which it can retain profit, and redistribute effectively as the clubs perceive their joint interests in doing so (Hoehn and Szymanski, 1999: 216; Szymanski and Kuypers, 2000: 308-318). In contrast, redistributive solidarity is undermined in European sport by the fact that competing clubs change annually due to the open league system. It is therefore argued that competition needs to be structured in a way that the competitors feel happy to redistribute revenue. The only situation in which that will occur is if clubs are almost guaranteed the ability to participate year on year. Thus, closed competitions are more economically viable, and they also promote greater equilibrium in competition. Free-market approaches have consequently promoted the introduction of a hermetic league system into European football.

The logic of the free-market paradigm is enticing, yet whilst it has been argued that regulatory approaches fail to recognise the political and economic realities helping to shape the industry, so too the free-market paradigm fails to fully explain or meet the very specific challenges faced by those charged with the responsibility of governing the European game. In assessing developments in the governance of football, we should be wary of the determinism evident in the free-market approach, and predictions of the 'inevitability' of a European super league, particularly one that is hermetically structured. A comprehensive understanding of sport cannot only be based on an understanding of the economics of sport. Whilst professional football is now, irreversibly, a business, it is not just a business, and the reluctance to engage and understand the broader social, historical and cultural aspects of football and debates regarding the normative benefits of the European model leads to an incomplete analysis. In the social and cultural environment of European football, promotion and relegation remains an intrinsic element, the global dimensions of the game, and the history of clubs negating the possibility of top-slicing the elite of European football and depositing them in a hermetically structured super league. For economists however, promotion and relegation ceases to be of cultural significance and becomes an economic impediment which 'reduces the clubs' ability to extract rents', 'undermines profitability' and leads to 'highly inefficient outcomes' (Szymanski, 2004a: 32). Similarly, the opportunity for smaller clubs to compete against and defeat larger clubs has been flippantly dismissed in the following terms: 'Heartening as such David and Goliath stories may be, there can be little doubt that erratic outcomes like this will significantly reduce overall welfare' (Szymanski, 2004a: 32). Thankfully, there is little enthusiasm for a closed shop in Europe, even amongst its elite clubs:

I don't think anyone in Europe wants a US league formed as a closed shop, with big clubs and so on. We are in a system. We have relegation, promotion and so on. This is part of history so why change it? Everybody likes it (Umberto Gandini, organising director, AC Milan, personal interview: 14<sup>th</sup> February 2005).

Despite the economic logic, the plethora of problems and obstacles make the introduction of a closed system of pan-European competition highly unlikely. Firstly, and critically, deciding which teams would be part of such a hermetic league would be an impossible task. Would it be a snapshot of European football at the time the league is formed or based on historical performance? Which regions would be represented and which not? How would access be granted to emergent teams? The plurality and diversity of professional football in Europe constitutes an almost insurmountable obstacle.

Any such system would be likely to place the financial value of a club above sporting qualification and thus remove the opportunity for smaller clubs to compete with the traditionally

more successful clubs. Whilst elements have been introduced into the competitive system which have constrained the ability of clubs from smaller nations to qualify for competition, it remains the case that sporting merit determines participation in European club football. The principle of sporting meritocracy is so ingrained in the culture of European football, that any divergences from that will be highly unlikely in the future.

## *ii. Two leagues or super leagues? Determining the future*

If a closed European super league is a distant prospect, how can we expect the structures of European competition to develop in the future, and what will determine change? The rationale and the force of the free market will clearly play a defining role, but such a role cannot be looked at in isolation from the existing organisation of European sport. It is worth reflecting initially on the desirability of change. What do we want from European competition and what should be the determinants of change? It seems that voices from all ideological positions agree on at least one thing, and that is the desire for a greater degree of equality in competition.<sup>19</sup> The disagreement lies in how to achieve that. One economic approach argues that greater equality should be achieved through more redistribution of income within leagues. The alternative economic approach is to allow clubs of similar economic weight to compete more regularly with one another, which would involve restructuring of leagues. We have already argued that greater redistribution is politically difficult to achieve, which means that leagues would continue to be similarly unbalanced. But more importantly one has to ask – would greater redistribution actually achieve that? Interestingly, whilst academics have debated the impact and importance of declining competitive balance, representatives from across European football have played down the growth of that imbalance:

In any league at any time, there's always been three or four clubs at the start of the season who are probably going to win it. Liverpool dominated in the seventies and eighties. Now I suppose the argument is that a Forest and Derby are going to find it harder to come through and I tend to agree that it is going to be more difficult to see in the future (David Gill, chief executive, Manchester United FC, personal interview, 28<sup>th</sup> January 2005).

I think it's a fallacy to suggest there's a huge change. If you look at Liverpool's dominance in the 70s and 80s, that was pretty all-powerful and comprehensive. So is it radically different now? The Champions League to an extent hasn't helped, because in absolute terms – of course people talk about the gulf between the Premier league and the Football League – but in absolute terms the growth between those in the Champions League and those not is bigger ... You've still got a situation in England where on any given day, any team in the Premier League can lose (Rick Parry, chief executive, Liverpool FC, personal interview, 17<sup>th</sup> February 2005).

Such interpretations clearly, perhaps deliberately, underplay the competitive transformations in European football. Whilst Gill and Parry acknowledge both the impact of the Champions League, and the declining ability of previously successful clubs to compete at such a high level, it suits the elite clubs to underplay the significance of the transformations, as that serves to legitimise their continuing dominance of the competitions in question, and undermines the calls for greater assistance to the smaller clubs. However, their point does remain valid. One can talk about declining competitive balance, but one also has to accept the reality that competitive balance has never been a defining objective of European football. This can be explained by the nature of the

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<sup>19</sup> Whilst greater equality is desirable, complete equality is probably not. Supporters as well as wanting to see a fair contest also take into account other factors, like the desire to be associated with a winning team, or indeed the desire to be associated with a smaller team. Similarly, it may be the case that some competitions, such as the FA Cup, derive much of their appeal from 'inequality' and the prospect that a smaller team may come up against and defeat a larger team.

clubs in question, their different histories and expectations, and the place certain clubs have in the consciousness of the European football supporter:

All clubs do not have the same ambitions; do not face the same level of expectations from their supporters. Take Real Madrid and FC Barcelona as examples: If they don't win a title at the end of the season this is perceived a disaster, and this appreciation is reflected in the media. If Juventus finishes second in Italy this is qualified a disaster by the supporters. Whereas if Reggina stay another year in Serie A, this is a great success, which also explains that it is to a certain degree unavoidable that certain clubs will be on top much more often than others. Certain others will never be on top because if you want to get on top you must grow and not everybody has either the possibilities or the ambition to grow ... You have to admit that Beveren is a different club from Real Madrid, and Real Madrid will normally never be like Beveren, and Beveren will normally never be like Real Madrid, this would not be natural. Real Madrid are what they are because they have grown to what they are today (Thomas Kurth, general secretary G14, personal interview, 18<sup>th</sup> January 2005).

Liverpool has always been there. They won many trophies for a certain time, and then, you know, everybody goes through bad times. Real Madrid disappeared for 27 years, and didn't win any European trophy, but it was always Real Madrid. The mentality of the kids in the street, it is Real Madrid, even if they never saw it. It is always the similarities, always Juventus, always Barcelona. With those clubs there is a legacy that goes on for one-hundred years. Even if you have ten years or twenty years of no success, your name is always coming to mind. Then naturally today, it helps a lot that there are big financial makers, backers behind these clubs, and they can afford to do things, which confirm their status as super clubs. But there is no guarantee that they will stay forever. I think that Real Madrid is probably a clear example, that certain clubs are special, regardless of whether they win or not win for several years, but they are always into the football supporters', the football lovers' mentality (Umberto Gandini, organising director AC Milan, personal interview, 14<sup>th</sup> February, 2005).

Nothing changes. At the end of the day you as a club are your fans, period. If you want to be a bit more sophisticated you are your fans; that is your market share, multiplied by the buying propensity that they have in that moment ... Basically those are the two variables. Nothing else changes. This is the real oddness of football. Take Inter and Milan, you measure their fan base twenty years ago and you will discover roughly sixteen, seventeen per cent each. Then twenty years have passed. In these twenty years AC Milan has basically won everything that you could win in the world: Champions' Leagues, leagues, whatever ... Inter in the same period, they won one Italian league. A disaster, a joke. You measure the fan base they are exactly the same ... Football starts in a country, you have thirty, forty, fifty years where the spell takes place. That spell which now determines that maybe one British guy out of three is a Man U fan, that spell is now in place and you will not change it. You will be able to go up and down in the tables, yes. You will not really be able to interact with that which is the unique fact of the football market. It's not a market, it's a disaster. You are also in a market where you win the games and you do not win the fans. You go back to darkness once you stop winning. You can discuss if you like the sun to rise tomorrow morning. If you like you may discuss it as long as you like. Why are you driven by the superstition that there will be new brands? There are no new brands (Rodolfo Hecht Lucari, president, Media Partners, personal interview, 15<sup>th</sup> February 2005).

Each of the respondents argues that, irrespective of debates about the growth in wealth and influence of the bigger clubs and fluctuations in competitive balance, certain clubs will always be there and always subject to different expectations. In an extreme interpretation, Hecht locates the success of the big clubs within the context of the growth of brands, market share, and fan bases. For

Hecht, all else is trivial, as the 'spell' has been cast. Undoubtedly, the 'spell' is related to television and the continual exposure of the elite clubs, which become famous and familiar beyond locality and into the global domain. Certain small clubs will have their seasons of success but it is inevitable that the big clubs, even if they are unsuccessful for long periods will ultimately remain the dominant forces in European football. A decline in competitive balance is so small as to be largely meaningless. As Hecht Lucari suggests, the subsidising of smaller clubs has never truly succeeded in achieving any kind of worthwhile competitive balance. If that is the case, then why bother maintaining it?

I cannot understand that propensity of not dealing with reality. We are always wishful. We like the small guys to become big because of his merit. That is human, I share into that aspiration, of course. What I am arguing is not if I would like that. I am saying, 'hello guys, hello, this is not happening in the world that you are defending so tenaciously. It is really not happening' (Rodolfo Hecht Lucari, personal interview, 15<sup>th</sup> February, 2005).

In devising a structure of competition, what is the primary motivation? Is the purpose of a league a means by which big clubs keep small clubs alive? It is almost certainly not. At the same time, however, a league needs to have healthy teams in order to remain competitive. But whatever the merits of collectivity and redistribution, in reality certain clubs have a caché, a stature, and a value that cannot be eroded, and that has superseded the ability to achieve equality of competition within the contemporary environment of European football. According to Hecht:

If you were a martian you would be blessed with sight, you would see this is a joke. It doesn't make sense. It's like having, in the same boxing competition, three super heavyweights and then you start having featherweights, and it's as if it is funny. The featherweight dies, and I like, but why? You don't get a hard on, you don't wait for the event. It's just another event (Rodolfo Hecht Lucari, personal interview, 15<sup>th</sup> February, 2005).

For Hecht the national leagues constitute little more than a series of mismatches to which the only answer is to utilise the market to form a competition of heavyweights: 'In my world, paradise is there. In this world it is hell forever' (Rodolfo Hecht Lucari, personal interview, 15<sup>th</sup> February, 2005). It is difficult to argue with the view that the national leagues lack any genuine depth of competition, and that this isn't going to change. The question therefore becomes what could and should be done about it?

The most frequently posited development is a restructuring of competition with focus concentrating largely on a European super league. According to Hoehn and Szymanski: 'the interlocking nature of European competition has created an unbalanced system and a stand alone super league is likely to sustain a more balance competition' (1999: 206). The growth in the power of the clubs, alongside the liberalising influence of the European Union has been consistently invoked to demonstrate the 'inevitability' of such a development. As grossly overstated by Szymanski and Kuypers: 'Everyone agrees that a European Super League is inevitable' (Szymanski and Kuypers, 2000: 302). Claims regarding the imminence of such a league have varied. McArdle, writing in 2000, for example, argued that a European league was no longer than ten years away (McArdle, 2000). More conservative estimates have suggested twenty years ahead (King, 2003). Either way, there is a view amongst many that 'European football as we know it may soon be a thing of the past' and that the development of the single market has left one of the last 'major remaining segmentations of national markets in Europe' under threat (Hoehn and Szymanski, 1999: 205).

Yet the constant refrain of 'inevitability' does not necessarily make it so. Despite these predictions, analysts have been largely reluctant to question, let alone answer, what such a 'super league' might look like, how it might be structured, and under whose auspices it might be

organised.<sup>20</sup> Analysis has correctly assumed the growing power of the big clubs, but may have underestimated the resilience of existing competitive structures. There has been little recourse to wider philosophical debates about the place of a super league within the European model in which the connection of the elite game to other parts of the pyramid is an inherent feature. Furthermore, although we have acknowledged that the free-market will drive the changes in competition, and also that the nature of supporter-consumer identities is constantly changing, it may be that the free-market does not lead inexorably to the anticipated outcomes. There remains a strong allegiance to domestic leagues, both amongst clubs and supporters, and the resilience of that relationship will go a long way to determining the future. Discussions about future sporting structures and formulas of competition have therefore been mere exercises in fortune-telling, rather than the development of coherent positions based upon potential constraints and what might be beneficial to sport and its participants. Much analysis has reduced arguments about the merits and dangers of the various options to irrelevancies and embellished certain intangible forces as inevitabilities. It denies the roles of individuals and organisations in the shaping of something new.

Whilst free market imperatives will play a significant role in future organisational structures, the question as to whether to have a European model of sport or a trans-national model based on the closed American system is far from being a simple 'either-or' choice. Evolution and adaptation is vital for any organisation to survive and flourish. The European model need not be an unchanging monolith, but a malleable and flexible entity that protects what is valuable by adapting to new realities and shaping change rather than seeking to halt the irresistible, and by focusing on social and cultural aspects of the organisation of sport in Europe rather than strictly economic interpretations. As we have argued, the principle of promotion and relegation is too important an aspect of the European model of sport to be discarded. However, retaining promotion and relegation as integral principles of the organisation of sport in Europe does not necessarily mean the retention of the *status quo*. If there is a need for a greater degree of competition amongst equals, then it seems that a change in competitive structures will be required. As such the task of the governing bodies will be to ensure that any such change is managed effectively, and retains the elements of the European model of sport that retain relevance, whilst disposing of those that do not.

### *iii. The national system of governance and new conflicts of interest*

As well as the view that environmental change in European football will ultimately lead to a pan-European league, changes in governance, it is argued, will be the logical result of two separate processes. Firstly, it is argued that the growth in significance of transnational processes and the resulting importance placed on international club competition will ultimately undermine the structures of governance founded on the basis of national associations. Also, as we noted above, the governing bodies have engaged proactively in the commercial exploitation of sport. This has raised concerns about their appropriateness of governing, whilst simultaneously acting as an active player in the market the governing body seeks to regulate. The duality of roles, it is argued, constitutes a significant conflict of interest. Let us look at these arguments in turn.

King argues the processes of European political integration, market de-regulation and globalisation have led to the rise of regions and cities at the expense of nation states: 'The free market has stimulated transnational competition between cities in Europe and, consequently, it has given rise to new local solidarities and identities' (King, 2003: 33) and 'under the uneven process of globalisation, formerly unified national identities have been increasingly fissured by new regionalised identities' (King, 2003: 248). For King, this transnational context renders the national organisation of sport increasingly at risk, noting that 'national and supranational bodies like UEFA ... will be increasingly dominated by the biggest clubs' and 'sovereignty of the national and international federations is not completely irrelevant but it is undergoing rapid renegotiation' (King, 2003: 248). UEFA 'will lose even more of its current authority and become a forum not for the

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<sup>20</sup> Exceptions to this include Hoehn and Szymanski (1999) and Fynn and Guest (1994)

national federations but for the European clubs' (King, 2003: 165). For King, the transformation of governance is the logical consequence of the transformation of the environment in which the bodies operate.

The structures of governance in European football, with the multiplicity of stakeholders and interests, however, warn against making such concrete predictions. The connection between structures of competition and governance are certainly related, but drawing pre-emptive conclusions in the midst of a myriad of possibilities may underplay the complexity of the governance landscape. Williams has questioned the future role of the national associations, but rather than seeing the take over of the international federations by the clubs, he sees their importance in a future regulatory framework: 'FIFA is now a key actor in the new socio-economic international relations of football including club football. Theorising FIFA's role in the future of football will, surely, have to be a key part of any real understanding of the reshaping of domestic and international football markets' (Williams, 2000: 103). Similarly, Magee takes a more circumspect position, arguing that, despite the weakening power of the national associations at a domestic level: 'UEFA and FIFA cannot be discounted because no matter what changes are introduced to football these bodies are the ones that implement them' (Magee, 2002: 237).

These debates draw out an interesting point about the connection between structures of governance and structures of competition. The development of the Champions League demonstrates the transformation from a purely national structure of competition. Does the prospect of greater transnational competition necessarily involve the breakdown in the national system of governance? A greater degree of transnational competition may entail changes in the roles of national associations, but it would not necessarily render the national associations redundant. They form the basic organisational cell of governance international football and their entrenchment in the pyramid of football lends them durability and legitimacy. Should a greater degree of transnational competition become a feature of European football, there would need to be a body responsible for overseeing such competition within the existing structural framework. This also suggests a continued role for the relevant national associations given that their existence as the competent organisations in this regard. How competition operates within that sphere may change, but ultimately there must be organisations, which control the overall picture, and the national associations remain the most obvious organisations to fulfil that role. The parallel can also be drawn with other transnational organisations. The EU, for example, gains its legitimacy and political authority from its member nation states. The national teams would also continue to operate within the domain of the national associations.

Certain analysis has, therefore, been overly concerned about the future of the organisations that currently govern European football. Any changes in such control need to be seen in a context that goes beyond sole concentration on free market imperatives. It will be important for the governing bodies to avoid denials of the need or the desirability for change, but instead tap into the myriad of existing possibilities. Those possibilities ought to be evaluated in a theoretical context which understands the principles and priorities that underpin the governance of sport, as well the influence of powerful voices that seek to shape the future.

The role of the national associations has, however, also been complicated by their increasing role in the commercial exploitation of the game whilst at the same time benefiting from a privileged position in the governance framework:

The soccer associations of Europe not only sanction league competition, which in most cases they also sponsor, but they also promote a variety of other tournaments ... Thus for example, when Sepp Blatter, the chairman of Fédération Internationale de Football Association (FIFA), the worldwide soccer governing body, proposed the introduction of a biennial championship (instead of quadrennial), he was proposing the extension of a competition that would generate income from FIFA but would also likely reduce the time available for club competition and increase the amount of time during which clubs would have to release their contracted players (Szymanski, 2004a: 31).

Radnedge, commenting on the role of FIFA in formulating the international calendar also recognises the issue in which regulatory power is an aid to commercial protections:

The calendar is the blunt instrument with which FIFA wants to beat the leagues (and, by implication the clubs) into submission. FIFA, understandably, wants to protect its own income stream, which is dependent on maintaining the commercial value of the World Cup. FIFA can ensure enough space in the calendar for its own competitions by keeping a tight grip on the number of matches footballers play for their clubs (Radnedge, 2004: 39).

In an earlier discussion of FIFA, Hare asks whether FIFA's 'two functions, of custodian of the sport's self-regulatory integrity and of agent of the games commercialisation are compatible (Hare, 1999: 123). The issue is raised then as to whether it is appropriate for governing bodies to play the role of both regulator, and commercial competitor. Of course, this is nothing new, given that league competition, and cup and national team competitions organised by the governing bodies have been arranged side by side as long as professional football has existed. It is the scale of the sums involved that have focused attention on what has been claimed to be a conflict:

The national associations and the clubs are competing, and we are competing in the same business, because our revenues come from the same sources, TV rights, gate receipts, sponsors and so on ... a sponsor can buy either Euro 2008 or, say, the Champions League package, for example, or can be main sponsor of AC Milan or Real Madrid. We are all going after the same companies (Umberto Gandini, personal interview, 14<sup>th</sup> February, 2005).

We have one vision which is in principle very simple. Take the organisation and management of football in England, for example. You have the FA as the governing body, which takes care of the national team, refereeing, disciplinary matters, technical development, grassroots football and so on. But then there is the Premier League, which is composed of those who compete in the Premier league, and they control their domestic activity to a very large extent. Still the Premier League is under the umbrella of the FA. In international football, that doesn't exist. The club side is not represented. The club side, by obligation, is represented by the FAs. But the FAs cannot represent the interests of the clubs when these interests clash with the interests of the national team. I think there is a serious problem when the regulatory body is at the same time a competitor on the market place, which is the case with FIFA and which is the case with UEFA, when they organise national team competitions. This is, in essence, the origin of the conflict about the release of players for the national team ... You must make a clear difference between the regulatory body and any competitor, and any service providing structure. They could be a governing body, but they could also be a service provider. Now, FIFA is a regulatory body but at the same time it acts as a competitor of the clubs because it is organising competitions with teams composed of club players. And as a regulator, the same FIFA has blocked exclusive dates and periods for national team competitions and has also decided that the clubs must release players for free, that the clubs are responsible for insurance cover even when the players are playing for the national team. This is an abusive practice, because it has been decided unilaterally by FIFA, the associations' body, without asking the clubs' agreement. (Thomas Kurth, general secretary, G14, personal interview, 18<sup>th</sup> January 2005).

Kurth proposes that the organisation of European football should reflect what is largely the situation at a domestic level, namely that there should be a league structure formed of clubs separate from UEFA, which would regulate. This will be discussed further below. He uses this particular issue to highlight what the G14 perceives to be a conflict between UEFA being an organiser of international club competition and national team competition simultaneously. Kurth's argument is based on the

premise, that UEFA, as an association of associations, will always see the interests of the national teams above those of the clubs competing in the Champions League. This is manifested most obviously through disagreement over the breakdown of the international football calendar. The removal of the second group stage of the Champions League was particularly unpopular amongst the bigger clubs (Umberto Gandini, organising director AC Milan personal interview, 14<sup>th</sup> February 2005; David Gill, chief executive Manchester United, personal interview 28<sup>th</sup> January 2005), and was seen by the G14 and its clubs as a means to reduce the fixture schedule whilst leaving international football unaffected. Similarly, hosting the World Cup every two years, as proposed by FIFA president Sepp Blatter, would consolidate the financial interests of FIFA, and potentially damage the interests of the clubs.

However, there is little substantial evidence to suggest that such a conflict is characteristic of UEFA's role in European football. The removal of the second group stage can more realistically be seen as a reaction to a number of concerns of which player fatigue in international tournaments is just one. Other factors clearly included the declining interest in group games both in terms of match attendance and television viewing figures. Characterising UEFA as a 'competitor' of the clubs is also somewhat disingenuous. Firstly, UEFA's role as the organiser of the Champions League means that the organisation itself has a direct financial interest in the success of clubs, and club competition. As such, there are areas where the interests of UEFA and the clubs are congruous rather than conflicting.

Gandini reasonably argues that the national associations and the clubs are competing for all slices of the same commercial pie. The commercialisation of the governing bodies irritates the clubs, who deem their financial interests threatened by what they see as the use of their assets, the players.<sup>21</sup> Is it, then, appropriate for the governing bodies to provide this kind of commercial competition to the clubs, given their position of authority? The logical implication of the argument is that FIFA, UEFA, and the national associations should not have any kind of commercial property that potentially encroaches on the commercial interests of the clubs. The bodies would be solely regulatory organs governing sanctioned competitions, or 'service provider' as Kurth states.

Whilst the concerns of the clubs are understandable, one needs to assess this issue with reference to both the structures of football governance and also the role and objectives of the governing bodies. Firstly, the integration of the clubs and the leagues into the self-regulatory framework means that they are an intrinsic part of the governance process. Each stakeholder is dependent to one degree or another on the other, and as such they are all a part of the regulatory process. The national associations have regulatory sovereignty, but that is exactly because the clubs are a part of the self-regulatory system through their inclusion in the power structures of the national associations. It is thus misleading to characterise the clubs as wholly separate entities, with no input into the decisions made by national associations that may impact negatively on them. In fact, they are an integral part of the process. So long as national team and club football co-exists, debate about the breakdown of the two, within a self-regulatory framework, is unavoidable.

Firstly, there is no unanimity amongst clubs and leagues as to how structures should change to eliminate conflicts of interest. Whereas Kurth argues that there should be separate organisations looking after club football (a new club-based organisation) and national team football (UEFA/FIFA), others have argued that the national associations should not be even organising national team competition!<sup>22</sup> Furthermore, it is not clear that changes in the organisational structures

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<sup>21</sup> Williams, for example, argues that Adam Crozier was 'dispatched' as chief executive of the FA 'for converting the FA into too much of a commercial competitor to the Premier League', describing him as a 'commercial lunatic' (Williams, 2003)

<sup>22</sup> In Football Association board minutes it reports: 'Mr Richards [chairman of the FA Premier League] also stated that the inherent conflict between the governing body role and the England team and the FA Cup needed to be looked at. Mr Richards believed that the serious consideration should be given to moving those more commercial operations away from the body which has responsibility for governing the game' (The Football Association: Committee Reports Received at the Council Meeting Held on 15<sup>th</sup> March 2004: Special Board Meeting (meeting as General Purposes Committee) minutes of a meeting held on 20<sup>th</sup> January 2004). One wonders which body would be responsible for the organisation of the national team should this competency of the FA be removed.



would resolve these problematic issues. For example, if the responsibility of organising national team football be taken away from a national association, who would take on that responsibility? Would it be the Premier League? If so, that would create exactly the conflict of interest argued by Kurth. National team football would inevitably be compromised by the clubs' primary interest in their own product.

Secondly, the governing bodies have been relatively successful in striking an effective balance between the different competitions. The creation of a new structure as proposed by Kurth would not resolve issues such as payment for players on international duty, nor necessarily enable the clubs greater say over the breakdown in the number of games played in each competition. Ultimately, the governing body is in charge – it sanctions competitions, and one of the conditions is that players are released for national team competition. The national associations, via UEFA, would need to set the parameters for competition, in terms of size and structure of competition. Similarly, FIFA would continue to largely dictate the international calendar and the breakdown between club and national competitions. Whilst national team competition has grown in terms of the size of the final stages tournament this has largely been the result of the growth in nation states and developing standards in the global game. Similarly, the expansion of Europe following the collapse of the Soviet Union has inevitably generated a greater number of international fixtures. It is certainly true, however, that FIFA's introduction of new, and largely unloved competitions such as the Confederations Cup has unnecessarily encumbered the international calendar further.

Thirdly, and crucially, the governing bodies have multiple roles within the game including governance and regulation, organisation of national team football, and development. The importance of these three roles dictates that there may be points at which the interests of the national associations and the clubs and leagues conflict. For example, revenues generated by the national team football (and in some countries cup competitions), enable the governing bodies to help achieve 'solidarity' through the various levels of the game and to develop grassroots football. The requirement that clubs release players without payment supports this, although this may be against the interests of the clubs. The national associations, and UEFA and FIFA, use their commercial properties to help develop the game. Were these commercial properties to be shifted elsewhere the governing organisations would be hampered in their ability to achieve these developmental objectives. Does this 'public interest' argument legitimise the role of the governing body as both regulator and commercial competitor? How important is solidarity and to what extent can it justify UEFA's control of the game? It is certainly the case that there is a need for greater transparency and accountability with regard to the utilisation of the funds generated, particularly with reference to FIFA. However, Kurth argues that solidarity offered by the governing bodies is, essentially, revenue that belongs to the clubs, given that they create the value through the participation of their teams (in club competition) and players (in international and club competition):

We have nothing against solidarity. On the contrary, we are and have always been supportive of solidarity. But two or three comments: in football, solidarity means sharing with others, and the scope and mechanisms should be agreed by the parties through discussion. At present, a considerable part of the revenue generated by club football is used for solidarity purposes, but this solidarity is always credited to UEFA. There is no credit for the clubs ... They say it is generated by their Champions League. But they forget that all the merit is of the clubs who compete and make of it the world's most spectacular club competition (Thomas Kurth, general secretary, G14, personal interview, 18<sup>th</sup> January 2005).

Such an argument may be persuasive. However it fails to place the clubs, and the players, in the broader historical context. The elite clubs of Europe, represented within the G14, are the elite clubs of Europe exactly *because* they participated within the existing governance framework. No football club is an isolated entity, inherently successful through no reason other than its own existence. Real Madrid could never have become the most successful of all of Europe's clubs unless it had co-

operated with, and participated within the existing framework of European football. To argue that the value of a competition depends solely on certain specific clubs ignores the fact that the growth those clubs is, and remains presently, dependent on association within the existing framework. Being a part of that existing framework means abiding by certain rules, one of which is that a certain amount of revenue should be redistributed to other areas of the football pyramid.

Of course, the argument that clubs have an ethical responsibility to operate within and accept the rules of the existing structures, due to the fact that it is those structures that have allowed such clubs to grow into the affluent and powerful institutions they are today may not convince either the clubs, or more hardened economic analysts. Nor does it relate to the market power that such clubs may now have. But it does nevertheless highlight that no single organisation is responsible for 'creating the value' in football, derived as it is from an array of factors ranging from clubs to players, from supporters to governing bodies, competition organisers, and from the laws of the game.

Harbord and Szymanski also question the legitimacy of citing 'solidarity' and grassroots support as a justification for control. They suggest, in specific relation to the sale of television rights, 'it is a fundamental principle of competition law that a restraint cannot be justified merely because part of the profit arising from the restraint is used in a good cause' (Harbord and Szymanski, 2004: 17-18). Yet, placing emphasis on economic criteria alone conceals the need to consider sporting objectives and the differences between the way sporting industries and other industries operate. Although they argue that redistribution could be organised in a different way, central selling allows UEFA as an organisation to directly control income in a way that would be almost impossible were there some kind of system of taxation on clubs. Firstly, UEFA would be dependent on the clubs to pay the appropriate amounts. Furthermore, the clubs have increasingly sought to gain control of their own gate receipts (which has the positive consequence of encouraging clubs to invest in stadium infrastructure). Reversal of such moves seems highly unlikely.

Other commentators have questioned the actual value and effectiveness of UEFA's solidarity mechanisms. The European Commission states: 'the large football clubs accuse UEFA of not being transparent in financing and distribution. The smaller clubs complain that more money should go to the lower levels of the pyramid. It is debatable whether the UEFA system is operating properly and whether there is a need for such a system' (European Commission Directorate General X, Sport Unit, 1999: 9). Similarly, Toine Manders MEP, an advocate of application of the European single market to football refers to solidarity as 'window dressing' (personal interview, 19<sup>th</sup> January, 2005). These views are, however, misleading. Firstly, the effectiveness of a system of solidarity does not necessarily relate to whether such a system is inherently necessary or desirable. Reding's comment seems to imply that if a governing body cannot fund all grassroots sport, then its claims to act in the public interest have little merit. Funding of sport has always come from both state and private institutions. Whilst it may be the case that the commercial activity of the governing bodies provides financial competition for the clubs, the generation of such income is important:

In the light of UEFA's financial development in the 1990s, it is no surprise that the question has been asked ... as to whether such high revenues are compatible with an organisation that is not seeking to make profits. This question can be answered quite clearly in the affirmative. The amount of money in circulation is irrelevant; what matters is that profits should not be wasted (Hanspeter Jenni, finance director, UEFA, quoted in UEFA, 2004: 374)

As long as the funds and resources of the governing bodies are used to organise competitions, in order to develop youth football, or to really develop football and not to develop something else you have no problem because it makes sense. On the other hand, when financial resources are used to organise a centenary that costs something like 15 million Swiss francs it is totally ridiculous. It's normal to celebrate the centenary of an organisation, but it makes no sense to give out so much money. People can come for a football match or whatever, but not

for a programme which includes show business guest stars and so on (Michel Zen-Ruffinen, personal interview, 1<sup>st</sup> March 2005).

Honestly, I think it is in the system and I don't think anybody wants to review that. We have an existing system in UEFA we like that, we understand the reasons behind that. I don't think that would be a problem to be maintained. If we would be able to generate more revenue, everybody would be happier. So we are not against that. It is heavier on a national level than on international level ... the burden of solidarity or mutuality in the Italian league is very heavy you know. From every single buck, as the revenue from the stadium, TV rights, gates, and so on, 18 per cent goes to the visiting club and the amount we get from our away games is much, much lower than the amount we pay. So if you take 100 per cent of our turnover, 20 per cent of it goes on solidarity anyhow. But our costs are 100 per cent our responsibility (Umberto Gandini, organising director AC Milan personal interview, 14<sup>th</sup> February 2005).

Interesting issues arise from these views. Firstly, Jenni and Zen-Ruffinen argue that so long as the revenue generated is used effectively, then the governing bodies' role in raising that revenue is not in question. Zen-Ruffinen in particular highlights the responsibility of the governing bodies to effectively manage the revenues raised. Gandini's comments, however, illustrate that we should beware of the commitment of the elite clubs to maintaining solidarity. As discussed earlier, redistribution within and between leagues has declined considerably over the last two decades with major encouragement from the biggest clubs. In Italy, clubs like AC Milan show little interest in solidarity when it comes to distributing television incomes, increasing the financial divide. Any suggestion that solidarity between clubs and to the grassroots can be maintained should the organisation of club competition be transferred from UEFA to the competing clubs needs to be treated with a healthy degree of scepticism. There is little doubt that offering the clubs greater financial independence in European competition would see a decline in both redistribution between clubs, as the elite would seek a greater share of the financial cake, and to the grassroots, as all clubs would naturally seek to maximise their income:

The only way of guaranteeing redistribution of resources from the top to the wider base of the pyramid is to be as commercial as possible at the top and to make the taxation at source. Because if you hand the resources or the money over to the clubs you would never see them. So that means that what UEFA can do, and what the associations and leagues can do is to base the commercialisation on joint sales and joint exploitation of rights (Lars Christer Olsson, chief executive, UEFA, personal interview, 16<sup>th</sup> November 2004 )

There are strong arguments in favour of ensuring a high level of solidarity between the game. There are powerful arguments that the governing bodies have responsibility to divert some of the vast funds generated by elite football to regenerate the grassroots (Conn, 1997: 254-271; Conn, 2004). Such calls might be dismissed as nostalgic, but such they are based upon the frequently stated view that in order for the football pyramid to have a strong apex, it must also have strong foundations:

A talented player is not identified by a professional club. He or she is identified by a volunteer somewhere or in a school somewhere, and they are picked by the clubs when they come to a certain level of education ... in all these earlier parts there has been a club, or school, or a district or a football association involved. And there is an obligation in my opinion for the professional side to distribute wealth to the other part of the family or the pyramid (Lars Christer Olsson, UEFA chief executive, personal interview, 16<sup>th</sup> November 2004).

As noted earlier, UEFA's role in organising club competition allows for the development of the game that would not otherwise take place. Of the fifteen competitions organised by UEFA only three create a profit, two are self-financing and all the others make a loss (Jenni, 2004: 368). It is,

then, its role in elite competition that allows UEFA to fund youth and women's tournaments. Without such revenues these competitions would be in jeopardy:

I couldn't foresee that we had a social development like the women's game, I couldn't see that we had that under the governance of the men's leagues or the men's major clubs if they were in charge of this. Because, quite honestly they look more to their own pockets and their own players, than they see the total aspect of this. I think it's been beneficial from an education point of view, definitely, with coaches and referees and so on. I do think that the control of the refereeing on a professional level is best protected and developed with neutral bodies where you have all parties involved and not only the clubs (Per Ravn Omdal, vice-president, UEFA, personal interview, 8<sup>th</sup> April 2005).

The clubs have to accept that the national associations have a legitimate interest in commercial activity. This commercial activity helps the organisations achieve their objectives, and if this places them in competition with the clubs, then that is the environment in which clubs have to work. The view that there is a conflict of interest is a convenient smokescreen, which disguises the desire of the clubs and leagues for a greater share of the available revenues, and greater autonomy and authority. That is not to say that there should not be greater transparency in the process of formation of the international calendar. FIFA's control of the calendar, with insufficient input from the range of interested stakeholders, whether it is UEFA, the national associations or the clubs is the cause of some dissatisfaction:

In the international calendar again, we are competing in the same market, so if you play club football you don't play international football; if you play international football, you don't have club football. So we have to co-ordinate in a better way. Again when it comes to international co-ordination of the calendar the clubs are never consulted. They cannot say what they think. We don't think this is correct. We have to stop the leagues, our activity, our bread and butter, because FIFA wants to give the players one week rest before the World Cup, and we have to concentrate the season in a harder way. FIFA keeps saying it would be better if you play 16 clubs in the league instead of twenty. Fine, no problem. Just give us the rule. So that's an honest point in which we ask for FIFA to intervene and FIFA don't do it. FIFA is the only one that can impose on the national associations that national leagues should be of sixteen or 18 clubs maximum. They don't do it. Why? It would be an advantage to the big clubs. It would be easier. We can't break our system, but we can definitely apply a FIFA rule (Umberto Gandini, personal interview, 14<sup>th</sup> February 2005).

Representation of stakeholders in the decision-making process therefore assumes a high level of importance. This is not to say that the clubs should be furnished with a decision-making role, but that in today's football world the unilateral imposition of decision-making, by a single body, or even a single individual, is inappropriate. The question is not whether the national associations should own and organise competitions, but the extent to which the various different interests are involved in the processes through which decisions affecting the various stakeholders in the game are made.

#### *iv. The principles of the pyramid: a philosophical framework for progress*

In accepting that the European model is under pressure, what principles and practical outcomes result from the model that makes its defence a valuable and worthwhile pursuit? And how does this relate to the organisational objectives of UEFA? Arguments relating to the possibility of a European super league mean that discussion about the significance of certain aspects of the organisation of sport in Europe have been neglected. There has, however, been little serious attempt to engage in analysis of the overall value of the model or the merits of its various facets in the academic

literature. It is the contention here that any changes in governance, and in competition need to pay due attention to the European model of sport, retaining the elements that have both desirability and longevity and re-evaluating those elements that are no longer sustainable, and that may not now be desirable.

One element of European football is so ingrained in the sporting public consciousness that a competition without it should be deemed inconceivable: sporting meritocracy. Promotion and relegation sustains the excitement of football across leagues and across nations. It dictates that sporting prowess is rewarded and failure punished. It is the ultimate guarantor that sporting criteria dictates the right to participate, rather than economic might, fan bases, or commercial potential. It recognises that football is a sport first and foremost, and whilst acknowledging that it is also an industry, it is not the normal demands of an industry – profit and market share – that shape the nature of competition. The qualification for European competition should *always* be based on sporting merit from feeder leagues, whatever those leagues might look like – no exemptions, no three-year guarantees, just sporting merit. However European football develops, and whatever the problems associated with the existence of promotion and relegation, it is an element that should always be retained. Secondly, the unity of football's governance structures should also be considered a vital aspect of the organisation of football in Europe.

The unity of governance allows for the balancing of interests, the development of the game at all levels, the right to participate, the co-existence of national team and domestic and international club football. The growth of football across nations can be ascribed to a great many things, but at least one aspect of the game's success is football played across the globe is all a part of the same integrated structure. Any attempt to operate outside of that structure should be fiercely resisted. It is also the basis of representative democracy in football governance ensuring that participants at all levels have the right to be represented in the decision-making process. The third desirable aspect of the organisation of sport in Europe is the financial solidarity that flows from the European elite to grassroots. The connection between the two, through the recruitment of players, and the training of coaches, managers and referees, and the acknowledgement that the professional game cannot function without the amateur game determines that the professional game has a responsibility to fund and develop other levels. By abandoning these principles, sporting performance would be undermined, the health of the game would deteriorate, and governance of the game would undergo a destructive, fractious process. By protecting these principles, sport takes precedence over profit, the wealth of the elite ensures the health of grassroots, and football can continue to operate in a unified, coherent and logical framework.

It is the contention here that these principles are sustainable, desirable and crucial to the successful development of football on a European and global level. But at the beginning of the twenty-first century, football must also adapt and change, and grasp the nature of global transformations, reacting to the environment in which it operates. Whilst the above principles form a core element of the success of European football, it is important to recognise that it is possible to retain those principles whilst adapting to the competitive environment through which they are manifested. Socio-economic, political and technological transformations have changed the environment in which football is played out, and it is the role of the national associations, FIFA, and UEFA in Europe, to shape football that exploits those changes positively. The task will involve self-evaluation and the courage to confront change that may alter the authority of one's own organisations.

Paradoxically, it may be that the pyramid can best be strengthened by changes in the role of the member associations. Technological development in conjunction with the increasing emphasis on transnational competition has had two critical effects. Domestic leagues are increasingly uncompetitive; and small nations with small television markets are increasingly unable to compete at a continental level. Neither of these trends is desirable, and UEFA and the national associations need to devise solutions. The national structure of competition has been undermined, and for the reasons articulated above, it is unlikely to be re-ignited by a renewed redistributive fervour. It is the contention here then that national characteristics of European football may have to be re-evaluated

in the context of change. If the national leagues are simply too uncompetitive, and likely to remain so, it will become more and more difficult to defend the existing structure in which national leagues determine the composition of European competition. Some process of regionalisation may, for example, need to be considered.

One of the key factors affecting the sustainability of the pyramid is the varying sizes of the national associations, the countries in which they are based, and the consequent size of the broadcasting markets in which they operate. The result of this is that clubs competing in the Champions League are not competing on an equal footing with each other (and indeed that those competing in the Champions League are competing on a unequal footing with others in their domestic leagues). A process of change may provide the opportunity to protect the underlying principles of the organisation of sport, consolidate the role of the national associations in governance, and reclaim some of what has been lost in the process of commercialisation, for example central selling. A process of controlled change could have the capacity to simultaneously satisfy stakeholders, and to address some of the negative trends so apparent. A ceding of control in some areas could involve a consolidation of control in others.

### **Section 3: The stakeholder challenge**

This section analyses UEFA as it operates within its stakeholder environment. As we have already noted the environment is dense and complicated, with a multitude of organisations operating across separate but interrelated contexts. Like many organisations, UEFA both affects, and is affected by the political, social, economic, technological, legal, and sporting environment in which it operates. Its level of influence, autonomy, and authority varies according to many different variables within these environments. In chapter five we look at the key political-legal challenge faced by UEFA in what we can term its ‘external’ environment – the growth in interest of the institutions of the European Union in the governance and regulation of European sports, and football in particular. As we noted earlier, this challenge has helped fundamentally alter both the trajectories and nature of football competition in Europe and also diluted the level of influence of the governing bodies, whilst at the same time empowering other individuals and organisations. This chapter will also look at how European developments might affect the relationship between UEFA, players, and the players’ unions. In chapter six, analysis concentrates on UEFA’s ‘internal’ environment, with specific focus on UEFA’s and its structures relate to clubs and leagues, in the context of commercialisation and the growth in autonomy of these key stakeholders. In the ‘internal’ environment, the nature of UEFA’s relationship with FIFA will also be of vital importance in any governance future developments. This will also be addressed.

#### **Chapter 5. UEFA, the European Union and the Governance of European Football**

In chapter two we discussed the impact of decisions made by the EU on the transformations taking place within European football. Most tellingly, the Bosman ruling rendered national quotas in team selections illegal. Whatever the impact of the ruling, and it has been widely debated, it is certainly true that it consolidated the reality of political and judicial intervention in the governance and regulation of European football. Any pretence that UEFA could set its agenda independent of external influence was shattered, and the reality that multilateral decision-building in the context of European sport was entrenched. Indeed, that the ruling rendered redundant the ‘gentleman’s agreement’ over the competition of teams in European club competition with the European Commission, demonstrated that political agreements and compromises were also vulnerable to the full force of Europe’s jurisprudence.

UEFA has negotiated this developing relationship with the EU with varying success. The Bosman ruling constituted the nadir, revealing the governing bodies’ obsolete perception of their authority in relation to the wider political environment, and also the incompetent manner in which the affair was handled by the Belgian FA and the international organisations. UEFA was heavily criticised for its intransigent and insular approach to the case, as it failed to recognise the changing dynamics of sport governance, and the transformed scope of its own authority: ‘The cataclysmic effects of the European Court of Justice’s ruling in *Belgian FA v Bosman* could have been avoided but for UEFA’s intransigence. That the fundamental principles of European Community (now European Union) law were incompatible with both the transfer system and the provisions on foreign players was evident long before *Bosman*’ (McArdle, 2000: 31). Such an approach was not untypical of such organisations, which had long considered themselves to be removed from the conventional legal process. Sports governing bodies seemed to find it difficult to fathom what purpose or interest external regulators had in the rules of sport, and substantially adopted a position of defence, reacting to the incursion of the law with barely concealed incredulity: ‘Why should the EU interfere? The interests of sport are not necessarily best served by EU rules’ (UEFA official Marcel Benz quoted in Weatherill, 2000: 158). The view that sport is different led to the blinkered defence of self-regulation. According to McArdle: ‘FIFA and UEFA’s arrogance – their belief that the football industry was ‘special’ and that being based in Switzerland amounted to some form of sanctuary – was never tenable. Perhaps the only surprise is that football was allowed to get away with it for so long; the governing bodies certainly cannot say they never had the opportunity to put

their house in order' (McArdle, 2000: 58). The role of the European Union, therefore, continues to play a defining role in sport regulation and governance, with sporting rules, particularly where they have an economic impact, increasingly at the mercy of the norms of external law. This legal and political intervention of the European Union into sport regulation has been referred to as the 're-regulation' of sport (Greenfield and Osborn, 2001; Caiger and Gardiner, 2000).

### *i. Sport and the European Union*

In the decade since Bosman, the approach of the EU to sports regulation has shifted considerably. The EU has developed a policy of 'supervised autonomy'. UEFA now approaches the EU with a view to active engagement, negotiation and dialogue, rather than obstinacy and defence. Whilst the regulatory environment between 1974 and 1995 was essentially 'latent' (Parrish, 2002: 14), the Bosman ruling brought the legality of the framework of sport regulation into question and changed the environment to one of active regulation. The European Commission was inundated with a variety of complaints about the authority exercised by the governing bodies particularly in the area of competition. The post-Bosman relationship between the EU and sport in general was therefore one of uncertainty in which the Commission held investigations into the football transfer system, Formula One racing, the authority of sporting governing bodies, and the sale of tickets for sports events (Parrish, 2003a: 252). The Competition Commission in particular provided a more cost effective way of challenging the rules of sports governing bodies than litigation through national courts and the European Court of Justice (Parrish, 2003a: 252). Concerned at this growing intervention of the EU, the member states of the EU have sought to develop a more holistic approach that considers factors beyond the simple application of treaty law. Although the EU has no legal competence to develop a fully-fledged sports policy, this has been achieved incrementally with the development of sport policy guidelines (Morrow, 2003; Parrish, 2002), through various treaty declarations culminating in the inclusion in the unratified constitutional treaty of an article on sport, which refers to its 'specificity'<sup>23</sup>.

The incursion of the EU into the regulation of European football is now a reality of sports governance. However, one should beware of characterising the EU as a monolith interested only in extending the ideology and policy of the free-market. Whilst the EU has often, in many instances correctly so, been characterised as hostile to interests of UEFA, the multi-institutional nature of the EU, and the political diversity evident within it, means that UEFA and other interest groups within European football, have access to a selection of receptive institutions. The EU approach to sport, as in most other policy areas, is characterised by divergences in ideology, with distinct political coalitions attempting to advance their own particular objectives. The 'direction of EU sports regulation has taken place in the context of competition between two rival advocacy coalitions' (Parrish, 2002: 1). As Parrish argues, the regulatory ethic of the EU should not be denied, but its role should be located within a wider social, cultural and essentially political environment (Parrish, 2000: 21). Additionally the EU is 'multi-levelled' (Parrish, 2003a: 247; Marks et al., 1996) and in a 'changing institutional balance of power, advocates find themselves able to exploit a growing number of institutional venues to shape policy'. Within this multi-level EU are 'policy subsystems', within which are 'advocacy coalitions' (Parrish, 2003a: 248). The rival coalitions that have emerged in the sport policy subsystem break down between those individuals and groups pursuing a policy agenda supporting the drive towards fuller compliance with the single market (regulators) and see sport as an economic activity, and those attempting to consolidate sport as a socio-cultural element of European life and who seek sport's protection from the complete application of European law (protectionists). Parrish contends that it is the balance between these two forces that has shaped the development of EU sports policy (Parrish, 2003a: 250). Within these two coalitions there are also divisions. For example, in the regulatory coalition there are pragmatic regulators (including DG Competition) and ideological regulators (unsurprisingly, certain law firms). In the protectionist

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<sup>23</sup> European Communities (2005) *Treaty establishing a Constitution for Europe*



coalition there are 'maximalists' that wish to see a sports policy enshrined in the treaty, 'moderates' who prefer the EU not to challenge sporting autonomy, but would support a protocol attached to the treaty, and 'minimalists' who desire the greatest possible protection and distance from the EU (Parrish, 2002; Parrish, 2003a: 251).

These two rival coalitions have subsequently attempted to exploit the various different decision-making centres within the EU in order to 'steer sports policy in a direction consistent with their belief system' (Parrish, 2002: 1). Parrish refers to this as 'venue shopping', which, he argues, has led to a new approach to dealing with sport within the EU. The key institutions with regard to the re-regulation of sport have been the European Court of Justice (ECJ), the European Parliament and Commission and the member states themselves. Sporting organisations have been supported in their efforts to consolidate their authority as the legitimate governors of sport. Protectionists have found allies in the European Parliament and the member states in particular. The Larive Report (1994) and the Pack Report (1997) both advanced the socio-cultural agenda as a counterweight to economic integration.

In the face of calls for greater protection for sport from the application of treaty law in the aftermath of Bosman, the member states refrained from formulating a legal basis for sport in the treaty. However, in 1997, the heads of government decided to attach instead a Declaration on Sport to the Amsterdam Treaty, recognising the 'social significance' of sport and calling on the 'bodies of the European Union to listen to sports associations when important decisions affecting sport are at issue'.<sup>24</sup> The Declaration marked the point at which the member states started to steer policy through what Parrish refers to as 'soft law' (Parrish, 2003a). The Amsterdam Declaration was followed by the Presidency Conclusions of the Nice Summit in which it was declared that 'the Community must, in its actions under the various treaty provisions, take account of the social, educational and cultural functions inherent in sport and making it special, in order that the code of ethics and solidarity essential to the preservation of its social role may be respected and nurtured.' Additionally, the declaration also states:

The European Council stresses its support for the independence of sports organisations and their right to organise themselves through appropriate associative structures. It recognises that, with due regard for national and Community legislation and on the basis of a democratic and transparent method of operation, it is the task of sporting organisations to organise and promote their particular sports, particularly as regards the specifically sporting rules applicable and the make-up of national teams, in the way which they think best reflects their objectives ... It notes that sports federations have a central role in ensuring the essential solidarity between the various levels of sporting practice, from recreational to top-level sport, which co-exist there; they provide the possibility of access to sports for the public at large, human and financial support for amateur sports, promotion of equal access to every level of sporting activity for men and women alike, youth training, health protection and measures to combat doping, acts of violence and racist or xenophobic occurrences.<sup>25</sup>

Support from the member states, then, recognised the importance of the federations' role in maintaining solidarity between different levels of the sport. In the interim, the Commission published two documents, which broadly supported the governing bodies and their role in governing and developing European sport.<sup>26</sup> Additionally, at the request of the European Council,

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<sup>24</sup> Declaration 29, Treaty of Amsterdam amending the treaty on European Union, the treaties establishing the European Communities and related acts, Official Journal C 340, 10 November 1997

<sup>25</sup> Declaration on the Specific Characteristics of Sport and its Social Function in Europe, of Which Account Should be Taken in Implementing Common Policies, Presidency Conclusions, Nice European Council Meeting, 7, 8, 9 December 2000.

<sup>26</sup> The Education and Culture Directorate published: 'The Development and Prospects for Community Action in the Field of Sport', and 'The European Model of Sport'.

the Commission produced the Helsinki Report<sup>27</sup>, which aimed to endorse a new approach to sport recognising both the values of sport as characterised by the European model, and also the changing economic and legal environment in which sport operated. Significantly, Helsinki also endorsed a unitary structure of governance in European sport: ‘The existence of several federations in one discipline would risk causing major conflicts. Indeed, the organisation of national athletes and national teams for international competitions often require the existence of one umbrella organisation bringing together all the sports associations and competitors of one discipline’, although also added the rejoinder that ‘the basic freedoms guaranteed by the treaty do not generally conflict with the regulatory measures of sports associations, provided that these measures are objectively justified, non-discriminatory, necessary and proportional’<sup>28</sup>

The significance of this ‘soft law’ has been debated. Weatherill, for example, described the Amsterdam declaration as ‘anodyne’ and does not challenge the view that if sport constitutes an economic activity it is subject to EU law (Weatherill, 2003: 89). It has also, however, been described as ‘politically significant’ (Parrish, 2003a: 253) and a ‘warning shot across the bows of the commission’ (Foster, 2000c: 45). It is important to recognise the non-binding nature of the rulings but at the same time, there seems little doubt that the intervention of the member states in steering sports policy away from the purest application of treaty provisions has impacted on the role of the EU in the regulation of sport. According to Parrish: ‘Protectionists have succeeded in appealing to the pragmatic regulators who, through the construction of the post-Amsterdam new approach for dealing with sport related cases have signalled their desire to mediate with the protectionists’ (Parrish, 2002: 14). This has been evident across the institutions of the EU.

The ECJ remains perhaps the greatest threat to organisations like UEFA, given the non-negotiable nature of its rulings. Such rulings constitute what has been referred to as a ‘crude’ form as it depends almost entirely on individuals who want to pursue claims (Foster, 2000c). Nevertheless, the ECJ has been increasingly sensitive to sporting interests and demonstrated an understanding of the specific nature of sport within its rulings. Indeed the Bosman judgement itself included a proviso that sporting bodies could act in a manner protecting public interest, so long as the rulings were proportionate:

In view of the considerable social importance sporting activities and in particular football in the Community, the aims of maintaining a balance between clubs by preserving a certain degree of equality and uncertainty as to results ... must be accepted as being legitimate.<sup>29</sup>

Recently, the ECJ has also ruled legal sporting regulations that amount to a *de facto* breach of the freedoms protected by the treaty of the European Union. In *Lehtonen*, for example, the ECJ ruled that transfer windows, essentially a block on the freedom of movement of workers, were justifiable as a means to protect the sporting integrity of competitions.<sup>30</sup> According to UEFA’s legal advisor on EU matters, the ruling amounted to ‘some form of judicial recognition of the special characteristics of sport’ (Bell, 2004: 336). Similarly, in *Deliège v Ligue de Judo*, a professional judo competitor challenged the federation’s selection policy for international competition, which limited to three the number of athletes the federation could nominate.<sup>31</sup> As such, competition entry was based on nationality rather than merit. This could be interpreted as protection of UEFA’s insistence that all of its 52 national associations are represented at some stage or other in the Champions

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<sup>27</sup> At Vienna council meeting in December 1998, the commission was requested to submit a report to the Helsinki European Council with a view to safeguarding current sports structures and maintaining the social function of sport within the community framework – a significant milestone.

<sup>28</sup> COM (1999) 644, ‘Report from the Commission to the European Council with a View to safeguarding Sport Structures and Maintaining Social Significance of Sport within the Community Framework: The Helsinki Report on Sport’ 1/12/1999.

<sup>29</sup> Case C-415/93, *supra* note 2.

<sup>30</sup> Case C-176/96, *Jyri Lehtonen and Castors Canada Dry Namur-Braine v. Fédération Royales Sociétés de Basketball and Ligue Belgische Liga*, [2000] ECR I-2681.

<sup>31</sup> Joined cases C-51/96 & C-191/97, *Deliège, v. Asbl Ligue Francophone de Judo and others* [2000] ECR I-2549.

League, rather than being drawn entirely on sporting merit. In both these cases, the ECJ referred to the Amsterdam Declaration (Parrish, 2003a: 254), and the rulings supported the view that ‘sports bodies are in principle permitted to set the parameters within which their sports shall be run and that rules of the EC Treaty will not intervene, even if an incidental effect on the liberty of economic actors can be demonstrated’ (Weatherill, 2003: 59).

The Commission has also ruled that sporting regulations can contravene the established freedoms of the treaty. Whilst the larger clubs may continue to lobby for individual selling, the European Commission has demonstrated a willingness to come to agreements on central sales with UEFA and the domestic leagues, including those of Germany, France, and England. The DG Competition has allowed for central sales whilst demonstrating its influence through forcing changes on the exclusivity and length of television deals. Revealing, though, is the divergence between the Commission’s press releases on the issue of collective sale of the Champions League, and the official judgement regarding the exemption. The approach adopted by the Competition Commission has allowed for the exemption of joint selling of television rights under Article 81(3). The press release from the preliminary agreement states: ‘the continuation of some central selling will permit UEFA to continue promoting the successful Champions League brand, which it created, while safeguarding *financial solidarity* in the sport’.<sup>32</sup> The final judgement however, noted that financial solidarity was not the basis on which the exemption was given: ‘it is not necessary for the purpose of this procedure to consider the solidarity argument any further. An exemption ... is justified because of the creation of a branded league product which is sold in packages via a single point of sale.’<sup>33</sup> Whilst the Commission may have been indirectly influenced in its decision by soft law, it is notable that the judgement referred strictly to the provisions available to the Commission in the treaty. However, other cases also demonstrate the inclination of the Commission to support what it sees as ‘sporting rules’. In 1997 a Belgian team, Excelsior Mouscron, wanted to play a UEFA Cup game in Lille in France. UEFA rules prohibited this and stated that the club should play its fixtures in its home ground. UEFA’s decision was challenged by the Communauté Urbaine de Lille, on the basis that it was unable to hire out its stadium, thus breaching competition rules. The Commission found in favour of UEFA on the basis that the rule was a sporting rule alone and that UEFA had ‘exercised its legitimate right of self-regulation’.<sup>34</sup> Similarly, the Commission also rejected a complaint by ENIC, an investment company with shareholdings in several major football clubs, that UEFA’s rule prohibiting direct or indirect control of more than one club participating in a UEFA club competition was anti-competitive. The Commission ruled that the stipulation was ‘justified by the need to guarantee the integrity of the competitions’.<sup>35</sup> Perhaps most importantly, the Commission and UEFA came to an agreement with UEFA on the issue of transfers in March 2001. The settlement contained provisions including those which were applicable pre-Bosman such as a training compensation fee including for under-23 players at the end of their contract.

In the European Parliament, ECJ, and the Commission, and amongst member states there has therefore been an awareness of the significance and specificity of sport beyond purely economic interpretations and an attempt to broaden the scope of sports policy to more than strict application of treaty provisions. But for all the brouhaha about the takeover of European sport by the EU developments have suggested that the governing bodies have been increasingly able to accommodate the wishes of the European Union, whilst retaining authority over most, if not all, sporting rules.

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<sup>32</sup> IP/02/806: ‘Commission welcomes UEFA’s new policy for selling the media rights to the Champions League’ 3<sup>rd</sup> June 2002 (Italics added).

<sup>33</sup> COMP/C.2-37.398: ‘Joint selling of the commercial rights of the UEFA Champions League’.

<sup>34</sup> IP/99/965: Limits to application of Treaty competition rules to sport: Commission gives clear signal’, 9<sup>th</sup> December 1999.

<sup>35</sup> IP/02/942: ‘Commission closes investigation into UEFA rule on the multiple ownership of football clubs’, 27<sup>th</sup> June 2002.

## *ii. UEFA and the European Union*

That the EU has developed a more considered policy to sport in the decade since Bosman reflects to some small extent the changes in the approach of UEFA to Europe's political institutions. Immediately prior to the Bosman ruling and in the recriminatory aftermath, the football authorities' relationship with the EU had sunk to an all time low. In the aftermath of Bosman, UEFA general secretary Gerhard Aigner wrote:

Somewhat alarming has been the frankly hostile attitude of the EU authorities towards football's governing bodies. This is all the more disappointing when one considers that UEFA, on behalf of the national associations concerned, has been involved in negotiations with the Commission for a long period of time ... the aggressive attitude of the court and the Advocate-General during the hearing also prompted the conclusion that the judges concerned had very little understanding of the overall function of football (UEFA, 1995: 38).

According to Foster: 'Football feared for its autonomy and its systems of governance in the face of this barrage of complaints. UEFA and FIFA became so alarmed that they began to argue and lobby for immunity from European Competition law hoping to regain control of their affairs' (Foster, 2000a: 39). There is little doubt that problems in the personal relationships between the EU and UEFA in the aftermath of Bosman were severely strained: 'Given UEFA's and FIFA's obstinacy in the years before Bosman, it seems there are few within the Commission who believe that they owe football, or (more accurately) the men who run it, any favours – one gets the distinct impression that much of this is personal' (McArdle, 2000). UEFA, by contrast, clearly felt that the ruling was damaging and failed to take into account the specificity of sport. Indeed, according to Parrish, 'it is the widely held view of many sports administrators that they have already become victims of the personal vendettas of some working in the EU' (Parrish, 2003: 3). As the head of UEFA's EU office confirmed: 'I don't think it's a secret that in the past those relations were very strained' (Jonathan Hill, head of UEFA's EU office, personal interview, 19<sup>th</sup> January 2005).

There is, however, little doubt that the views of UEFA have changed considerably in the decade since Bosman. The realisation of the legitimacy of EU authority has been gradually drummed home by the intervention of the EU in the number of cases dealt with by the Commission, and the ECJ. As various representatives of UEFA have stated:

When we came into the Bosman era, the attitude was very aggressive. UEFA's attitude was very aggressive. To some extent that came from Gerd Aigner I would say, he thought that we should be controlling football, that this shower in Belgium should not be interfering with the football organising body ... we understood football and they did not, and to treat football as like any other industry was a nonsense, so it was a very aggressive attitude. Over the last five years the whole atmosphere has changed. This was by Gerd Aigner as well. He, from the end of the nineties, realised we're stuck with the Commission, it's not going away, its going to be there forever, we've got to start talking to them, we've got to start working with them ... we've got to go to them with anything that's going to affect European law, and say look we want to look to central market the Champions League, we want to do this, these are the reasons we want to do it, well what do you think, should we change this?' That sort of thing. The whole atmosphere with the Commission has changed with football. They now are very, very happy with the way football deals with things ... since the early eighties there's been big movements in direction in all ways, now the atmosphere is very good (David Will, vice-president FIFA, member UEFA executive committee, personal interview, 21<sup>st</sup> April, 2005).

Even though there has been some recent developments suggesting the 'interference' by the EU in sport ought to be reduced, there is no real expectation that professional sport will ever be able to live outside the law again. The best that can be hoped for is that courts and

regulatory authorities will take the specific nature of sport into account when applying law in this particular area. In the view of UEFA, the best way to secure this objective would be the inclusion of a legally binding provision on sport – such as a protocol or article – in the EU treaty (Bell [UEFA legal advisor on EU affairs], 2004: 339).

UEFA's objective, shared by its member associations, is to ensure that the new EU treaty provides a legal framework for sport that is clear, stable and consistent. Above all it should do two things: Firstly enshrine the legal recognition of the specific nature of sport; secondly, protect the autonomy of European sport's governing bodies so that they can do their job properly, free from unnecessary interference from political authorities at the national and European level ... let me underline, *this is not about obtaining an exemption from EU or national law. We are not – and never should be – above the law.* What we do need however, is legal certainty (italics added).<sup>36</sup>

There has been a very mature acceptance and realisation that the European Union is a legitimate organisation, that the institutions of the European Union and particularly the European Commission and the European Court of Justice have a duty to uphold EU law and that the law is the law. Everybody has to respect that. I think from the top of UEFA downwards that realisation and acceptance of the EU's legitimacy and its role has sunk in deeper and deeper to the point where today, we see the European Union as a partner, as somebody we have to have good relations with, as a partner that we want to consult regularly on new things. (Jonathan Hill, head of EU office, UEFA, personal interview, 19<sup>th</sup> January 2005).

UEFA has gradually come to the conclusion that in order to protect its role within European football, constructive engagement and dialogue provides a preferable route to disengagement. The lobbying process has been unnecessarily criticised as 'endless, usually pointless' (Moorhouse, 2002: 70). In fact, the tangible successes noted above are due at least in part to changes in the relationship between sport and the EU. The work done over a two-year period, between UEFA and the DG Competition on the transfer issue and negotiations regarding the central selling of the Champions League marked a genuine and tangible upturn in the relationship between the Commission and UEFA. The opening of UEFA's EU office in Brussels in 2003 marked not a starting point, but one important development with regard to the ongoing requirement of UEFA's presence in proximity to the institutions of the EU:

I would like to think genuinely that there has been a significant improvement in those relationships. And I think the mere fact that UEFA was prepared to invest in an office here and employ somebody full time bears witness to that commitment to a genuine dialogue, and to a genuine attempt to improve relations (Jonathan Hill, Head of UEFA's EU office, personal interview, 19<sup>th</sup> January 2005).

As Parrish has argued, the institutions of the EU have provided the context in which new policy sectors emerge, and that strategically minded actors exploit institutional venues in order to steer policy in a direction consistent with their belief system (Parrish, 2002). The changing approach of UEFA and the acceptance of the legitimate interest of EU institutions have led to the concerted effort to seek out and influence the policy process utilising this kind of strategy, with efforts focused on the each of the key EU venues – the Parliament, Commission, and member states, and actors within those institutions who could reasonably assumed to be natural allies:

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<sup>36</sup> Speech by Mr Per Omdal, UEFA Congress, Rome, 27<sup>th</sup> March 2003.

There are a whole range of issues which are not necessarily exclusively sporting issues, but where they have an impact on football, and when football needs to respond and make a contribution to the debate ... I think there's a more fundamental reason though why we are here, which is that UEFA very simply wants to build good relations with the European Union and with all the institutions of the European Union, so above all the European Commission and the European Parliament, they are the two key institutions in Brussels. But also with the member states. And by good relations I mean a two-way dialogue where we take the opportunity to say why we govern football in a particular way ... but also just as importantly to listen to our political partners in the Commission, Parliament and member state governments, and to try and understand where they're coming from. The lobbying process is actually a lot more practical and pragmatic than maybe people's perceptions allow. It's actually a very businesslike two-way dialogue, a two-way flow of communication and information where those political audiences need the knowledge and the experience that sports governing bodies can provide (Jonathan Hill, personal interview, 19<sup>th</sup> January 2005).

UEFA has also focused keen attention on the Parliament in its efforts to secure greater influence and sympathy within the EU to its objectives. The Parliament, as the directly elected-democratic forum of the EU, has grown in authority through an extension of its powers in each treaty since Maastricht in 1992 with an increasing role in the decision-making and legislative process. The contrast with the Commission is marked in the sense that whilst the Commission has a legal duty to police and enforce the EU treaties and promote the European interest, MEPs are drawn from their localities and nations, and have no such obligation to the EU. Whilst the Parliament is clearly a broad church of political positions, UEFA sees the Parliament as a natural ally where the members are drawn from the localities, and therefore are more likely to share UEFA's concern for protecting football at a local, regional and national level, against attempts to apply the European single market to the football industry. In order to facilitate and improve dialogue, UEFA initiated the Parliamentary grouping, 'Friends of European Football'. According to Hill:

The Friends of Football is a loose informal group of MEPs from all countries and all colours of the political spectrum who have a strong personal interest in football ... that has worked very, very well so far. I would estimate we now have a good twenty or so members of the Friends of Football who regularly attend our meetings, very co-operative very willing to give us suggestions and ideas, and feedback on our own proposals (personal interview, 19<sup>th</sup> January 2005).

It remains to be seen how influential the Parliament will be in sport policy in the future, but as we noted above, the Pack and Larive Reports both served to promote a broader basis of consideration of the application of EU treaty law to sport. The legitimacy offered by the democratic basis of the Parliament, not always shared by the Commission, will continue to afford the Parliament influence albeit not in a direct decision-making capacity, and its support is likely to be of use to UEFA in the future. For example, the relationship between the Parliament and local communities across Europe has meant that, with regard to their 'homegrown'<sup>37</sup> player proposals, UEFA found 'a lot of support and sympathetic reaction' (Jonathan Hill, personal interview, 19<sup>th</sup> January 2005).

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<sup>37</sup> UEFA has introduced a regulation into its club competitions that requires the following: Squad size limited to 25; minimum number of local trained players, implemented gradually as follows: i) Season 2006/07: 4 'local trained' players; ii) Season 2007/08: 6 'local trained' players; iii) Season 2008/09: 8 'local trained' players. 'Local trained' players may be trained either by clubs or within the same national association, provided that no more than half the local trained players are 'association trained'. A 'club trained' player is defined as having been registered with a club for three seasons between the ages of 15 and 21. An 'association trained' player is defined as being registered for 3 years with the club or other clubs affiliated to the same national association. Clubs are allowed to add an unlimited number of young players to the squad of 25 providing they are under-21 and have been registered with the club in question for 2 years since the age of 15.

### iii. The 'specificity' of sport

The quest for some kind of treaty provision, either through an article or preferably a protocol, referring to the specificity and autonomy of sport has long been at the heart of UEFA policy. In the document *A Vision for European Sport: The Case for a Sports Protocol*, UEFA argues the following:

Sport has many characteristics that distinguish it from any other social or economic activity, and these are at the heart of its success: the solidarity that counters elitism and supports those who need help to survive; the integrity of traditional competitions that provide a competitive framework which benefits clubs, players and fans; the competitive balance that produces a constant supply of new winners, favourites and underdogs; the identity and sense of belonging generated by local teams; and the development of young players that bring new talent into the game. Sport is special ... The specific nature of sport and the constant challenges it faces demands that its governing bodies play the primary role in organising games and competitions. It is no small part thanks to our sports bodies and their competitions that sport's unique traditions and values have evolved. If Europe wants to maintain and promote sport's important social role, it needs to take proper account of the autonomy and competence of the recognised bodies ... we will only be able to do this if we have the freedom to do the job properly, in an environment where the relationship between government and sport is clear stable and predictable ... in our view the best way to achieve this would be a sports protocol in the Treaty on the European Union (UEFA, 2002).

Whilst UEFA has accepted that the EU has a legitimate role in the regulation of professional sport, it does still nevertheless seek to ensure that the application of that law is appropriate, and to the greatest extent possible, ensure that sport regulation is protected from what it sees as the potentially damaging incursion of the law. The Amsterdam and Nice declarations, offered guidance to the institutions, particularly the commission and UEFA urged the EU to develop a stronger legal basis for sport in forthcoming treaties: 'we urge the European Union and its member states to recognise the need for a consolidation of previous declarations and include a protocol in the next revision of the treaty.'<sup>38</sup>

That the EU included reference to sport in the constitutional treaty of the EU was a victory of sorts for UEFA, although it remains to be seen how the failure of member states to ratify the treaty will affect the future direction of sport policy. The significant clause with regard to UEFA and its role in the governance of European football states:

The Union shall contribute to the promotion of European sporting issues, while taking account of its *specific* nature, its structures based on voluntary activity and its social and educational function.<sup>39</sup>

Reference to the 'specific nature' of sport goes some way to vindicating the efforts of UEFA in securing a reference point entrenched in EU law. Similarly, the success in getting the language of the declarations into the treaty also illustrates how an approach based on dialogue and more cordial and constructive relationships can pay dividends. It is worth mentioning briefly the process involved. Unsurprisingly, UEFA had difficulty influencing the first draft drawn up by the European convention, with a presidium of eight members, responsible for drafting the treaty. Sport was low on a long list of priorities, and hence the initial wording of the treaty produced in June 2003 contained reference to neither 'specificity' nor 'autonomy'. At this point the governments of the member states took the treaty on, and so UEFA started to focus its activities on the senior officials and ministers within the national governments. As Hill explains:

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<sup>38</sup> UEFA, *A Vision for European Sport: The Case for a Sports Protocol*, 18.

<sup>39</sup> European Communities (2005) Treaty establishing a Constitution for Europe

We were spending a lot of time talking to senior government officials and ministers in the key member states, so UK, France, Germany, Spain, Italy, trying to convince them that what we were looking for was not too demanding. There were two stages to the process. We felt that we first had to approach sports ministers, they are our ministers within government, they are our natural partners within government ... and in that first leg of the process we were very successful ... 12 of the 15 member states' sports' ministers agreed to a new version of the article in which not only specificity was enshrined but also autonomy, and we were extremely happy with that outcome (Jonathan Hill, personal interview, 19<sup>th</sup> January 2005).

The text agreed by the sports ministers in Florence stated that, 'The Union shall fully respect the specific characteristics of sport, its autonomy, its voluntary structure and its social and educational function' (*UEFA Direct*, November 2003, no. 19: 16). However, following this period of negotiation, the treaty then shifted to the foreign ministers, and at some point between agreement in Florence in 2003, and the final draft of the treaty, reference to the autonomy of sport disappeared (Jonathan Hill, personal interview, 19<sup>th</sup> January 2005.). The final text agreed on the 18<sup>th</sup> June was, according to UEFA, 'not perfect but satisfactory' (*UEFA Direct*, August 2004, no. 28: 15). The political reality means that UEFA was unlikely to achieve its aim of reference to both specificity and autonomy, but that the final conclusion was an advance for UEFA on the earlier declarations, and the initial version of the treaty article itself. As Jonathan Hill explains:

Looking back on those negotiations, which lasted about two years in total, it was a very long campaign. I think UEFA is broadly satisfied with the final text. Clearly there are one or two things which we would perhaps improve and it's not by any means a perfect text from UEFA's point of view. Again, as part of this change in UEFA's attitude I think there was a realisation within UEFA that it was a messy political process, full of compromise, compromises, imperfect solutions. That's the nature of EU treaties, they are messy and you have to just roll up your sleeves and be part of the process and try and get the best deal you can. And we went into those negotiations, we went into that campaign very worried, because the initial draft of the treaty that was produced by the European convention in the spring of 2003 was very bad from our point of view. There was absolutely no mention at all of the specificity of sport, there was no mention of sports special nature or characteristics that make it different from other commercial activities. Nor was there any mention of autonomy and we generally felt it was a poor text (Jonathan Hill, personal interview, 19<sup>th</sup> January 2005).

The extent to which the 'specificity' and 'autonomy' of sport should be extended within the treaties focuses three separate but interacting issues: the actual value to sports governing bodies of enshrining these values in the treaty; whether the sports industry merit special treatment on the basis that sport is 'different'; and whether the sports governing bodies deserve such treatment on the basis of their records. Parrish has questioned what added utility the annexation of a protocol would give, suggesting that it would offer no extra protection, and that the current sports policy is delivering consensus that can be addressed by the soft law processes (Parrish, 2003b: 4). Recent history suggests that this may be correct, and that the aims of the governing bodies can be achieved without a common sports policy. Moreover, the inclusion of sport in the constitutional treaty undermines the concept of subsidiarity, promoting centralisation rather than devolution (Parrish, 2003b: 4). Indeed the fear arising from the inclusion of sport in EU treaties is also shared by representatives of UEFA. According to chairman of the Football Association and UEFA vice-president Geoff Thompson:

Personally I have a great worry about the specificity of sport being mentioned in the treaty, I think it's better out of the treaty. Once it's in the treaty it gives the politicians competence to deal with these sorts of issues, unless it's specifically worded that they don't. Now it isn't at the moment. It's very woolly. Personally I believe it's better out of the European treaty. I



worry very greatly that once it's in politicians will feel they've got competence, which of course they have on competition law. But I think UEFA have argued sensibly and correctly in collective bargaining benefiting the whole of the game. That seems to be accepted by the European Commission. My own feeling is I just worry about politicians getting involved on sporting issues, and if it's in the treaty then I would believe they would have competence which they haven't got at the moment (personal interview, 4<sup>th</sup> April 2005).

The text of the treaty does not seem to give great cause for concern, although it does mark the first point in which sport is given a treaty base. Whilst the advantages of the inclusion of the article may be slim, it appears preferable for UEFA to no mention at all. The interest of the EU in sport is a reality. Sport, as Parrish has shown, has benefited from the debates within the EU since Bosman, through the inclusion of declarations, without which the regulatory single-market coalition may have retained the initiative. It seems difficult to conclude that since the EU has developed a clear interest in the regulation of sport, even if the EU's competence with regard to sport remains uncertain, that absence of reference to the special nature of sport would be preferable. Despite the fact that the treaty may not be ratified it is not unreasonable to assume that Article III-282 may form the basis of future policy. It is argued that 'the new constitution provides a clear rejection of a free-market model and contends that in the future development of sport, the special features of the European model need to be carefully taken into consideration' and that 'the EU Constitution is an important step towards defending the EU system of promotion and relegation, vertical solidarity, the interdependence between the different levels, the socio-cultural significance of sport and the continuous changes in the rankings' (Mestre, 2005: 83-84).

#### *iv. Solidarity and the 'autonomy' of sport*

The 'specificity' of sport has therefore been reasonably recognised by the institutions of the EU, supported by member states, and, now forms a significant part of the EU approach to sport, even though the new EU constitution is unlikely to be ratified. The extension of that principle, though, is sought through the quest for some kind of sporting 'autonomy'. UEFA's position in this area does, however, appear to be somewhat contradictory. Given that representatives of the organisation at the highest level have claimed, as illustrated above, that there is an acceptance of the legitimate role of the EU, and a waning of the desire for a sporting exemption, it is unclear what the appeal for reference to 'autonomy' is aimed at achieving. How does 'autonomy' differ from 'exemption'? Whereas the 'specificity' of sport has been largely accepted, 'autonomy' is a more complex and difficult principle to define. Reference to 'autonomy' seems to imply some kind of shield from the full force of the law. A number of issues arise from this. Firstly, the basis upon which the appeal is made – issues ranging from the peculiarities of the labour market, competition rules particularly in the areas of broadcasting, and also the argument that UEFA's role in promoting solidarity both within the professional game, and from the elite game through the pyramid. The EU and UEFA have demonstrated the ability to come to agreements on both broadcasting and employment issues. On the issue of the sale of broadcasting rights for the Champions League, for example, representatives of G14 and UEFA, both registered their broad satisfaction:

Perfect. It corresponds to 95 per cent to what we have suggested. I think it is very fair, because it gives the competition and the community within the competition the best from a quality point of view, from a finance point of view, an organisational point of view, it gives the best solution and it leaves to the individual club something valuable which can be better exploited by the clubs themselves (Thomas Kurth, general secretary, G14, personal interview, 18<sup>th</sup> January 2005).

There was a positive outcome on the negotiations on the collective marketing of Champions League. The positive outcome of the negotiations and the negotiations themselves in a way

brought the commission closer to UEFA because they argued, and we accepted some of their argument, and they accepted some of our arguments and there became a general understanding between the competition authorities and UEFA and we found common ground for discussions (Lars-Christer Olsson, chief executive, UEFA, personal interview, 16<sup>th</sup> November 2004).

With the entrenchment of the autonomy of sport in the treaty, UEFA may have been able to secure a more beneficial arrangement for itself. Exclusive arrangements with broadcasters and the length of the deals negotiated may have been afforded a greater protection. However, there is no reason why these elements of the deal should have been protected, and so in this sense the intervention of the Commission had a positive impact overall. From a sporting point of view, the continued need for central sale justified consideration of sporting ‘specificity’, but the exclusivity of sale, which had no sporting justification whatsoever, may have been unjustly protected by reference to sporting ‘autonomy’. Similarly, the negotiated settlement on the transfer system (relating to FIFA, rather than UEFA rules), also demonstrates that a balance can be struck between the protection of employment freedoms, whilst taking into account the specific requirements of sport in terms of how the movement of players affects the integrity of competition. Again, should sporting bodies be afforded ‘autonomy’ the outcome of these negotiations, and indeed Bosman, may have been fundamentally different and unjustifiably skewed in favour of the governing bodies protecting unnecessarily restrictive practices. The intervention of the EU has played a role in promoting greater transparency in commercial deals, greater access of the various markets to football. These two cases illustrate, whilst recognising that application of EU law needs to be applied sensitively and considerately to sport, the dangers inherent in offering sporting organisations some kind of blanket ‘autonomy’. As Parrish suggests: ‘On the one hand, sports federations wish to see a legal base for sport established as a means of insulating sporting rules from the reach of EU law and hence expanding their own autonomy. On the other, the EU sees the potential for using sport for socio-cultural and integrationist purposes. The risk inherent in the second strategy is that it concedes too much to the first’ (Parrish, 2003b: 4). Whilst gaining blanket autonomy is neither likely nor necessarily desirable, there is certainly a case for clarifying the legal basis of sport on the range of different issues. Enormous amounts of time, energy, and expense have been expended by both the European Union institutions and the governing bodies of sport in Europe in efforts to reach agreement on the various issues.

On competition and employment issues, then it is contended that agreements may be better reached on a case-by-case basis, leading to more balanced and comprehensive solutions than if UEFA or other sporting bodies were able to act unilaterally. Reservations clearly exist amongst football’s stakeholders about extending the authority of UEFA in the context of European law:

One big area I’d have to say is the Treaty of Rome, and whether there should be a specific article on sport. And FIFPro feels very guarded about that ... We understand where you are coming from, but you can’t expect to be in a vacuum left alone by European law, just because you are sport. There has got to be a measure of understanding and if you’re going to be specific about sport you can’t just ignore basic labour law, particularly when it impacts against our members. So if there was to be some special specificity of sport article in relation to labour law, I think we would only want to move away from that if it was understood that that would have to be with the approval of FIFPro (Gordon Taylor, vice-president, FIFPro, personal interview, 31<sup>st</sup> January 2005).

Whilst ‘autonomy’ may build on the concept of ‘specificity’, and help emphasise the role of sporting bodies in the governance process, the lack of clarity may complicate as much as clarify the means by which decisions in the sporting sphere are taken.

The broad scope of justification for sporting autonomy argued by UEFA has also been subject to some criticism. UEFA has argued that only through organisational autonomy, and with due

consideration for the ‘specificity’ of sport, can UEFA continue to fulfil its social role with regard to the development of football at all levels through the redistribution from the elite professional game, to the lower levels. Indeed it is argued that UEFA’s commitment to solidarity affords the organisation enhanced influence within the EU when it comes to asserting its case, both in terms of the right of the organisation to develop football in a particular organisation, but also in terms of the role of UEFA in comparison to other organisations:

When I go to Brussels, and I go to Brussels and negotiate with Commissioner Monti or somebody else, when we talk to politicians or members of parliament, when we talk to national politicians, I think the major clubs have to be aware of the following. The credibility and the identity and the legitimacy of football is created by the grassroots, by the social function, it’s not created by the professionals. And we live in a political environment, a political continent and we have to be aware of that and UEFA is the guarantee that the top professional game is also financing partially the grassroots game, the education, development of the referees and so on and this is the reason why we are allowed to have some bylaws which are not exactly corresponding to normal competition law for whatever company. But we are giving that ... In the article for sport, the specificity of sport should be recognised. And this is where we are, and that could not be done by the big clubs. It could be done by a credible body like a national association or UEFA seeing to it that all parties are being considered and benefiting from what we are doing (Per Ravn Omdal, UEFA vice-president, personal interview, 8<sup>th</sup> April 2005).

The claim that the redistributive role of UEFA justifies greater distance from EU law has been critically questioned. Parrish, for example, argues that ‘whilst most observers would wish to see amateur sport shielded from the intensive application of single market law, the sports federations’ agenda has been driven by commercial and professional interests. Given the success of the Amsterdam process in plotting a legal path through this field, one may question why the EU should concede more to the professional game’ (Parrish, 2003b: 4). More critically, Weatherill argues: ‘It is particularly pertinent to separate sport as an instrument of social cohesion from sport as a money making enterprise. In fact, the vision of European sport as a pyramid, with the professional game at the apex, in which below are nurtured semi-professional sport, amateur sport at the base, purely recreational sport, offers a model glowing with instinctive normative attraction, yet increasingly hard to detect in reality. Professional sport has little to do with the social and educational function of sport mentioned in the Helsinki Report’ (Weatherill, 2003: 91). Similarly, Morrow states: ‘Current policy seems to be based on an assumption that the social function of sport must be best served by the *status quo*. Hence much of the EU’s competition policy seems to revolve around protecting UEFA’s position, in other words, trying to head off the possibility of a league being set up outside the auspices of UEFA’ (Morrow, 2003: 38-39). These arguments have also been advanced by representatives of the European Commission, with the commitment to solidarity questioned:

Given the considerable profits made from major sporting events and the fact that sports federations always proffer the solidarity argument when requesting exemptions or special treatment, I cannot understand why the member states support almost all the national sports federations. There seems to be a discrepancy between the sums turned over and those which are redistributed to grassroots level.<sup>40</sup>

These arguments no doubt have a degree of validity. The amount of revenue generated by UEFA that is redistributed to the grassroots, for example, is proportionately small and the sport would be better served by both a greater degree of redistribution, both within the professional game and to the

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<sup>40</sup> Viviane Reding, Speech/04/4489: ‘Sport and Television: Ready to face New Challenges?’, Sportel, Monaco, 11th October 2004.

grassroots.<sup>41</sup> However, they also fail to capture the complexity of the political-economy of European football and betray a misunderstanding about how EU law affects UEFA's achievement of its policy goals. Firstly, there is little or no attempt to separate the various stakeholders within football and the respective interests when discussing the relationship between the EU and football. Thus, the terms 'professional football' and 'sports federations' become interchangeable, when European football is characterised by a variety of organisations with frequently conflicting interests. It is not the lack of enthusiasm amongst sports governing bodies for increased solidarity that prevents it from being achieved, rather the demands of football's more commercially oriented stakeholders, namely the leagues and the largest clubs.

The irony in Reding's comments is that the greater the degree of commercial freedom afforded to clubs by the EU necessarily impacts on the ability of the governing bodies to protect the concept of solidarity. As Caiger and Gardiner argue: 'The economic freedom provided for under the Treaty of Rome has become a key weapon in the armoury of those who wish to exploit sport to its full potential, free of self-regulatory constraints' (2000a: v). Europe's elite clubs are keenly aware of these freedoms as Thomas Kurth, writing in the *Guide to the Dutch Presidency of the European Union*, illustrates: 'G14 hopes that the Dutch Presidency will use relevant opportunities presented during its Presidency to send a strong message to key European stakeholders that sport, like other areas of economic and social life in the Union, must comply with and not be exempt from normal Community rules' (Kurth, 2004: 12). This is an almost diametrically opposed position to that taken by the governing bodies. The argument that football's governing bodies should not receive greater protection from the EU, because football is acting in an increasingly commercial fashion, is therefore perverse. It would be through greater protection that the principle of solidarity could be consolidated and extended, beyond what is currently achievable in the context of European football politics. Far from buttressing the *status quo*, a greater degree of protection for organisations like UEFA could, if managed effectively, alter the existing balance of power in which the commercially aggressive clubs hold sway.

Whilst it has been argued that any kind of wholesale 'exemption' or 'autonomy' is neither desirable nor likely, there is a strong case for protecting and empowering sports federations. As things stand, UEFA is caught between the need to maximise income on behalf of its stakeholders in order to satisfy the clubs and retain control of competition, and the need to develop the wider game through the redistribution of the revenue it generates. The need to accomplish the former directly affects the ability to achieve the latter. The EU affords the clubs an environment in which they can utilise their commercial freedom to exploit this tension, thus undermining the ability of UEFA to maximise its 'solidarity' objective. Blanket immunity is dismissed as a distant prospect, but room could certainly be made in which sports governing bodies are empowered to the point where their control of competition is such that increased emphasis on development, in line with the desires of the EU, becomes a more real and genuine prospect. As Morrow suggests: 'one option open to the European Commission is to demand that UEFA increase its solidarity efforts: both vertical solidarity in the form of redistributing more money towards amateur sport and horizontal solidarity in the form of supporting poorer football nations' (Morrow, 2003: 38).

#### v. 'Economic' and 'Sporting' factors: some future debates

Whilst the specificity of sport places greater emphasis on the need for sensitivity in the application of EU law, the treaty provision adds little clarity to the legal framework in which sporting governing bodies operate. Increased reference to 'specificity' and 'autonomy' may have the capacity to impact negatively on particular stakeholders in the game. In this context, it is likely, and not wholly undesirable, that issues will be decided on a case-by-case basis, with the multiplicity of interests taken into consideration with evaluation of the reasonable extent to which 'specificity' can

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<sup>41</sup> In 2003/04, out of a total income of CHF1,886,596,000, 7 per cent was paid out in solidarity, split between associations, leagues, clubs, and the UEFA hat trick programme (*UEFA Financial Report 2003/2004*: 15). Therefore money redistributed to the grassroots constitutes only a fraction of that 7 per cent.

and should be extended. The starting point for these debates is the delineation drawn by the ECJ itself, namely that where sporting regulations are 'economic' they fall within the remit of EU law, but that 'sporting' regulations fall within the remit of the sporting governing bodies. Whilst the distinction drawn by the European Court of Justice may be a necessary aid to judicial rulings, it over-simplifies the nature of the relationship between sport as a physical and cultural manifestation, and sport as an economic activity. This division mirrors the debate as to whether sport is a part of business and industry, or whether it is a part of associational life and civil society. In reality, of course, it is both. Employees and businesses operating within football have the right to expect that their interests are protected. Nevertheless, that football is a sport, also means that those protections will never be identical to those enjoyed by other industries. Needless to say, this grey area poses significant questions about the breakdown of authority between political bodies, whether national or international, and organisations like UEFA.

There are a great many areas in which sporting and economic considerations overlap, most notably on broadcasting rights. The manner in which broadcasting rights are sold is clearly economic, but also has a fundamental impact on sporting outcomes, as demonstrated in the Italian League and elsewhere. Yet whilst the Commission has issued exemptions to leagues to continue to sell collectively, the fact that it is acting at all demonstrates the EU's legal authority to act in an area that has clear sporting implications. That is not to say that it should not be acting in this area, but to illustrate that the division between 'sporting' and 'economic' factors is far from clear. Both UEFA and the EU must therefore grapple with the tension inherent in the fact that sport is both a remarkably successful sector of civil society in which individuals and organisations across the globe have organised themselves into a unified model of governance, but also, at its apex, an increasingly lucrative business in which the interests of consumers, and professional employees must also be taken into serious consideration. As Jonathan Hill argues, the resolution of this tension will be of importance in coming years:

I think where the debate will be continue very vigorously into the future is on the crucial question for UEFA of where you draw the line between sport as sport, and sport as a commercial activity. And this is the almost theological question which underpins everything that UEFA is trying to do in Brussels at the moment and will remain so in the future, which is to what extent should football and sport generally enjoy a certain lee-way or flexibility in the application of EU laws. I choose those words carefully, I don't talk about an exemption ... there is nobody in European football arguing that football should be completely exempt from EU law and just treated as something different. No. There is an understanding that at least in its commercial aspects, where football is a business and broadcasting rights are the best example of that, the EU has a legitimate right to scrutinise what we do (Jonathan Hill, Head of UEFA's EU office, personal interview, 19<sup>th</sup> January 2005).

Inevitably, the micro issues and problems will be characterised by this macro tension as the reality is that very few decisions taken within professional football at both a domestic and a European level are not 'economic' in nature to one extent or another.

This is a battle that will continue to be fought by the two specific advocate coalitions, across the venues of the EU and what is clear is that UEFA will not have everything its own way. The battles are, then, likely to be fought out on a number of different issues in the future, in largely the same areas that have been the subject of ongoing debate between UEFA and the institutions of the EU in the decade since Bosman: competition, with particular regard to broadcasting, employment, and also UEFA's monopoly role in the organisation of competition in Europe. The multiplicity of views, political positions and agendas within both the EU and football will continue to be a political battleground. UEFA certainly needs to be aware of the range of views that exist within the various institutions in the EU. Sporting considerations are not the priority of certain representatives of the EU as Viviane Reding, Commissioner for Information, Media and Society, in reference to the sporting outcomes of Euro 2004 illustrates:

From an economic point of view, it is a huge problem to cope with the early elimination of France, Italy, Spain, Germany and England, which represent potential audiences of 280 million viewers. Let's be clear: a Greece-Portugal final attracts a potential audience of 22 million viewers. Are these audience levels the ones expected by sports sponsors and advertisers? The answer is clearly "no" and the same applies to Champions' League finals without star-clubs. This, ladies and gentlemen, raises the need for a serious debate on the real background to the question: are current competitions adapted to the economic context of European sport? Of course, changes always produce fear, namely a fear of the unknown. But, at the end of a five-year mandate, I am convinced that we cannot continue much longer without facing up to reality. Europe has always been able to balance two of the basic principles underlying our societies: liberty and equality.<sup>42</sup>

The existence these extreme views demonstrates that UEFA will have to be consistently robust in defence of sporting principles and areas in which external regulators seek to promote agendas which may be of benefits to certain political and commercial interests but damaging to the sporting integrity of competition.

Governing bodies have to regulate sport as they see fit and fair, but they are also under inexorable pressure to maximise their commercial assets. These two objectives are not necessarily incompatible. Indeed, as noted above, the maximisation of one's commercial assets is a key means of achieving other objectives. No sporting governing body could, for example, help fund grassroots sport, without the money required to do so. Similarly, driving the standard of elite sport upwards requires that money be invested in coaching, technical development, infrastructure, not to mention of course, the salaries required to reward those athletes competing at the pinnacle of their sport. Yet the consequence of the overt commercialisation of sport, the association of governing bodies with multinational companies and the signing of billion euro television deals, has been to awaken and consolidate the interest of political and legal institutions in the way that sport is governed and regulated. As has previously been stated: 'No one would propose that the law has a valid role to play in dictating, for example, how many players there should be in a football team. Equally no one would deny that the law has a valid role to play in regulating, for example, price fixing arrangements among suppliers of sports goods' (Weatherill, 2003: 51). As Weatherill correctly notes, governing bodies have to deal with the peculiar situations that arise in which commercial arrangements have direct sporting implications, and vice versa. The challenge for the political bodies is draw appropriate lines. The challenge for the governing bodies is to persuade the political institutions where such lines should be drawn.

#### *vi. Footballers, UEFA, and the EU: future challenges?*

One likely area of future policy debate will be in the realm of EU policy with regard to employment. Bosman was the catalyst for a chain of events culminating in formal proceedings being launched in December 1998 against UEFA and FIFA with the regard to the international transfer system, having informed the organisations two years previously of the Commission's concern that the transfer system breached the terms of the EU treaty. In the Bosman ruling, the judge argued that the transfer system was ineffective as a means to achieve the redistribution of income and solidarity between different levels of the game, and nor did the cost of transfers relate to the sums invested in the training and development of young players. The Commission was of the view that the system restricted the ability of clubs to recruit players and also constrained the freedom of movement of players as employees (Parrish, 2002: 7). As Advocate Lenz argued: 'the same aims can be achieved at least as effectively by other means which do not impede the freedom of movement for workers.'<sup>43</sup>

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<sup>42</sup> Speech/04/4489: 'Sport and Television: Ready to face New Challenges?', Sportel, Monaco, 11<sup>th</sup> October 2004.

<sup>43</sup> Case C-415/93 supra note 2, paragraph 110. See also Simmons (1997) and Morrow (1999)

The governing bodies' failure to respond to the objections for the next two years led to renewed threats from the Commission, and in 2000 UEFA and FIFA set up a joint task force to address the concerns raised. Amongst the issues important to the football bodies was the need to maintain contract stability, the financial reward for clubs investing in young players, and the need for redistribution of income between clubs. An agreement was reached between the Commission and UEFA and FIFA in March 2001. FIFPro, however, the international player's union rejected the amendments although later came to agreements regarding participation and implementation of the new rules (Weatherill, 2003: 68). The agreements included a system of compensation for players under 23, transfer windows, and minimum and maximum length of contracts.

The governing bodies have justified the retention of the transfer system on a number of premises, namely that it protects young players, protects the development of youth football, and enables redistribution of income through the various levels of the game, and ensures contract stability. The viability of these arguments has been questioned. Weatherill, for example, has argued that the level of collective involvement evident in the transfer system is 'inconsistent and fragmented'. The effect has not been 'to improve players working conditions' and that the agreement should not be subject to exemption from Article 81(1) where the court has previously exempted labour agreements based on improvement of conditions of employment (Weatherill, 2003: 69). Weatherill also questions whether a transfer fee system is necessary to protect the training and development of young players, arguing that there is little reason to assume that clubs would be less likely to train young employees than, for example, a bank. 'All employers need to train employees in order to take the benefit of their skills for as long as they are able to compete successfully in the labour market' (Weatherill, 2003: 71). Similarly, Forrest and Simmons have argued that quantitative evidence supporting claims that the transfer system rewards investment in youth development is lacking, and that the trickle down from large clubs to small ones, whilst variable across nations, is in decline (2000).

Again, an uneasy compromise has been struck on the basis of the need for sport to have rules and regulations ensuring the sporting integrity of a competition and a balance between teams, and the freedoms protected under the law of the European Union. Constraints on the number and timing of transfers are clearly necessary as a means of ensuring that competition is fair and legitimate. Allowing a star player to be transferred, for example, for the last game of the season, to a team fighting against relegation would be obviously nonsensical and damaging to the integrity of the competition. Control of the movement of players in football cannot be considered in identical terms to the employees of other industries. The question then naturally becomes which constraints are justifiable, and which are not. Whilst the arguments that the transfer system is an inefficient and ineffective means by which to calculate player compensation and redistribute money within the game, may be of some legitimacy, it is important also to place these arguments within the wider political context of football. The redistribution of income within the game is not decided solely on the basis of efficiency, but more accurately constitutes a political compromise between the various stakeholders and financial interests within the game. Were the transfer system to be ruled illegal, this means of redistribution would not necessarily be replaced by something more efficient, but would simply exist as a legal ruling used to the advantage of those to whom the benefit accrued. Transfer fees do provide a revenue stream, however erratic the revenue stream may be.

Whilst there have been academic challenges to the football transfer system since Bosman, and the view advanced that moves towards 'free agency' will be a natural development, the transfer system remains in place as a means to address sporting objectives. What role might the EU play in these developments in the future? The principles of the transfer system were agreed with the Commission in March 2001, and an ongoing review culminated in new updated regulations coming into force in July 2005. The deal represents a major achievement although there is no guarantee that the system is free from future challenge. The role of the EU in regulations governing the employment of players in the future is equivocal. Bosman, the treaties of the EU and agreements

stretching beyond the EU point to a player market that is increasingly open.<sup>44</sup> That does not necessarily point to the abolition of transfer fees, but it does illustrate that football's labour regulations are likely to continue to change with the input of external political influence.

The role of the international players' union, FIFPro, in the development of football's employment market may be crucial, and the changing influence of FIFPro also represents an important example of the dispersion of governance in the football network. FIFPro was formed in December 1965 with the objective of co-ordinating the activities of the different players' associations and to represent the interests of the professional football players on an international basis.<sup>45</sup> The importance of international union activity has increased with the growth of globalisation and in the internationalisation of employment law, but, as Dabscheck points out, 'globalization and the onward march of neo-liberalism have been associated with a decline in unionism (Dabscheck, 2003; see also Crouch and Traxler, 1995; Gordon and Turner, 2000). Workers, and the unions representing them have, it has been argued, been forced into competition with each other as companies have utilised international freedoms to relocate and save on costs. Dabscheck argues, however, that by focusing on the competitive provisions within the European treaty, unions could enhance their effectiveness at an international level. FIFPro's role in the negotiation of the post-Bosman transfer system, and the encouragement of the European Commission for FIFA/UEFA to come to an agreement with FIFPro specifically, illustrates the ability of an international union to utilise the protections afforded by the European Union to negotiate more favourable conditions of employment. Dabscheck usefully identifies FIFPro's strategic assets. Firstly, international collective action is assisted by the existence of the international governing bodies (notably FIFA and UEFA) determining the employment regulations of players, and thus providing a 'target for international unions wishing to engage in collective bargaining' (2003: 88). Secondly, the transfer regulations themselves provided a point at which the suitability of current arrangements could reasonably be challenged. Thirdly, the competition provisions, and in particular the freedom of movement, of the European Union provided the legal basis through which FIFPro could gain influential access to the process of renegotiation. In this context, the strategic position of FIFPro has been considerably enhanced.

So how can we expect FIFPro's position in the stakeholder network to develop, and how much influence will the organisation bring to bear on UEFA and FIFA, alone and in co-ordination with other organisations, in the future? Interestingly, there is evidence of a lack of unanimity within FIFPro itself, with regard to football's regulatory provisions relating to employment. Similarly, it is very important to note that individual players may take different courses of action to those supported by national and international players' unions, utilising individual avenues of redress through the courts, rather than through their representative organisations operating in football's processes of negotiation. In the renegotiation of transfer regulations for example, smaller affiliates of FIFPro were opposed to the transfer system on principle, a training system based on fees on players, and fee which restricted their economic freedom, and they advocated training costs be funded via revenues from broadcasting rights. Larger affiliates however, supported the retention of the transfer system, accepting that the system helped fund lower league football and encouraged training and development (Dabscheck, 2003: 98). Similarly, where Gordon Taylor, president of FIFPro and chief executive of the English Professional Footballers Association (PFA) endorsed a protocol to protect a revised transfer system, this was opposed by, for example, Mads Oland of the Danish Players' Association, concerned that such a protocol would place any agreement beyond the reach of a European Treaty that constituted one of FIFPro's major assets (Dabscheck, 2003: 99). According to Dabscheck, the smaller nations succeeded in asserting their own line as FIFPro policy

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<sup>44</sup> For example, The European Court of Justice recently ruled the EC-Russian Federation Partnership Agreement precludes the application of a rule limiting the number of professional players having the nationality of a non-member country who may be fielded in a national competition to a professional sportsman of Russian nationality. Press Release No. 32/05, 12<sup>th</sup> April 2005, Judgement of the Court of Justice in Case C-265/03, 'Igor Simutenkov v Ministerio de Educación y Cultura and Real Federación Española de Fútbol.

<sup>45</sup> [www.fifpro.org](http://www.fifpro.org)



in 2000 and this is reflected in the organisation's current stated position: 'FIFPro takes an exceptionally critical attitude to any form of transfer system for professional players'.<sup>46</sup>

Whether these divisions surface again in the future remains to be seen, but it may be that there is a clash between national and international interests amongst the player unions (see also King, 2003: 91-92). The transfer system may, for example, be of benefit to players in larger nations where the number of professional clubs is greater, as if what the governing bodies state is correct, then it will help fund the clubs which subsequently pay the players. In a country where the professional game is much smaller, it may be that greater freedom in international player mobility is of a greater value as players seek to migrate to the bigger markets. So, even though 'the enforceability of the settlement is questionable' (Parrish, 2002: 8), it may be that FIFPro is not currently minded to challenge the current transfer settlement (Weatherill, 2003: 71-72). It is worth noting, however, that ultimately the transfer issue was settled following a joint operation between UEFA and the European Professional Football Leagues (EPFL), who persuaded the Commission to accept their arguments with regard to the transfer system and its role in the redistribution of income. This was successful to the point that the transfer system now includes provisions that actually go back to before the Bosman ruling. In contrast, FIFA had come to an arrangement with FIFPro in which the transfer system was replaced by a 'collective bargaining arrangement' including a central fund used to pay clubs as compensation for training. The current position is always subject to re-evaluation and history therefore illustrates that FIFPro may have other willing allies with regard to the future discussion about the terms of employment and the transfer system.

Irrespective of the divisions within FIFPro, the organisation has become an important actor in the governance of European football following the renegotiation of the transfer system and FIFPro's threats to instigate legal action. The integration of FIFPro into the decision-making procedure, buttressed by the external support afforded by the provisions of EU law has been broadly welcome by FIFPro as a means of extending their influence, and becoming more serious players in the issues at hand: 'only until a few years ago, we had received no recognition whatsoever, now we are recognised and at the top table and with that recognition will come achievement and responsibility'.<sup>47</sup> FIFPro's place at the 'top table' has been recognised through FIFPro representation on FIFA's football committee, and also through the FIFA Dispute Resolution Chamber following its creation in 2002, which decides on disputes regarding training compensation fees, and breaches of contract of players and clubs (FIFA, 2002: article 2.2). Similarly, UEFA has also sought to afford co-opt FIFPro into its structures of stakeholder consultation, a step that has been welcomed by FIFPro president Gordon Taylor:

I am a believer that you stay around the table and you keep moving together and you come part of the furniture and it takes time ... I think there's a good chance if UEFA can be pragmatic, and FIFPro can be pragmatic on the specificity of sport in the areas where there may be degrees of difference. But overall I think FIFPro is a willing mark around that table so long as they see some give and take from UEFA and the leagues (Gordon Taylor, President of FIFPro, personal interview, 31<sup>st</sup> January 2005).

UEFA and FIFPro now have a memorandum of understanding, governing the relationship between the two organisations. One main development with regard to the integration of the players into the consultative process is however, the creation of the 'Leagues and FIFPro Panel'. The panel was created as a response to the intervention of the Employment and Social Affairs DG of the European Union, which had sought to establish a social dialogue between employers and employees (see Hendrickx, 2003). In football, these two groups were best represented at a European level by FIFPro and the European Professional Football Leagues (EPFL), the collective grouping of fifteen of Europe's most important premier leagues. The dialogue was created as a means to develop a collective bargaining agreement between player and their clubs on issues such as length of

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<sup>46</sup> [www.fifpro.org](http://www.fifpro.org)

<sup>47</sup> Letter, Gordon Taylor to Mads Oland, 28<sup>th</sup> September 2000, quoted in Dabscheck, 2003: 100.

contracts, conditions of employment, and contract stability. There was initial disquiet that a relationship between FIFPro and the clubs (through a representative organisation) would be formed outside the structures of UEFA. Such a forum would have allowed the leagues and the clubs to come to collective agreements without the involvement of the governing bodies, either national or international in the process of decision-making:

When there was a social dialogue to be established between us and the leagues and employers of players, organised through Europe and Brussels, UEFA wanted to be the referee in that process because they feel that is their role, and I think if they are going to give greater recognition to players, never mind the leagues, they would want to see that as being very much as something they need to carefully control rather than having any loose cannons running around outside ... There's a feeling amongst the players that this is an attempt by UEFA maybe to pull it their direction rather than the way the European Commission would like and so there's that little bit of tension, and it depends on the good faith of UEFA on that. And it's something whereby UEFA can keep an eye on what's going on with its leagues and the views of its players within those leagues. You can understand it from UEFA's point of view. I would want to do the same if I was them (Gordon Taylor, President of FIFPro, personal interview, 31<sup>st</sup> January 2005).

The leagues were also sceptical of UEFA's involvement in the process:

We have to discuss with the trade unions, the players' unions, Mr van Seggelen, Gordon Taylor, and Piat ... and they to say to me, 'you are my partner in a social dialogue, it's not UEFA'. UEFA is not an employer of players, employers are the clubs and the clubs are represented by the leagues (Jean-Marie Philips, president, Belgian Professional Football League, personal interview, 20<sup>th</sup> January 2005).

The creation of the panel within UEFA's structures can therefore be seen as the means through which UEFA inserted itself into a process of stakeholder interaction. By ensuring the dialogue between the players and leagues takes place underneath its own umbrella allows UEFA to co-ordinate and exercise a degree of control over the agenda and transforms a two-way dialogue into a tripartite discussion in which UEFA plays an integral role. The heightened role of UEFA can be seen in the panels terms of reference: 'friendly co-operation between the players unions, the leagues and UEFA *within the framework of the UEFA Statutes* [italics added]; to ensure direct communication between employees (players unions), employers (leagues) and governing body (UEFA); to support the UEFA CEO in an advisory capacity; to discuss employment matters in professional football; and to discuss other relevant matters in professional football.<sup>48</sup> The priorities of the Panel are, in order: standard player's contract; FIFPro-European Commission Social Dialogue Programme, and doping.

The effectiveness of the panel as a means of integrating the players' unions (and to a lesser extent the leagues) will depend on effectiveness of the panel's operation. Whilst the creation of the panel can be seen as a success for UEFA in terms of the integration of stakeholders into a process that UEFA can control, it remains the case FIFPro can continue to communicate with external bodies, such as the institutions of the EU. UEFA will have to generate faith that the system is operating with the best of intent, in a way that has not always been the case, as Gordon Taylor explains:

It worries you that sometimes there's almost a press statement put out before the meeting and not quite enough cognisance given to the feeling of meetings. There may be a predetermined agenda ... it's down to the individuals within the committees to assess and make their minds

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<sup>48</sup> Leagues and FIFPro Expert Panel of UEFA, Terms of Reference.

up whether it's a meaningful proper committee discussion with an outcome, or an outcome that's decided before the meeting, in order for the meeting to rubber stamp a pre-determined policy ... It's very hard for FIFPro to be able to accept in good faith that UEFA is wanting a genuine collective bargaining agreement. History shows that at times they've taken out from any meeting what they want and discarded what they don't want (personal interview, 31<sup>st</sup> January 2005).

The extent to which the players, through FIFPro, feel a part of the process may then determine the level of threat posed by the players' unions, in conjunction with other internal and external organisations to UEFA. Clearly, the players are looking to make progress in certain areas, and the response to issues that arise naturally may also affect the relationship between the players and the governing body. In the event of disagreement, or the failure to compromise on particular issues, it is likely that the players will have a powerful ally in the European Union and the provisions that protect the freedom of professional footballers as employees.

It will be interesting to see how this relationship evolves, and two recent developments illustrate ideally some of the challenges facing governing bodies, which may delineate both the options they have at their disposal and the limits to the authority they can exercise. The recent case involving Chelsea FC's approach to Ashley Cole of Arsenal FC, generated debate about the legality of preventing footballers negotiating with other clubs whilst still under contract. It also highlighted that whilst the players unions may be of one opinion, it is perfectly possible for players to seek their own legal redress against the advice of their institutional representative.<sup>49</sup>

In the international context, UEFA's proposals to increase the number of 'homegrown' players in squads for UEFA competitions (with the intention that the regulation is extended to national competitions) may also be indicative of how the European Union dissects 'sporting' and 'economic' concerns in the future. UEFA believes that the training of players constitutes a fundamental aspect of sporting competition: 'UEFA recognises that finance plays an important part in football today. But football should not be a mere financial contest. It should above all be a sporting contest. This sporting element means that every club must accept some responsibility for training, and not rely solely on acquiring those players who were trained by others' (UEFA, 2005a). So, as UEFA CEO Lars-Christer Olsson states: 'We also think the proposal is legal, because it is a sporting rule, not a restriction, to develop and promote young players' (quoted in Bose, 2005). Despite the fact that UEFA has been at pains to avoid the possibility of discrimination on the basis of nationality, rules which necessitate that a certain number of players are trained within the national association in which the clubs is based inevitably narrow the market from which clubs can draw. Similarly, the available options for players will also diminish. There is little doubt then that the rules, despite sporting 'motivations' have the capacity to have an 'economic' impact in terms of commercial freedom and freedom of employment. That is not to say that the ECJ would necessarily rule against UEFA were the rules to be challenged, simply to demonstrate that the line between 'sporting' and 'economic' is not so easily drawn.

Interestingly, whilst representatives of elite clubs in England and Italy confirmed their opposition to, and questioned the legality of, the proposals (David Gill, CEO Manchester United, personal interview 28<sup>th</sup> January 2005; Umberto Gandini, organising director AC Milan, personal interview, 14<sup>th</sup> February 2005; see also Harris, 2005 and Conn, 2005), the PFA, headed by FIFPro president Gordon Taylor, has taken a positive line about UEFA's proposals to entrench the number of homegrown players in squads. Gordon Taylor argues:

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<sup>49</sup> PFA chief executive Gordon Taylor stated: 'The rules are in place for the joint benefit of players and clubs to convince supporters that competition is as fair as possible' (Townsend, 2005). Cole's solicitor Graham Shear, on the other hand, threatened to take the Premier League all the way through the legal process, arguing: 'The rules are out of kilter with the rest of Europe. It means a player can only approach a prospective employer in the last five weeks of his contract, and it harks back to the master-servant relationship' (Harris, 2005b; see also Campbell, 2005).

FIFPro and the PFA are very much in favour of UEFA's proposal regarding the encouragement of players developed through Academies and Centres of Excellence and would appreciate the rule being introduced in England to give encouragement to clubs to develop and educate the players of the next generation rather than look for quick fixes with ready made imported players. I see no prospect of the proposals being challenged as apparently only Italy and, unbelievably, England were against the proposals - in England's case for the rather pathetic reason that it would only encourage clubs to bring in youngsters from abroad even more. I don't see how the criteria could be challenged when it is not restricting it to national players but merely players who have come through a club's development programme and, if anything, I consider the 4 plus 4 to be not strong enough but presumably UEFA felt comfortable that this level would be universally acceptable. I find it astonishing that the FA whose job it is to protect the future of the national team should be lobbying on behalf of the Premier League who, as you may be aware, are against the introduction of this proposal at national level but will be accepting it at international level (Gordon Taylor, president, FIFPro and chief executive Professional Footballers Association, email correspondence, 16<sup>th</sup> May 2005).

It is revealing that much of the reason for the PFA backing is that it is viewed as a means of protecting local talent in the face of high levels of foreign immigration into English football. This highlights that the divergence of interests within the international players' union itself. Whilst the proposals, directly or indirectly, may impact upon the opportunities open to players to move freely, they may also impact positively on the opportunities open to local players. The issue highlights that the rights and freedoms of players are perhaps more complex than generally assumed, although it is important to reiterate that individual litigation will remain a prospective avenue of challenge.

*vii. UEFA, the EU, and the abuse of monopoly position*

Whilst it is true that the threat from the EU may have receded as the institutions have taken a broader approach to sport policy, there remain areas in which UEFA should still have cause for concern in a number of areas. Article 86 of the treaty aims to prevent the 'abuse of a dominant position'. As we discussed in chapter one, sporting organisations are 'natural' monopolies, and sport benefits from a unitary system of governance. The Helsinki Report recognises that sport may be best governed by a single governing body, and such a system of authority does not constitute a breach of the article in itself. However, as Foster suggests, power and authority must not be exercised in an anti-competitive manner and that may mean that whilst the Commission has endorsed the unitary approach, UEFA could not legally prevent the formation of a rival federation. Similarly, the utilisation of its position as the sole organiser of competition in Europe to prevent the formation of other competitive structures may also be construed as the abuse of a dominant position. The most obvious area where this could be challenged would be in the creation of a rival super league, with the potential to 'threaten the organisational structure of European football' (Foster, 2000a: 45). Foster goes on to argue that such a breakaway could be opposed by UEFA but that it must be careful in its choice of tactics.' (Foster, 2000: 46). It is impossible to say how the legal authorities would act in response to the creation of such a league, and, more importantly in response to any sanctions imposed by the national associations on clubs that decided to be a part of such a breakaway, but one has to question whether UEFA would have the legal authority to prevent breakaway clubs playing in domestic competitions, for example.

So whilst Helsinki and other soft law declarations point to a continuation of the structure of single continental federations, it is important to recognise the Commission's duty to the treaties of the EU, and the principles enshrined within them. In terms of regulation, a solitary system has obvious benefits, in terms of the competitive environment in which teams operate. For the Commission this is less obvious. Former Commissioner Mario Monti argued: 'while the existence of a single federation overseeing both regulatory and organisational aspects of a sport is common in

Europe, other scenarios can be envisaged<sup>50</sup>. Similarly the Commission did nothing to prevent a breakaway league emerging in basketball (indeed, there is some suspicion that the Commission actively supported the breakaway). Similarly, the Commission ruling with regard to Formula One may also prove instructive. In 1999 the Commission objected to FIA rules, which placed ‘unnecessary restrictions on promoters, circuit owners, vehicle manufacturers and drivers’.<sup>51</sup> The FIA essentially regulated the sport whilst simultaneously pursuing commercial exploitation as the sole promoter of Formula One. Drivers participating in unauthorised events could be stripped of their license to compete, limiting the options of rival promoters. It is questionable whether motor sport provides a direct parallel with the governance of football, but according to Foster: ‘a similar confusion of roles is beginning to emerge in European football. Here UEFA has departed from its traditional role as regulator and passive organiser of competitions. It is increasingly active promoter and commercial exploiter of flagship tournaments such as European Champions League’ (Foster, 2000c: 59). This may be particularly salient, given that UEFA has recently taken a 20 percent stake in TEAM, the organisation responsible for the branding and marketing of the Champions League.<sup>52</sup>

Additionally, UEFA is the *sole* organiser of European club competition, and the unitary line of governance in which the established authorities sanction competition, constrains the possibility of new rival competitions emerging. In 1998 Media Partners complained to the commission that UEFA rules were designed to prevent the establishment of a breakaway league. Although the proposals collapsed, the issue remains as to whether UEFA rules preventing the formation of rival leagues, constitutes an abuse of its dominant position. The Commission must decide whether the regulations employed by UEFA, and also FIFA and the national associations, are legal, and whether exemptions can be made on the basis of the benefits derived from the commercial exploitation of the competitions by the governing bodies themselves and by creating regulatory barriers to entry. The problem that UEFA has is that the Commission’s ‘regulatory powers are limited to enforcing competition law rather than protecting the unitary structure of governance endorsed by the Helsinki Report’ (Foster, 2000c: 61).

According to Morrow, UEFA’s stance could be challenged on ‘abuse of dominant position’ by acting to protect national leagues while preventing other leagues setting up without permission’ (Morrow, 2003: 40). Foster also questions whether the precedent set in 1976, that choosing a national team based on citizenship was not objectionable under European law could similarly apply to the national basis of qualification for the Champions League. He argues that the view of teams as national representatives ‘looks thin with major footballing nations having three or four teams in the competition.’ (Foster, 2000a: 44). If this is the case, the relationship between stakeholders – namely the clubs and the leagues – becomes salient in the context of competition entry. A coalition of convenience between the elite clubs, and the major leagues and the institutions of the European Union could potentially challenge the basis of qualification for European qualification. Such a coalition could take place outside of UEFA structures.

#### *viii. Summary: UEFA and the stakeholder network – the future role of the EU*

Whilst UEFA has sought to integrate the various major stakeholders in European football into its consultative and decision-making procedures, it seems likely that the terrain of future political manoeuvring will include Brussels as well as Nyon. The EU will be a vital interface in the future governance of European football. The UEFA, G14, and FIFPro all have bases either in or within touching distance of the European institutions in Brussels. The EU will continue to be a source of influence as the various stakeholders, increasingly aware of shifting dynamics of power and the potential of exercising their rights under EU law, lobby and manoeuvre in the attempt to achieve their sectional interests as illustrated in figure 3.

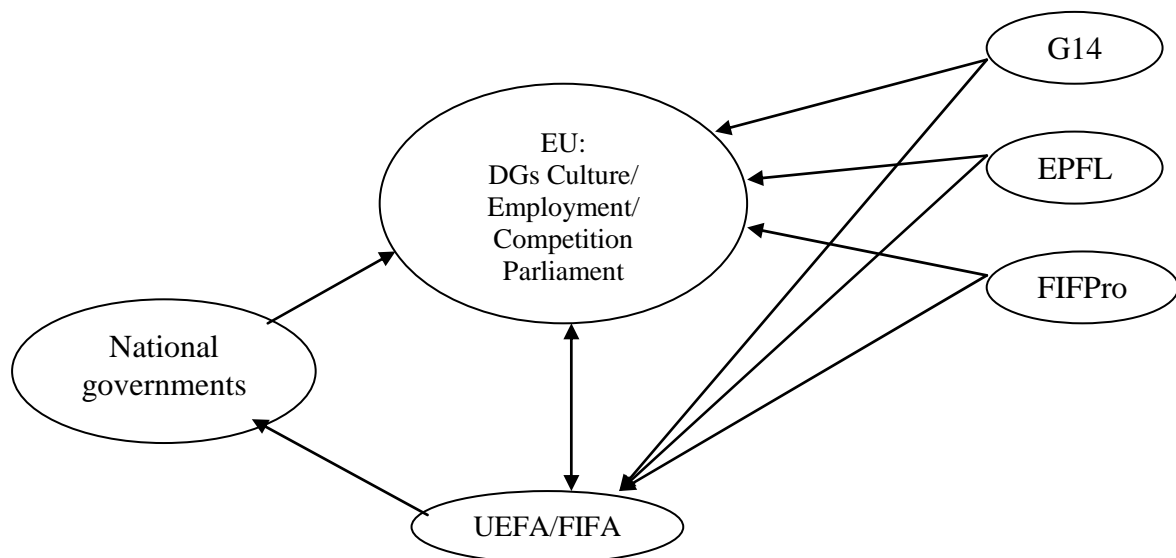
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<sup>50</sup> Speech/00/152, ‘Sport and Competition’ Brussels, 17th April 2000

<sup>51</sup> IP/01/1523: ‘Commission closes its investigation into Formula One and other four-wheel motor sports’, 30<sup>th</sup> October 2001.

<sup>52</sup> ‘UEFA agree another term for TEAM’, Wednesday, 25 May 2005, [www.uefa.com](http://www.uefa.com)

**Figure 3: Lobbying the EU: networks of influence in European football**



Recourse of action to the EU on the various matters discussed above provides opportunities for each of the players' unions, individual players, clubs and leagues to advance their interests, and to secure objectives independently of the sporting governing bodies. Such scenarios, at present, appear unlikely, but an increasing tendency amongst stakeholders to seek redress through structures outside of the internal football governance framework illustrates the need for UEFA to be consistently aware of the transformations in its own environment, and a modern and effective structure to counter threats as they arise, and its own effective communicational operation in Brussels to counteract the influence of stakeholders in the relevant institutions.

Whilst the Bosman ruling constituted the point at which the authority of the EU to interfere in sport regulation was fully realised, and asserted the rights of the players in the context of restrictions on movement, other areas provide the greatest threat to the current governance structures of European football. Football demonstrated the capacity to move on from the Bosman ruling, and in spite of the critical changes it induced, the governance structures have remained in tact. UEFA managed to insert itself into the process of social dialogue which the leagues, FIFPro and the EU may have organised a dialogue outside of football's governance structures. Whilst this does not necessarily negate the possibility of the interests of the EU, other organisations such as FIFA, and the players coming together – players as employees will never lose the right of recourse to the legal structures – it would certainly seem to lessen the prospect of confrontation and challenge. If FIFPro becomes better co-ordinated, the influence of the players' unions is likely to increase. Nevertheless, the short length of a playing career, the astronomical wages on offer at the top of the game, and the divisions that are evident within FIFPro, all lessen the possibility of unilateral action of behalf of the players. Add to that the current acceptance of the Commission of the transfer system, and it could be argued that the issue of employment relations within European football, a source of tension and instability in the ten years since Bosman, may quieten in the next ten years.

The growing power of the clubs and the leagues, however, constitutes the greater threat to UEFA and the governance of European football through the national associations. Both the G14, and the EPFL, whilst each having their own representational limitations, will nevertheless seek to increase their leverage. The commercial freedoms protected by the EU, may prove useful in their attempts to secure such leverage. UEFA's position of monopoly over European competition may be subject to challenge, particularly if the institutions of the EU view that the regulations of FIFA, UEFA, and the national associations preventing the formation of alternative competitions under threat of expulsion from existing competitions, is unjustifiable. This regulation hinders the

possibility of breakaway competition, protects UEFA's position as competition organiser, and enables UEFA to achieve its organisational objectives such as solidarity within the professional game, from the professional to amateur game. It also ensures the participation and development of all member national associations which, in a genuine single market, would be severely disadvantaged at the expense of the wealthiest and most advanced European footballing nations. Indeed, it has been contended here, that it is in this specific area that a greater legal clarity could be given to UEFA, and that in return for protecting UEFA's position as the organiser of European competition, the concept of solidarity could be consolidated and enhanced in line with EU objectives with regard to sport. Whilst such an outcome might presently appear unlikely, it may be an achievable long-term goal and certainly more realistic than attempts to gain some kind of wholesale exemption.

In the context of the football network it is interesting how UEFA has inserted itself into the policy process through the construction and development of mechanisms, where other organisations may, either in interaction with each other, or with external organisations such as the EU, act independently of the European confederation. The effectiveness of these structures in the future will help determine the level of control of the national associations and UEFA in the future. The relationship between employers and employees in the context of EU law need not, in legal terms, necessarily involve the intervention of UEFA, although of course participants are bound by the rules of the sport itself. Nevertheless, UEFA, as representative of 52 governing national associations, including all those of member states of the European Union, clearly saw the desirability of inserting itself into the policy process. For example, the EU social dialogue was originally to take place outside of UEFA's procedures, but the willingness and wish of UEFA to be involved, and the insistence of the EPFL that UEFA be involved in the dialogue has meant that the discussion has taken place through UEFA's consultative procedures, in this case the 'Leagues and FIFPro Panel'. However, there will undoubtedly be occasions when UEFA's input is actively stifled in attempts to achieve policy goals contrary to the objectives and agenda of the governing body. Such issues could include increasing the commercial autonomy of the clubs, increasing the autonomy of the clubs with regard to the format of European competitions, and with regard to the leagues, increasing their authority within European football's decision-making procedures, currently the exclusive preserve of the national associations.

## Chapter 6. UEFA and stakeholder network of European football

Having assessed the key external influence on sporting regulation of European football it is now necessary to turn to the significance and influence of internal stakeholders in the network of European football governance. The growing commercial weight of the leagues and elite clubs has engendered re-negotiation of structures of governance and competition in European football. In this chapter, analysis focuses on the organisational changes within UEFA in the aftermath following the challenge of the clubs in 1998, and how the various stakeholders have been integrated into the decision-making and consultative processes. Critical assessment will be made of the political leverage of the organisational actors, and the extent to which UEFA's structural re-evaluation has the capacity to satisfy their requirements. This chapter will also look at the developing relationship between UEFA and FIFA. Tension between these organisations has characterised relations in the last two to three decades, and assessment will be made of some of the issues that will impact upon football governance in Europe in the future. Particular attention will be paid to the growing interest of FIFA in club competition, and the regulatory framework in which the two organisations operate.

### *i. The corporatisation of UEFA: Project FORCE and beyond*

The challenge from Media Partners came as a shock to an unprepared UEFA, and illustrated their organisational and political weaknesses. That Europe's major clubs looked to organise international club football outside of its organisational sphere finally brought home a stark reality for UEFA that it could no longer afford to remain aloof from the clubs, and that not only dialogue, but the integration of clubs into UEFA's structures was necessary. It is not only the nature of that integration, but the role of the clubs and the leagues in the wider governance and competition structures of European football that remain the most salient of issues. In the aftermath of Media Partners, UEFA appointed the *Boston Consulting Group* (BCG) to conduct an organisational audit, which became known as Football Organisation Redesign for the Next Century in Europe (Project FORCE). According to UEFA president Lennart Johansson:

As a result of new competitions, noticeably greater public interest in football, external legal and political challenges, as well as the increasing commercialisation of the game, which have brought greater pressure on the organisation and added to its complexity, UEFA has experienced dramatic growth of 15 to 25 per cent per year since 1987 in terms of budget and staff. Consequently, the structure of the organisation has had to be adapted to these new circumstances and modern organisational principles applied, to meet current and future demands ... it is therefore quite normal for UEFA as a whole to endow itself with modern organisational structures able to respond to current and future (market) demands (UEFA, 2000: 7).

Similarly the minutes of the UEFA Congress in Luxemburg in 2000, where the statutory changes were confirmed, reported the following:

UEFA's main goal was to reconcile the solidarity mission of football with the commercial interests. The executive committee found itself challenged on various fronts. On the one hand, it faced increasing dominance from the commercial influence of private investors, TV and media concerns, as well as political pressure from the EU authorities and national governments. On the other hand, meanwhile, the major clubs were exercising more and more influence. At the same time national associations throughout Europe were increasingly losing control of the major competitions. This was causing an ever-wider gap between the large and small associations, as well as between those in EU member states and those outside the EU. The executive committee had therefore decided to reconsider UEFA's future position. (Minutes of the XXV Ordinary Congress, 30 June and 1<sup>st</sup> July 2000, Luxemburg, UEFA: 13)



With regard to the governance of UEFA, the BCG found that ‘the need for representation of the top clubs and leagues is recognised’ and that there were ‘mismatched roles and responsibilities’ with a ‘legislative with executive responsibilities’ and an ‘executive structured for consensus rather than decision-making’ (UEFA, 2000: 24-25). UEFA therefore responded by changing the relationship between the executive committee and the general secretary and administration, and by re-evaluating the role of the clubs and leagues.

Firstly, the general secretary was renamed the chief executive (CEO) and his power increased through changes in the procedures governing the composition and role of committees. Streamlined procedures in which the influence of the executive committee, on the various other standing committees of UEFA was reduced and the influence of the administration and the UEFA CEO in particular increased. Whilst executive committee members formally chaired the respective committees, since FORCE members are entitled to observe committee proceedings, but are not entitled to vote. Additionally, the chairmen of the committees almost exclusively come from UEFA member associations rather than the executive committee. The consultative (as opposed to decision-making) role of the committees and the role in the CEO in taking the views of the committees to the executive committee afford the CEO a great deal of power and influence within UEFA. A great deal relies on the ability, opinions and motivations of the CEO in relaying information and influencing the agenda and debates. The new and enhanced power of the CEO within UEFA is widely recognised:

In FIFA, I am president of the technical committee, vice-president of the football committee, member of the World Cup committee, vice-president of the Goal committee in FIFA. In UEFA, I am observer in the technical committee. The structure is totally different. In UEFA it is the administration who decides and we observe. I don’t like that ... I would to come back to a political system where the president and the members of the executive committee are more involved ... I think we are elected by the people to decide. The chief executive is not elected to decide. But the administration decides and we say ‘yes’. I think we are in a political system and I think the people elected they need to be more involved in this system (Michel Platini, member, UEFA executive committee, personal interview, 21<sup>st</sup> March 2005).

There was a feeling the set up was a bit amateurish, and it should become much more professional, like a company set up with a chief executive officer, executive directors, and the executive committee should become like a board if you like, like a company. The effect was dramatic in UEFA, absolutely. I don’t say the power base, but the whole decision-making process shifted to the administration there is no doubt about that. The CEO is now as important in UEFA as the president (David Will, vice-president, FIFA; member, UEFA executive committee, personal interview, 22<sup>nd</sup> April 2005).

As the above comments suggest, a number of issues have arisen from the changes that have taken place, in particular the diminution in power of the President and executive committee in favour of the administration. Within this debate, it is necessary to consider a number of related issues including the speed and efficiency of decision-making, and the relationship between board and management in terms of wider governance theory.

These changes and the role of the CEO in relation to elected executive committee raise some interesting governance issues. Agency theory, pioneered by Berle and Means (1932), assumes a divergence of interests between the owners (principle) of an organisation, in this case the executive committee as representative of the national associations, and those that manage it (agent), in this case the UEFA CEO and administration. If a sporting organisation is to be based on a democratic ethos, with elected representatives acting on behalf of their constituents, one has to consider whether such influence should rest with appointed managers, rather than, for example, elected representatives. An empowered administration may then be able to subvert the interests of those it

serves. However, the motivations and requirements of a CEO in an everyday industry, with share price and profit levels to consider, are completely different from those in the non-profit, sporting sector. They must also deal with a broader audience and address a wider array of concerns. Additionally, the views of those members of the executive committee hostile to the changes introduced in the aftermath of Project FORCE appear to be based less on the view that there is a divergence of interest between the executive committee (board) and CEO and management, and more on the fact that the committee no longer has the same hands-on involvement that it has long been used to. Platini's implication that his expertise is not valued to the same degree in UEFA as it is in FIFA carries all the weight and authority of one of the world's greatest footballers. Yet at the same time, the separation of authority between board (elected or appointed by owners) and management (appointed by board to manage) is one of the crucial means by which to achieve good governance.

The separation is promoted in reports promoting good governance in both sport and in wider industry. According to the Australian Sports Commission, "the governance structure should feature a clear separation of powers and responsibilities between the board and ('mind' of the organisation) and the CEO and his/her staff ('hands' of the organisation). This clarity of powers and responsibilities must also apply to the various board and management committees" (Australian Sports Commission, 2002: 3) UK Sport also argues that 'it is easy to draw the line between governance and management, as the latter is concerned with the day-to-day management of the organisation in line with the strategic vision adopted by the governing board. Governance, on the other hand, focuses on developing that strategic direction' (UK Sport: 8). From a non-sporting perspective, it is argued that 'there should be a clear division of responsibilities at the head of the company between the running of the board and the executive responsibility for running of the company's business' (Combined Code, 2003: 5). Carver's policy governance model for non-profit organisations also advocates a clear breakdown in responsibility between board and management with the board concentrating on the strategy of the organisation and representing the interests of its owners (Carver, 1997).

According to Will, there may be evidence that the transformed division of responsibilities between board and management may have crossed the boundaries laid out in the various reports, with the administration playing too strong a role in strategy and policy, with the result that the executive committee has become little more than a rubber-stamping body:

There's no doubt there has been a power shift, no doubt, and I would have to say that there is a strong feeling amongst a lot of the executive committee, and I see it better than most because I am sitting a little bit outside, a strong feeling that it has gone too far ... there is a strong feeling that the executive committee has lost its policy making strain. It's not supposed to have done, the policy making was still supposed to be left with the board, but there's no doubt that the policy is formed by the administration under the CEO ... it can sometimes throw things back at the administration's face. A classic example is, just to give you one example, in February, the administration proposed that the 2008 EURO qualification system should change whereby the one in each group would qualify and the number two in each group would play off against the number threes, not from the same group ... the administration presented that in February, and really, really thought that it would be rubber stamped, and there were all sorts of complaints and disagreements from the executive committee about it ... it came up two days ago again, the administration again saying we would like you to accept this proposal, and it was rejected, totally rejected. So the executive committee does still retain a certain ability to say 'no' to the administration. But the day-to-day working of UEFA, there's definitely been a power shift. And there is a strong feeling, depends who you speak to in the executive, there's no doubt that some of them are deeply unhappy with the way it has gone (David Will, vice-president FIFA; member UEFA executive committee, personal interview, 22<sup>nd</sup> April 2005).

Will's contention that policy has been transferred to the administration has serious implications. As Platini argued earlier, in a political system, based as UEFA proudly proclaim on 'representative democracy', then the authority of the elected representatives to determine the direction of the organisation is of genuine importance. His comments also show, however, the executive committee remains capable of asserting its authority when required. Although Will identifies the discontent amongst a significant number of members of the executive committee regarding the changes, it may be that discontent has arisen simply from the re-evaluation of their own roles, rather than a critical evaluation of the organisational consequences of change. It is also important to consider that the executive committee did also vote for the changes. The executive committee's concern is not one of principle-agent theory, that it needs to control the management to prevent it acting against the interests of the organisation and its members, but more its own ability to exercise authority has been usurped. As UEFA vice-president Per Ravn Omdal suggests:

The separation of power was, from principle, the most important. That means between the executive committee and president on the one side and the administration and CEO, which we called him afterwards, on the other side. The definition was very clear. And it led to the abolition of members of the ExCo being chairmen of different committees ... The executive committee should deal with politics, the political part, and I think that has been very successful, for me. But many members are still missing being a chairman of the referees committee or something like that (Per Ravn Omdal, vice-president UEFA, personal interview, 8<sup>th</sup> April 2005).

There is not, then, a divergence of *interest*, but mere disagreement over *roles*. In fact, the board-management relationship of UEFA, lends itself more clearly to stewardship theories of governance characterised by a partnership model which 'assumes that managers want to do a good job and will act as effective stewards of an organisation's resources' (Cornforth, 2003: 8; see also Donaldson, 1990). If what Will says is correct then this correlates with Andrew's view that the involvement of the board should be restricted to reviewing strategies developed by management (Andrews, 1981). Indeed, UEFA's administration is highly regarded from within the organisation:

We're seriously lucky with the two CEOs there have been ... the two are completely different, Gerd Aigner and Lars-Christer Olsson. Gerd was a very tough cookie, a very strong guy, and he's the guy that built UEFA, with Lennart Johansson, built UEFA from a comparatively amateurish situation, to the huge enormous body it is now, and he's a really tough cookie, although wasn't always too diplomatic. Lars-Christer is a much deeper thinking guy, much quieter, quite withdrawn, very serious. We have been very lucky with these two CEOs (David Will, vice-president FIFA; member UEFA executive committee, personal interview, 22<sup>nd</sup> April 2005).

Whilst the comments of Will and Platini suggest that there may need to be a further evaluation of the role of the executive committee in relation to the CEO and administration, it is likely that as time passes existing members of the committee will grow accustomed to their changed role. Most significantly, UEFA chief executive Lars-Christer Olsson argues that the redrawn division of responsibilities has brought tangible benefits, and the organisation has become more responsive to the environment in which it operates:

The committees, before 2000, before this FORCE project, they were the instruments of the executive committee and there were certain parts of the administration allocated to serve the committees. Now, the committees act as an advisor to the CEO and this is a huge difference, and people not initiated in business don't see the difference, but this is a major difference to the old structures. I think that for the benefit of football in the future, other associations should have a similar development ... There was a need for more professionalism, because it

is impossible to be elected, where you are responsible at European level plus in most cases also in the national context, for some other tasks. The clock doesn't work because you would need not only 48, but 60 hours in a day to be able to cope with the task (Lars-Christer Olsson, chief executive UEFA, personal interview, 16<sup>th</sup> November 2005).

Similarly, the professionalisation of UEFA has also been recognised by the clubs:

I've worked closely with them [UEFA], Champions League games and hosting the Champions League final at Old Trafford, I think it's a very well organised body. They've got a lot of very good professionals in there, they've got a mixture of people who understand football and have been in it for a long time, and I think that to my mind it's an efficient structure as evidenced by the excellent Champions League. (David Gill, chief executive, Manchester United, personal interview, 28<sup>th</sup> January 2005).

Olsson's view of the change is now also stated as an important facet of UEFA strategy: 'Separation of powers is an important principle for the effective functioning of UEFA – therefore the organs for the administration of justice are independent from the legislative and executive organs of UEFA, and the line between the executive committee and administration is also clear and distinct (UEFA, 2005b: 12). The environment in which UEFA operates requires a full-time administration responsive to the immediate concerns of multi-million pound businesses operating in a dynamic and complex sphere. The fact that UEFA must deal directly with the clubs has been a major contributory factor in the transition to a responsive and efficient structure that has devolved responsibility for day-to-day decision making to the professional administrative employees rather than dispersed elected representatives.

It could be argued that the reforms introduced following Project FORCE were a controlled attempt by Gerhard Aigner to increase the power of the CEO, at the expense of the elected executive committee. It is certainly true that Aigner was a powerful figure within UEFA with the weight of personality to lobby and secure such statutory changes. It may also be naïve to consider that the desire to increase his personal power base played no role in the changes made. Nevertheless whilst personal considerations may have played a part, one cannot divorce the changes from the environment in which they took place. Firstly, the relationship between the UEFA general secretary/CEO and the executive committee has traditionally been strong. Secondly, the executive committee controlled the review process, and supported the changes made (UEFA, 2000: 7). Thirdly, UEFA had recently been subject to the most hostile of challenges, with the threatened loss of control of its flagship club competition through commercial intervention and the interest of Europe's major clubs in alternative structures. UEFA had to respond in a way that demonstrated its professionalism, one aspect of which was to take a more corporate demeanour. Finally, there are solid foundations in governance theory and application for clarifying the roles of an elected board and management. In this area, then, UEFA has negotiated change relatively successfully, although not of course without criticism.

It is also worth mentioning at this juncture, that although there is a degree of consternation amongst the executive committee regarding the revision of its role, the individual relationship between the president and chief executive of UEFA has been characteristically strong. This relationship is of similar importance, and its success must be accredited at least in part to the clear division of responsibilities between the elected representatives and the administration. There has also been a notable congruence of underpinning ideologies between the chief executives and presidents of UEFA. Darby, for example, has argued that UEFA president Lennart Johansson's view of the governance of world football has been 'underpinned by the broader philosophies of that are embodied in within his own country's system of political, social, economic, and sporting organisation' (Bairner and Darby, 2001: 337). That this philosophy and sporting ethos is shared by previous and present UEFA CEOs, Gerhard Aigner and Johansson's compatriot, Lars-Christer Olsson, has allowed for a strong and effective working relationship between board and

management. The strength of this relationship is due at least in part to the clear and established division of responsibilities between board and management. FIFA provides an interesting point of comparison with UEFA as Michel Platini suggests. Although it may be the case that elected representatives of FIFA have more day-to-day influence, such influence also caused severe, almost catastrophic consequences for the organisation in 2002, when a serious rift developed between the FIFA president Sepp Blatter, and former general secretary Michel Zen-Ruffinen. The FIFA president has a far greater executive role than the UEFA president, and the divisions of responsibility between elected officials and administration are less clearly drawn. Zen-Ruffinen is in no doubt as to the more effective system of governance:

I think UEFA is managing in the proper way in that the president is a real president, someone being there when strategy decisions are to be taken, and representing the organisation as such with an administration that is strong. Whereas FIFA it is on the contrary. The administration cannot be strong because the competencies of the administrators are systematically cut by the president, and the president is there to take any kind of decisions, which basically it shouldn't take because it is not its business, it's very clear. And that makes it my sense, in terms of management, that this is an incorrect interpretation of the way it should work. At FIFA all relies on one person, at UEFA it is spread out which is much better. You have a chief executive which is absolutely normal and it is the management which is much stronger at European level ... When the whole power is concentrated into the same hands it can lead to a lot of problems. Whereas if the management is properly done, you have an automatic internal control which is much better (Michel Zen-Ruffinen, former general secretary FIFA, personal interview, 1<sup>st</sup> March 2005).

#### *ii. UEFA's changing stakeholder approach*

In the years since UEFA's formation in 1954, the interests of the national associations have been paramount. As discussed earlier, such interests are entrenched in the organisation's statutory objectives. Until very recently, not only did UEFA constitutionally serve the interests of its member associations, it would only talk to the national associations, to the exclusion of other participating interests. Any communication that UEFA had with clubs, and indeed leagues, had to go through the national association. As Liverpool FC chief executive Rick Parry states:

It's not that long ago, that, early mid 90s when I was at the Premier League, I remember in those days if I tried to write to Gerd Aigner or UEFA, letters were sent back and I was told to direct them through the national association. Bizarre (Rick Parry, chief executive, Liverpool FC, personal interview, 17<sup>th</sup> February 2005).

The Media Partners proposals had demonstrated the extent to which UEFA as an organisation was detached from the views and interests of the clubs participating in its competitions, and how close the organisation came from losing control of its flagship club competition. According to former FA chief executive Graham Kelly:

The negotiations were conducted by Gerhard Aigner (general secretary of UEFA). Indeed, much of the credit for staving off Media Partners is due to him. He embarked upon a tireless round of meetings across Europe with various clubs. From where I was sitting, the worrying aspect was that UEFA was by-passing the national associations. But they were doing this out of necessity. They were forced to deal with groups of big clubs, including the big English clubs without the FA being present. UEFA didn't have time to observe the niceties (Kelly, 2000: 19).

Kelly's comments are revealing of the historical moment, and also the need for UEFA to have a dialogue with the clubs on an ongoing basis. Not only do they illustrate the frenetic manner in which UEFA sought to stave off the threat posed by Media Partners, but they also show the extent to which the national associations were wedded to the idea that any communication of the clubs with UEFA needed to be conducted through the national associations. The episode demonstrated perfectly why such approaches were no longer appropriate, realistic or conducive to the well-being of either UEFA or the national associations. The organisation needed to be more in tune with the interests of its key stakeholders in order to deal with problems as they arose, and to allow their voices to be heard. The FORCE project recognised these problems and UEFA addressed them through statutory changes which allowed for the integration of stakeholders into the consultative and decision-making structures of UEFA. UEFA further articulated this strategy of stakeholder integration at the XXIX UEFA Congress in Tallinn in April 2005. The organisation released its vision for European football for the next ten years in which moves to a 'stakeholder democracy' are an integral part.<sup>53</sup> According to UEFA: 'UEFA should continue updating and modernising the football family structures and relationships in order to incorporate the views of key specific stakeholder groups into UEFA thinking and decision-making' (UEFA, 2005b: 29).

It is important to look at these changes in the context of wider governance theory. Stakeholder theory contends that organisations must consider the interests of a variety of interested organisations and not simply its owners, or members. Whilst stakeholder theory is contested in debates about corporate governance, it is less controversial in the non-profit sector (Cornforth, 2003: 9). This rings true with the organisation of European football. The governing organisation, owned by its national associations members, clearly has responsibilities to other interest groups, upon which the decisions of the organisations impact. Stakeholder theory has often been afforded a 'moral' dimension (Marcus, 1993), in that it is often linked to themes of corporate social responsibility and the need to consider the rights of employees and customers, as well as stakeholders. In the governance of football, however, it is clear that the integration of stakeholders is based upon their relative influence and capacity to exert leverage rather than through any altruistic inclination to integrate them into the existing procedures. Stakeholder theory has also been used to describe how organisations think about the interests of their constituencies (Wang and Dewhirst, 1992). This is particularly pertinent to UEFA. In football governance, stakeholder integration is a political necessity and as such, the process of integration as developed by UEFA reveals something about how the organisation – its elected board and appointed administration – thinks about its relationship with its wider constituents. It reveals how, although stakeholders are integrated into governance through the process of self-regulation, certain interests, through the political leverage they exert, demand specific structures through which they can exert their influence. The national associations may be the owners of UEFA, but as former CEO Gerhard Aigner has said, 'UEFA rules by consent'. Only through stakeholder integration will UEFA be able to retain that consent.

### *iii. The varying influence of stakeholder groups*

The key mechanisms of stakeholder consultation of UEFA include the Professional Football Committee (composed of the leagues), the Club Competitions Committee (composed largely of clubs) and the European Club Forum (composed exclusively of clubs); and the Leagues and FIFPro Panel, which aims to foster dialogue between clubs and players' unions under UEFA's umbrella. The committees are chosen by the UEFA executive committee. The remits of the Leagues and FIFPro Panel, and the Professional Football Committee are formalised in a Memorandum of Understanding between UEFA and the participating stakeholders. Also, membership of the Club Competitions Committee is drawn in part through an electoral arrangement with the European Club Forum. The critical factor in the formation and operation of these committees is that they are almost

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<sup>53</sup> 'Vision Europe', presentation given by UEFA CEO Lars-Christer Olsson at UEFA Congress, Tallinn, April 2005.

exclusively consultative rather than decision-making. Ultimately, the CEO will take the views of the committee to the executive committee and they will ultimately make the decision. So whilst channels of communication have been opened, and access to the UEFA administration and to a lesser extent its elected representatives, belatedly granted, such access is of an advisory nature only. Committees do not have the capacity to act on their decisions. The club competitions committee for example could discuss and deliberate on a new structure for the Champions League, but it would not have the competence, in itself, to alter the structure of club competition.

Opinion has varied on how effective these committees have been in alleviating the pressure placed on UEFA by leagues and clubs. It is the consultative nature of this process that is subject to challenge. Previous research into UEFA and governance describes these committees as ‘palliative measures’ designed to offer a voice to the clubs and the leagues, but to deny genuine access to the decision-making process (Ducrey, 2004: 82). Needless to say, discussion of the system has provoked fiery and contentious responses. Through analysis of the committee structures of UEFA, and the challenges provided by the influence of interest groups in professional football, we can assess the effectiveness of UEFA’s stakeholder approach.

The complex map of European football governance is littered with a multitude of stakeholders. One can see from figure 2 the diversity of organisations and interests and some indication of how they relate to one another. Similarly, UEFA’s stakeholders consist of both those considered a part of the ‘football family’ what are referred to as internal stakeholders, and those outside the football family, external stakeholders, that have a capacity to impact on, or an interest in the way football is structured and governed.

Needless to say the influence of stakeholders varies according to the role played within the industry itself. UEFA often refers to the need to balance the various interests involved in European football. In developing a stakeholder model of governance a number of specific factors need to be taken into account: the significance of the stakeholder; the ability of the stakeholder to influence or apply pressure; and the consequent level and nature of integration into the decision-making procedures. Given the broad range of stakeholders and the varying degrees of influence such a task is by no means straightforward. Stakeholder analysis demonstrates that whilst certain stakeholders (supporters, for example) are critical to the continued success of football as an industry, their significance is not necessarily matched by the ability to exert influence on the governance of the game in a formal. It is true, however, that supporters, acting as consumers of specific television products, certainly influence decisions as the active market that the football industry seeks to exploit. By contrast, stakeholders that are not critical to the continued success of football (the EU, for example) may have the ability to influence governance to a degree incommensurate with their interest in football. How, then, can one determine which stakeholder merits inclusion in the decision making structure?

This analysis starts from the premise that whilst certain external stakeholders are clearly critical to the future governance of European football, consideration should only be given to the integration of internal stakeholders in the organisational structure of UEFA. This certainly does not mean that UEFA should not communicate with other stakeholders; indeed dialogue is a pre-requisite of maintaining the effectiveness of the organisation, and will be crucial in shaping the future of European football. In the earlier discussion of the European model of sport it was argued that governance is based on the principle of representative democracy – and that decisions made for football, are made by those working within football. European football has demonstrated a capacity to organise itself effectively as a thriving, indeed dominant, cultural phenomenon of European civil society. Whilst the role of the EU and broadcasting organisations will no doubt continue to help shape the future of European football, such stakeholders have a multitude of interests. UEFA’s interest is not in integrating the EU into its decision-making process, rather seeking to influence EU policy. Similarly, whilst the relationship between broadcasters and football is increasingly symbiotic, television and new media are the means by which to drive football finance, and a means for UEFA to achieve its organisational objectives, rather critical to the governance process itself. These external stakeholders will clearly play critical roles in the future structures of the game, and

UEFA would obviously be wise to scrutinise political and technological developments, but it should also remain independent from these interests.

Similarly, analysis of supporters, particularly on a pan-European level, provides an interesting window on the problems of incorporating internal stakeholders into a governance framework. By purchasing match tickets and television subscriptions, by attending games and contributing to the television spectacle that fuels football finance, supporters enable football to function as a professional industry. The articulation of their support transforms football from a sport into a cultural phenomenon. Yet supporters have so far failed to organise on an international level that would enable them any genuine influence over the way the game is governed, and are largely ineffectual in influencing the decision-making process. Fundamental to the weakness of supporters as an influential stakeholder group is the way in which supporters consume the game. The attachment to a single club, and the fact that supporters do not exercise consumer choice to the same extent as in other product-consumer relationships, largely limits the ability of the supporter to influence at the local level. In England, for example, whilst there has been a positive rise in supporter activism through the supporters' trust movement, gains have ordinarily been made where clubs have experienced financial crisis, and largely at a lower level where it is possible to raise the finance required to influence proceedings.<sup>54</sup> By and large, however, clubs are safe in the knowledge that if the pies are bad, the toilets blocked, and the football poor, most of the same spectators will continue to pay. Similarly, on a national level, and even when organised into groups, supporters have lacked the ability transform consumer power into consumer influence, through withdrawal of support.<sup>55</sup> Supporters' organisations are, essentially, stakeholders without a sanction, or at least a sanction that can be effectively deployed.

That supporters struggle to make their voices heard at a national level means exercising influence at an international level is an almost impossible task.<sup>56</sup> If supporters themselves are failing to maximise their potential influence there is, in reality, either little pressure to, or prospect of integration into the European governing structures. Furthermore there would be genuine practical difficulties of how such integration could be achieved. The level of supporter co-ordination varies from country and in some countries supporters are most effectively organised when it comes to extremist or so-called 'ultra' or 'hooligan' groups. UEFA relies on market research for supporter views, and in the medium term, it may be that this provides the best evidence of supporters views.

What this demonstrates is that the ability to influence is not necessarily proportional to stakeholder significance. This in turn affects the need and desire to seek solutions through stakeholder inclusion. Economic weight must be allied to the ability to utilise it as a means to seek influence. Stakeholder power to influence is in direct proportion to the inclination, or requirement, of the governing bodies to integrate. In this context, both the clubs, and the leagues as representatives of the clubs, and to a lesser extent the players, dominate discussions of stakeholder influence. Should supporters in the future organise themselves more efficiently on an international basis (the organisation of supporters in England is an illustration of how supporters can organise effectively collectively), then greater pressure should be placed on the international authorities for some kind of incorporation into the structures of consultation.

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<sup>54</sup> This is not to downplay the merit or the progress made by the supporters' trust movement in England. It will probably be the case that the influence of supporters as a stakeholder will most realistically be demonstrated at this level. But it remains to be seen whether such progress can be effectively translated to both the higher divisions, and then reflected more successfully on a national level.

<sup>55</sup> Examples do exist, though of where football supporters have withdrawn support. When the decision to allow Wimbledon FC to move to Milton Keynes was taken, the supporters of the club who had organised themselves effectively into two mutually beneficial organisations (The Dons' Trust and the Wimbledon Independent Supporters' Association) withdrew their support for the existing club, and themselves set up a new football club AFC Wimbledon. The final impact of these events has, perhaps, not yet been seen.

<sup>56</sup> Supporters may however, play an increasing role in solitary issues such as ticketing for international events. This has often been a cause of discontentment, and the football authorities and supporters groups may have a mutual interest in areas like this, for example, the prevention of ticket touting, and ensuring the exclusion of 'hooligan' groups.



#### *iv. The elite clubs and the G14*

When referring to ‘clubs’ in the context of the governance of football, it is important to define the clubs in question. In each national territory there are a multitude of clubs operating at a multitude of levels, throughout the football pyramid. The national associations and leagues exist to serve and represent their participant clubs, yet even within national associations and leagues there will be clubs with different structures, interests and views on the many issues. As the body with overall responsibility for football in Europe UEFA must consider the interests of clubs, and as the organiser of elite football competition, the elite clubs will figure heavily in their considerations. The G14 is the organisational embodiment of the elite clubs, and is frequently portrayed as being the harbinger of doom for UEFA and the greatest threat to their control of competition. The group has become synonymous, for example with the prospect of a European super league (whatever that might look like), which would include the majority of its members. Before analysing UEFA’s integration of the clubs, it is worth assessing the role of the G14.

The organisation, consisting of 18 of Europe’s elite clubs<sup>57</sup>, with its headquarter in Brussels, was formed in 1998 following talks to form a European Super League inspired by the Italian organisation Media Partners. It is worth mentioning initially that the G14 is structured as a European Economic Interest Grouping (EEIG).<sup>58</sup> The EEIG provides a legal framework within which enterprises at a national level in different countries can operate together at the European level with the aim ‘to facilitate or develop the economic activities of its members’ (Companies House, 2003). Again, the structure of the organisation allows one to draw a distinction between the clubs, and the governing bodies. The clear economic imperative that guides much elite club behaviour can be contrasted with the non-profit and redistributive motive of the governing body. The objectives of the G14 are formally articulated through its statutory objectives and are summarised in appendix 3. The stated objectives of the organisation include:

- More active role for clubs and a closer link with the governing bodies at every level (G14 press release)
- The prosperity and continuity of clubs as key actors of football (G14 press release)
- Find solutions which allow them to control expenditures (G14 press release)
- To promote the cooperation, amicable relations and unity of the member clubs (www.G14.com)
- To promote and improve professional football in all its aspects and safeguard the general interests of the member clubs (www.G14.com)
- To promote cooperation and good relations between G-14 and FIFA, UEFA and any other sporting institutions and/or professional football clubs, paying special attention to negotiating the format, administration and operation of the club competitions in which the member clubs are involved (www.G14.com)

The reality of the G14’s role is as lobby group, aimed at influencing decision-making within UEFA and FIFA. At present neither governing body has a dialogue with G14, given what it considers to be the unrepresentative nature of the group. According to UEFA CEO Lars-Christer Olsson:

I think G14 is a lobby group and should be seen as a lobby group. If they think they have common issues they want to discuss that’s fine, but for us they are irrelevant because all these clubs are represented in our European Club Forum, in addition to some 100 other clubs. We

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<sup>57</sup> Arsenal, Liverpool, Manchester United, AC Milan, Internazionale, Juventus, Paris St Germain, Olympique Lyon, Olympique Marseilles, Porto, Benfica, Ajax, PSV Eindhoven, Bayern Munich, Bayer 04 Leverkusen, Borussia Dortmund, Real Madrid, Barcelona, and Valencia.

<sup>58</sup> An EEIG owes its legal status to a regulation adopted by the Council of Ministers of the European Communities in 1985: Council Regulation (EEC) No 2137/85 of 25<sup>th</sup> July 1985 in the European Economic Interest Grouping.

don't talk to them at all, but we talk to the individual clubs, so it's not a problem for us. G14, as we think, is not important (quoted in Glendinning, 2004: 20)

It is not just UEFA that seek to underplay the role and influence of the G14 and the belief that it is a European super league in waiting. There may be a degree of disingenuity in the following comments, but representatives of the G14 also play down the motivations of the group:

You've got G14, which bizarrely is sort of despised, feared, without good reason. There is nothing inherently wrong with Europe's top clubs having a forum where they can compare notes together. There's nothing sinister in that, it's just absolute common sense. Yet for UEFA to continue to deride it and fail to recognise it is odd. It's always one of the frustrations of Liverpool, that G14 is nothing other than the collection of the clubs that are most important to UEFA. UEFA would never say that 'we take no interest in what Real Madrid, Barcelona, Manchester United think,' but on the other hand they say 'we take no interest in what G14 thinks'. Well hang on; it's actually the same thing (Rick Parry, chief executive of Liverpool FC, personal interview, 17<sup>th</sup> February 2005).

Yet the popular perception of the group is that it will wield considerable weight when it comes to shaping the future governance structures of European football. The influence of the G14 has been discussed at varying length in a number of quarters. Since its inception, newspaper coverage has consistently alluded to the latent power of the organisation. In 1999 Ian Broadley wrote: 'When G14, a group of the richest and most powerful clubs in Europe convene in a Madrid hotel tomorrow the repercussions will be felt through football's corridors of power. The elite group will formulate strategy to gain a greater say in the game and are prepared for an all-out war with the two governing bodies, UEFA and FIFA, to achieve it' (Broadley, 1999: 5). About half way through the life of the organisation, Sue Mott claimed that 'what G14 want, G14 have an uncanny knack of getting' continuing that 'UEFA might like to start checking premises in Milton Keynes, where rent is a bit cheaper than in Switzerland' (Mott, 2002: 7). More recently the group was referred to as 'the most powerful pressure group in world football' (Wilson: 2004, 34).

Similar views of the influence of the organisation have also been articulated academically. King has argued that the G14 will grow in strength in the coming years. He states that 'Just as UEFA emerged at the beginning of the era of international football to regulate that regime, the G14 has emerged at the inception of the transnational regime and it does not seem fanciful to suggest that this institution is likely to become as significant in the current era as national federations were in the past' (King, 2003: 155). It is certainly the case that the clubs, and the elite clubs specifically, will continue to be the economic drivers of the European game, and as such will continue to assert their influence on the future composition of competition. Similarly, his overall contention that national boundaries in club competition will become increasingly redundant carries genuine resonance. However, King's view that 'UEFA will lose even more of its authority and become a forum not for the national federations but for European clubs' (King, 2003: 165) is speculative and not grounded in the complex reality of world and European football governance. Furthermore it also seems to underestimate the role of other organisations in shaping dimensions, and that whilst the big clubs certainly hold sway, they are not omnipotent. The role of the national associations may change through changes in the shape of competition. But whether that competition is national, regional, pan-European, or some form of combination, does not necessarily render the role of the national associations or their role within an organisation like UEFA redundant. The separation between the national associations (and UEFA and FIFA) from the clubs, leagues or other stakeholders, is the governance and regulatory role. They create the regulatory framework in which clubs compete. Clubs may drive *competitive* frameworks, but within that competitive framework must be *regulatory* framework in which the clubs can effectively operate. Given the traditional role of the national associations in operating this regulatory framework (the influence of the leagues within certain national associations notwithstanding), and considering other factors such as the

structure of the International Football Association Board (IFAB), it does not follow that the influence of the clubs in the competitive sphere leads naturally to the complete takeover of institutions in operating in the governance and regulatory sphere. Of course, should a structural revolution take place other organisations *could* fulfil a regulatory role, but the longevity of governing organisations, their expertise, and the complex dynamics and dependency levels between the various institutional powerbrokers, favour a more cautious analytical approach and mitigate against predictions of demise or ascendancy of particular organisations. Taking the view that clubs will gain greater control of future competition does not necessarily lead to UEFA becoming a forum for the clubs.

The uncritical hyperbolic reference to the G14 group also seems to belie the actual influence of the organisation since its inception, and has also masked some of the problems inherent in the organisation which it has struggled to overcome. The key changes to the UEFA Champions League were made in 1998, prior to the formation of the G14 (although of course under pressure from its member clubs), but since then, on the various issues of the day, G14 has been unable to exercise the desired degree of influence. It is worth looking at the G14 by exploring some of the salient issues. The removal of the second group stage in the Champions League in 2002 was clearly opposed by the clubs at the time. According to Peter Fossen of PSV Eindhoven: 'There is a lot of anger within G14 at what UEFA have done' (Chaudhary, 2002). Similarly both Umberto Gandini of AC Milan and David Gill of Manchester United made clear their opposition to the changes:

The earlier format was clearly a good format in terms of going to the two group stages and the knock out, because I think that gave clubs, quite rightly, a minimum level of income, because we invest heavily in our squad whether it be transfer fees or salaries to compete in Europe ... The issue is, the second group stage wasn't the problem, because the quality of that, with 16 top teams was fantastic. The issue, if there was one, was possibly the first group stage. Ideally we'd like to go back to two group stages. In February and early March we've got the last 16, we've got Milan so a tough game, one of us will go out. Barcelona v Chelsea, Bayern Munich v Arsenal, Juventus v Real Madrid – again 3 top teams will be eliminated. If I was saying the ideal perspective from us, for Manchester United, it would be to go back to two group stages (David Gill, chief executive Manchester United, personal interview, 28<sup>th</sup> January 2005).

We are very unhappy. This is another example in which we try to influence, and regardless of the fact that the majority of the European Club Forum was against any change of format in the Champions League, UEFA did it. So when you see such a case you say, 'why should we waste our time coming here negotiating, discuss and present you things and give you our opinion, and when it comes to the decision-making process' it is 'sorry we have decided this way regardless of your opinion' ... The draws in the eighth finals we have now is a clear example that it's going to be a huge waste. There are five knock-outs which are definitely five realistic and fully legitimate finals (Umberto Gandini, organising director, AC Milan, personal interview, 14<sup>th</sup> February 2005).

At the outset of the G14 the clubs were verbose about the power that they would exercise. Franz Beckenbauer, President of Bayern Munich, for example stated: 'it will be utterly impossible for UEFA or FIFA to make any changes to the Champions League, European Championships or the World Cup without consulting G14' (quoted in Broadley, 1999: 5). Such a prediction was soon demonstrated to overestimate the influence of the organisation, at least in terms of short-term decision-making. In this instance King's claim that 'the G14 have an effective veto on any proposed developments since they will simply threaten to create their own superleague should UEFA attempt to introduce regulations or redistributive measures which are against their interests' does not seem to mirror the immediate reality (King, 2003: 155).

King argues that the removal of the second group stage 'should not be taken as a return to a system of national regulation ... and since it is more popular it will ultimately strengthen the

Champions League. It will consolidate the competition in European fan culture even more, though it is unlikely that this format will remain in place for as long as the economic forces propelling structural transformation are becoming stronger ... given the discontent of the G14 it is extremely unlikely that this format will remain for longer than two to three years' (King, 2003: 163-164). Firstly, a national system of regulation still exists, it is the structure of competition that has changed, and that is likely to continue. Also, whilst King is correct to argue that the clubs will play a pivotal role in directing particular economic forces, there is no recognition of the irony that he sees that the popularity of the competition has no bearing on its longevity. Presumably, the popularity of the competition relates in some way to the extent to which supporters consume it. Increasing popularity may then be a disincentive to change, one that pulls against the desire of clubs for more guaranteed games rather than a force adding to the pressure for change. Interestingly, Karl Heinz Rummenigge says: 'we were concerned about the procedure taken by UEFA but there was never any chance of us refusing to co-operate ... football is in a financial crisis and we don't need a war. There are always two sides of an argument and it is clear the reducing the matches from 17 to 13 games will give more flexibility and allow for slightly smaller squads and therefore reduced costs. I know many television broadcasters had been calling for change' (quoted in Warshaw, 2002). Such a comment, from a representative of four-time European champion Bayern Munich, indicates an inclination to co-operate and evolve within the existing structures rather than to catalyse wholesale change.

The G14 has also been largely ineffective on other changes that have taken place. As yet, the drive towards payment to clubs for players utilised in international tournaments has yet to be resolved to the satisfaction of the clubs despite its consistent lobbying (although the case is currently before the Swiss Competition Authority). As Radnedge asks, if the G14 are singularly unsuccessful on this issue, what is the point of existence of the G14? (Radnedge, 2005) Evidence suggests that although newspaper columnists have written in fearful tones about the organisation's influence, this has not always mirrored with the influence they have thus far exerted. Wallace's contention that 'G-14 has become a powerful lobbying group for the biggest clubs in Europe, especially when it comes to changes implemented to the Champions' League format by UEFA' does not stand up to recent history (Wallace, 2005). So if G14, and the elite clubs within it, have failed to punch their weight one has to ask the question: why?

The G14 has made clear its view of the structure of UEFA, and that it considers it obsolete in terms of recognising the influential voice of the clubs. Yet at the same time, not only have G14 failed to influence the salient issues of the day, the organisation is also undermined by the nature of its own composition. Of course, there are elements of meritocracy in the membership criteria of the organisation. As King says: 'it is interesting that in the selection of the clubs, historical precedent was important. Although the clubs in the G14 are economically important powers in European football, their European pedigree is in almost all cases a defining characteristic' (King, 2003: 153). Yet the level of exclusivity and the lack of defined and coherent membership criteria pose problems of legitimacy and credibility for the G14. Just as an example, Celtic FC, for example, are a bigger entity in every possible way than Paris St Germain, yet the latter is a member of G14, and the former not. In his interview with King, Umberto Gandini illustrates the *ad hoc* nature of the formation of the group, the reasons for adding some clubs and not others (King, 2003: 152-153). Sugden more accurately suggests that: 'like the Cosa Nostra, the exact formula for membership is a mysterious combination of money, success and a potential television audience' (Sugden, 2002: 70)

The *ad hoc* nature of membership is particularly notable with regard to the discussions surrounding new members, which must be supported unanimously. The membership of Chelsea, for example, was reportedly rebuffed on the basis of feuds with Manchester United, following the departure of the chief executive Peter Kenyon to Chelsea and also following the retirement of referee Anders Frisk following controversy between Chelsea and Barcelona in a Champions League tie in February and March 2005 (Wallace, 2005). Crucially, the membership structure of the G14 poses serious problems of credibility for other clubs:

A lot of people think G14 is a superleague. In my view it's a lobbying group. I think it would be a lot stronger if in time the G14 was increased. It won't be in the short term, but in principle if they had teams from the next tranche of clubs. Rangers aren't in the elite banding obviously. You've got a lot of these next ranked clubs and I think the G14 could exert more power in UEFA if the membership was extended (Campbell Ogilvie, general secretary, Rangers FC, personal interview, 11<sup>th</sup> February 2005).

Similarly, the structure of the organisation is also a major issue for UEFA and critical to its decision to have no relationship with the organisation:

We have within UEFA the infrastructure to represent the clubs. G14 want to have the whole structure, but the [European Club] Forum represents the clubs, all the professional clubs in Europe. I think it's more important, the Forum, than the G14, which is representing only the richest clubs. (Michel Platini, member UEFA executive committee, personal interview, 21<sup>st</sup> March 2005).

Furthermore, the composition of the G14 is also challenged by the growth of the European Professional Football Leagues (EPFL) which is discussed below. The leagues, by their nature, are more representative of their clubs and as such generate a greater degree of legitimacy and credibility in relation to the governing bodies. This was an issue accentuated by the representatives of the leagues:

The G14 or 18 are of individual interests, but when you take the leagues, it becomes 600 professional clubs, and I think 600 clubs is something you have to take into account of your life (Jean-Marie Philips, president, League Professionnelle de Football, Belgium, personal interview, 20<sup>th</sup> January 2005).

G14 when you get down to it is 18 clubs, very powerful clubs, very influential clubs, but unless they go and play in their own leagues which they are not going to do in the short-term, they are a lobbying group. The leagues represent a lot more clubs, and I think the fact that there is an internationalisation on that scale which is not done along the associations' lines is a threat to them, they feel it's a threat to them (Iain Blair, company secretary, Scottish Premier League, personal interview, 11<sup>th</sup> February 2005).

It has been argued that the G14 has been legitimised by its association and with external political bodies, specifically the European Commission. Whilst the fact of this association is indisputable, the validity of the argument is debatable. The European Commission no doubt communicates with a wide and varied selection of lobby groups, but that does not necessarily lead to their integration into respective decision-making procedures. Moreover, it ignores the motives that individuals within the European Commission may have with regard to the future organisation of European football, and also ignores the fact that the Commission's communication with the G14 may also be linked to its previous frosty relationship with UEFA. King argues that 'in formal discussion over the Perugia case, UEFA were ultimately forced to recognise the legitimacy of the G14' (King, 2003). G14 may have been consulted by the European Commission, but this several steps removed from 'recognition of its legitimacy' by UEFA. That UEFA continues to refuse to communicate with G14 provides a more accurate barometer.

Disagreements over membership also reflect the difficulty in building consensus within the organisation. According to Banks, 'far from G14 getting what it wants, it seems unable to agree exactly what it is that it wants' (Banks, 2002: 131). Ironically, the breakdown of the Media Partners proposal illustrates initial evidence of this. The proposals have been characterised as a power play by the clubs as a means to extract greater leverage and influence within UEFA with regard to competition format. However the proposals floundered on the basis that certain clubs were in favour

of breaking away from the competition hosted by UEFA and others not. That Manchester United was willing to take such a step, and others were not is initial evidence of how difficult it is for the clubs to build a consensus for change. This may point to the possibility of solutions being sought within the existing structural framework, rather than through an exit strategy. The difficulty in building consensus is in fact accepted by members of the G14. Umberto Gandini and Rick Parry, for example, both suggest that competition between the clubs inhibits the ability to generate consensus:

I think also because of the differences among the clubs in the G14 we are losing a little bit of grip on the situation. It seems that UEFA only responds to our needs when we are threatening something and you know you cannot be credible if every other day you have some threat ... First of all I think that some of the clubs, even the big clubs have their own agendas, and this is not helping the clubs. Secondly, I think the competition on the pitch is so strong, that even if we are very similar off the pitch, there are still attempts to gain some advantages against each other. So, 'ah these things, maybe, is not in a good interest but it would damage those three and would be good for me so I like it'. This is probably ... not the way an association should work (Umberto Gandini, organising director AC Milan, personal interview, 14<sup>th</sup> February 2005).

I'm a little sceptical about the future of G14 I have to say. I said I'm not interested in forming a power block just for the sake of it. It has to prove that it has a useful purpose, it has to prove that we are addressing areas of common interest and coming up with consensus views. There's not a great deal of evidence of that so far ... it's terribly difficult because it's immensely difficult to get an agreement amongst the clubs on issues ... On an issue like homegrown players you would get a split between G14. To get a unanimous view is actually pretty difficult because you've got immensely big and wealthy clubs and some who are not so big, and there are cultural differences and local differences, and different TV markets, so it's always a challenge (Rick Parry, chief executive, Liverpool FC, personal interview, 17<sup>th</sup> February 2005).

That the major clubs cannot agree even in the most private of environments illustrates ideally the peculiar nuances of the football industry, and also that rivalries are fought out in the boardroom, as well as the playground, pitch and pub. The rivalry between Barcelona and Real Madrid for example, tied up in historical, national and cultural developments, extends beyond the field of play to other regular differences between the clubs. Moreover, the differences between the clubs, not simply on specific issues, but also in terms of the size and the stature of the clubs limits the ability of certain members within the organisation to influence in the way that it might like. Also certain clubs (Liverpool and Arsenal, for example) might be likened to 'doves', whereas other clubs (such as AC Milan and Real Madrid) could be considered to be 'hawks'. The recent change of management board within the G14 may be enough to alter the ambitions, and even the future of the organisation. AC Milan, Man United, Bayern Munich, Real Madrid and Ajax, were replaced by Juventus, Arsenal, Borussia Dortmund, Porto and Barcelona. Even in this changeover within the same organisation one can detect differences in stature and success.

The clubs within the G14 will almost certainly play a defining role in the future of competition structure. Sugden rightly argues that 'those who produce the game – the clubs – have emerged as big power players in network football' (Sugden 2002: 70). The G14 itself may also continue to provide a forum for discussion for Europe's elite clubs on a range of issues common to those particular clubs. Perhaps UEFA is being over-confident in dismissing the organisation as a 'lobby group', but recent history suggests that the G14 has been less than successful in transforming the political and economic weight of Europe's most successful club into tangible political gains. Perhaps the organisation will galvanise itself and overcome some of the difficulties identified above. If that is the case then UEFA will face new and serious challenges in the coming years. Yet

at the same time, the truism that clubs need other clubs in order to survive and thrive mean that changes both to competition, and also to decision-making procedures should be based on representative bodies. The exclusive nature of the G14 means it an inappropriate vehicle of incorporation into the decision-making processes as the Scottish Premier League's Iain Blair argues:

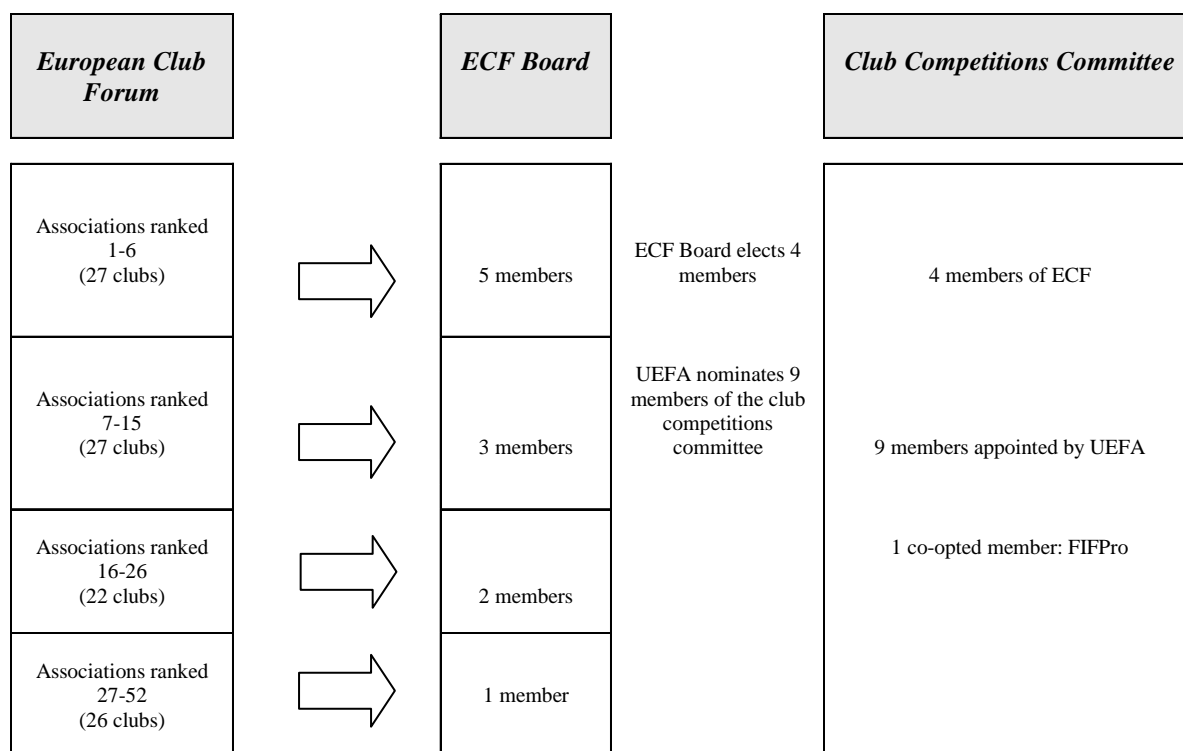
In governance, I think its got very little future role. I see G14 as a common interest grouping, a lobby group, whatever you want to call it. It is only really interested in the interest of its members. Now I do believe that if you take a long-term view, then the interests of its members are best served by the interests of football as a whole. But I don't think the G14 take that view. I think their view is much more immediate. They have the demands of fans, they have demands of shareholders, they have the demands of their very, very expensive players, and I think those demands influence the members of G14, and every other body in football by the way, far more than the longer view does. Now the mitigation you get in other larger organisations, where there is a much broader church, doesn't exist within G14, therefore it is entirely a focus group, and as long it's a focus group, how can it possibly have a role in governing the broader issues of the game? (Iain Blair, company secretary, Scottish Premier League, personal interview, 11<sup>th</sup> February 2005).

Just as UEFA does not operate in vacuum, nor does the G14. One interesting aspect about the evidence presented above is the desire amongst representatives of the G14 to seek solutions within the existing structures. The complaints about decisions taken by UEFA centre as much around procedure as the issues themselves. Umberto Gandini, David Gill, Rick Parry, Roberto Bettega have all registered their dissatisfaction with the way UEFA goes about making decisions, although all agree reluctantly that dialogue has improved. This indicates an inclination to want to solve problems within the existing framework. That organisational framework comprises a range of interacting interests in which the latent temptation towards unilateral action, if not non-existent, is assuaged.

#### *v. The European Club Forum and the Club Competitions Committee*

Media Partners demonstrated the leverage that the clubs have over UEFA in its control over club competition. Whilst it has been argued that the possibility of clubs leaving their domestic league, or indeed the clubs leaving UEFA to participate in a competition organised under alternative structures may be unlikely, the latent threat is the basis upon which clubs exert pressure on UEFA to amend their structures in favour of a greater say in the decision-making process. In the aftermath of Media Partners, UEFA addressed the concerns of the clubs in a reformulation of competition structure but little was done in the short-term to address the integration of clubs into the decision-making process. The formation of the G14 brought the elite clubs together in an official structure in order to exert pressure on the authorities with regard to their views and interests. The belated response of UEFA was to form the European Club Forum (ECF) in 2002 as a 'platform for increased dialogue and consultation between UEFA and Europe's major clubs, and to nurture the well-being of football on this continent' ([www.uefa.com](http://www.uefa.com)). The ECF consists of 102 clubs which are selected on the basis of five-year on-field sporting performance, including representatives of all 52 member associations. The ECF is divided into five different groups based on UEFA's ranking of national associations as illustrated in figure 4 so that the top associations have more clubs represented than the minor associations:

**Figure 4: UEFA's structural relationship with the clubs**



The ECF elects a forum board consisting of eleven members consisting of representatives of the five different groups according to association ranking. The board then elects three vice-presidents, who, along with the chairman, assume positions on UEFA's Club Competitions Committee (CCC). The process through which the ECF elects members to the CCC is an overt and institutionalised acknowledgement by UEFA, that it is the competing clubs, rather than the professional leagues that are the appropriate players when it comes to decisions made directly regarding European club competition. Taken together, the ECF and the CCC are the means by which clubs (standing alone from the leagues) are integrated into UEFA's governance process. The role of the ECF is to discuss matters 'covering the entire spectrum of the European game, including competition formats, marketing and rights strategies, as well as developments and marketing opportunities within the field of new communications' ([www.uefa.com](http://www.uefa.com)). The terms of reference of the CCC can be found in appendix 4. A number of issues arise from the relationship between UEFA and the clubs consolidated in the ECF and the CCC. Crucially, whilst the terms of reference of these mechanisms are broad, they remain consultative bodies. The ECF and the CCC can draw up recommendations for the CEO, but neither have the formal power to take decisions or even sit in a forum where decisions are being taken. Nevertheless, the introduction of the ECF marks an important development for UEFA, through the integration of clubs into its official structures. According to Michele Centenaro of UEFA:

A great achievement compared to the past, since I have been working here ... has been the consultation and consensus approach, which takes a little more time, but then in the end you come out with a solution which more or less everyone can accept. That is one of the key achievements in my period here. One example of this has been the establishment of the European Club Forum, which is a platform for the 102 elite European clubs, which has become, now, a really important player in the consultation process for any item, for any matter which touches on club football ... I would say the biggest challenge is to make it something solid, reliable and recognised. This doesn't come lightly, out of the blue, you have



to build on it. In the three years, I would say so far we are in good shape. That we are in good shape is confirmed by facts, and by some recommendations made out of the Club Forum have been taken on by the executive committee, for example the restructuring of the UEFA Cup, also the FIFA World Club Championship. UEFA has also been quite careful with this issue, the final recommendation was left up to the clubs, whether to participate or not. I would also say in addition to that, the definition of the sales strategy for television, there's been a lengthy discussion with the clubs (Michele Centenaro, head of club competitions, UEFA, personal interview, 17<sup>th</sup> November, 2004).

Centenaro articulates the importance of the consultative approach. However, the composition of the ECF also embodies the tensions that inherently arise from UEFA's structure as a 52-member confederation. The need for UEFA to represent each of its members within the ECF inevitably means a dilution of authority of those clubs from the larger national associations that dominate club competition and constitute the major players in the European football market. According to Umberto Gandini:

It is definitely a fact that the existing structure in Europe is somehow penalising the big clubs. But when I say 'big' I say in two different terms. On one side they are big clubs because of the amount of success they had in the past years, the fifty past years and their strength, their brand, their value they have now with the general public. On the other hand, they are big in terms of financial resources, which are invested into the clubs by their shareholders, by individual owners or magnates, or whatever they are that makes them different. I think the main problem of the organisation in Europe is that everybody has the same vote, the same weight, the same importance, which is good on certain terms, but which becomes a huge problem when talking about interests and we are in an association of 52 national associations ... You can imagine how difficult is for clubs from the major three or four markets, with huge payrolls, huge investments, huge costs, and naturally big and important, to be treated and confronted and ruled in the same way as the other 80 per cent of the clubs in Europe in other associations. This is the most difficult part and probably the most debated part of the UEFA system (Umberto Gandini, organising director, AC Milan, personal interview, 14<sup>th</sup> February 2005).

Gandini highlights how a general problem of UEFA is naturally translated into its communication with clubs. Inevitably there is a balance to strike between representation and footballing and financial power. Nobody would suggest that a team from Azerbaijan should be accorded the same influence as a team from Italy or Spain. But at the same time, European competitions exist for these teams as well as those with the greater history and economic weight. But is Gandini's complaint reasonable in the context of the consultative club structures? Gandini argues:

I am vice-chairman of the European Club Forum now. The European Club Forum was born because of the G14. Because UEFA said, 'we cannot recognise G14 because they are the so-called big clubs, what about the rest?' One hundred and two clubs divided into four groups. There is almost always 75 per cent support and 25 per cent against on any possible proposals, and the 25 per cent represent most of the times the top clubs, from the top five or six associations, because they have a different view, everything is different. Different costs, different way they run the business, different size of the leagues they play in. Everything is different. And when UEFA brings [the Forum] together – first of all it's good to have it – the way it is, is not a deciding factor. It would have been good if three members of the European Club Forum would sit in the ExCo for example. No. We are a bigger Forum, a bigger Forum board, where the ExCo members come and watch, witness, come and listen and report. You know it is always "we are the ones who make the decisions; you are simply there because we

have to show that you are part of it". And as I said, all the works and the discussions are almost run by ten clubs and 90 clubs are just silent apart from being very loud when they are in individual talks. But they never do it in the plenary. Again it's a way to dilute the importance of the clubs in this big sea of clubs altogether. I think you don't need to be a genius to understand that when you are talking about Champions League Finals or Champions League structure for 32 clubs, there are at least 70 per cent of the clubs of the European Club Forum who do not make it. So why should they have the voice that could be detrimental of my objections, of my results? (Umberto Gandini, organising director, AC Milan, personal interview, 14<sup>th</sup> February 2005)

Gandini refers to the palliative nature of the ECF, its formation as a means for UEFA to show that it is consulting with the clubs. In order to be effective, the ECF clearly needs to articulate the views of all competing clubs, but also to demonstrate that it can be an effective means to represent its politically influential participants. Liverpool FC chief executive, Rick Parry, identifies the progress, but also highlights the inherent importance that the Forum must also be perceived to be an effective means of communication with the clubs:

At least there is a degree of consultation. At least they are involved in clubs. In the club forum, they have a greater role in the Club Competition Committee in the key areas. Although sadly the bottom line is that executive committee, broadly ignore what the clubs want and does whatever it sees fit. Arguably it's going to be big source of frustration. In a sense its better not to involve the clubs at all than to listen to them and ignore them ... you could argue if you were cynical that the way they have been structured, with 102 clubs in the forum, different groups in a strict ranking order, the top group, which is the top 20 or so clubs always gets outvoted numerically and every summary at the end of a session, 'well there's one group in favour but unfortunately, four groups against, so ...' But that one group is the top twenty biggest clubs, and the key clubs in the Champions League. There has to be a better way. But at least there is a forum for debate, so that's progress (Rick Parry, chief executive, Liverpool FC, personal interview, 17<sup>th</sup> February 2005).

That is not to say that Gandini's and Parry's complaints about the voting structure are necessarily justified. Much depends on the decisions in question and where they are taken. Evidence suggests that there needs to be greater clarity about who has the right to vote on what decision, and whether clubs should be able to vote on matters that do not directly affect them. Gandini, for example, mentions his misgivings with regards to a 102-club forum being afforded a voice on what is, after qualification rounds, a 32-team Champions League. Similarly, Rick Parry and David Gill identify some of the problems arising from the ECF through reference to issues raised within the forum:

We saw a classic last week at the UEFA club forum when we were talking about the future role of the UEFA Super Cup, where UEFA had floated the idea to play it in China rather than Europe. And you've got the clubs of the major nations, who by and large would be involved in it, participating in it saying, this is absurd, we're not in the least bit interested, we don't want to be flying our players off to Japan or China in August, when we're starting the league programme, it makes no sense ... all of the smaller nations, which of course are the majority, saying that's a good idea, more money, and they're not involved, there's no direct impact (Rick Parry, chief executive, Liverpool FC, personal interview, 17<sup>th</sup> February 2005).

The jury's out is what I would say. If you go back to the example of the homegrown players; The Club Forum is split into four groups depending on your co-efficient ... at the last Club Forum in September 2004, UEFA did a presentation, the clubs then split up into the various groups to discuss the issues and then reported back to the whole meeting and the red group which comprised the large clubs, was I think unanimously at the time opposed to the issue of

the homegrown players ... you hear nothing of it, and then suddenly it's being voted through at the ExCo, UEFA are doing it ... so that is one example of where it's more lip service in my opinion than actually reflecting they want to listen and they want to take it forward ... Subsequent to the views there were no further discussion papers issued to the 102 clubs by UEFA, no questionnaire, no indication of the timetable they are working to, how they've arrived at the decision that this something that they want to take forward. So we as clubs feel, 'why do I take two days out of my life for that?' I'm not saying that we can get our way all the time, that's not right. But one would hope that you've had the opportunity to put your arguments to them, that they at least had given you a fair hearing (David Gill, chief executive Manchester United, personal interview, 28<sup>th</sup> January 2005)

Clearly, the club representatives will be critical of the procedures employed by UEFA, as that criticism is in itself a form of pressure. As long as the clubs are consulted, rather than endowed with decision-making power, it is likely that they will continue to be criticised. However, as Centenaro also notes, the process is a continual one, as both UEFA and the clubs seek to reach an accommodation with each other. Indeed, these representatives of Europe's elite grudgingly recognise the efforts of UEFA to introduce a greater degree of dialogue and consultation (even the more hostile Gandini legitimises the structures through his participation within them). It is also likely that the structures themselves and the position of clubs within the overall decision-making procedures will be the subject of ongoing evaluation. For example, the breakdown of influence within the ECF may be questioned as to whether it places appropriate weight on the biggest clubs, and whether such a forum is an appropriate arena in which to discuss certain issues. The structure of the Forum board is, however, far more evenly weighted. The associations ranked one to six command five of eleven place on the board. Whilst not a majority, it is reasonable that to carry a majority of the clubs, those from the top ranked associations should at least have to reach out to those from the second rung of associations.

Similarly, David Gill draws attention to the vital issue of transparency with regard to the process. The clubs will need to know not only that they are being consulted, but where their input fits into the overall process of decision-making. UEFA's declaration that it has made decisions 'following consultation' does seem unnecessarily vague. As Rick Parry argues: 'I think UEFA have probably been quite cute with the European Club Forum, because you've got such a broad spectrum that you'll never get unanimity of views. I'm sure they manipulate that quite effectively' (personal interview, 17<sup>th</sup> February 2005). In order for the Forum to be credible, such accusations will need to be addressed, and the means by which to achieve that may be to demonstrate the outcome of deliberations, and the weight placed on the various inputs. Gill is obviously correct to state the big clubs shouldn't get their own way all the time. Whilst the economic weight of the elite clubs clearly carries authority, football is ultimately a collective sport in which the interdependence of actors is a crucial element. General secretary of Rangers, Campbell Ogilvie articulates this in the context of UEFA-club relations, arguing that the effectiveness of the ECF will depend on the top clubs, as well as the nature of the system itself:

It will depend on how the G14 clubs conduct themselves on the Club Forum Board, if they still predominantly take a view that things should be geared to them. Or will they take people with them? Will they accept the views of the next band of clubs? Any change in football, you can't just go out on your own, you've got to take people with you. I think a lot will depend on how G14 clubs interact with the Club Forum Board, Club Forum meetings ... you have to take people with you, you get more through that, rather than go with an insular framework (Campbell Ogilvie, general secretary, Rangers FC, personal interview, 11<sup>th</sup> February 2005).

## *vi. The European Professional Football Leagues (EPFL)*

The competitive structure of European football is based almost exclusively characterised on national leagues. The relationship between the leagues and their national associations varies from country to country. According to UEFA separate league organisations exist in 31 countries. In 21 countries no separate league organisation exists (UEFA, 2004a: 6-7). In any single national association, there may be more than one professional league, and then a large number of semi-professional and amateur leagues underneath of that. The 15 largest Western European premier leagues are represented by the European Professional Football Leagues (EPFL). There are also an additional 16 national premier leagues, which, together with the EPFL, UEFA refers to as the 'European Premier Professional League Organisations' (UEFA, 2004a: 6).

Whilst the leagues and the national associations have co-existed there have been sporadic tensions. For example, the formation of the FA Premier League (FAPL) in England was the result of tensions between the FA and the Football League, which organised top division football prior to the formation of the FAPL. Similarly, autonomy was given to the leagues in Germany in 2000 following pressure from clubs and the Bundesliga for greater independence. More recently there is evidence to suggest that the leagues have looked to enhance their role and gain strength at the expense of the national associations. This can be seen in the drive towards greater independence for the leagues from the national associations, or indeed, in efforts to gain greater control of the national associations themselves. The growing commercial weight of the leagues, heightened by the growth in sums generated through the collective sale of television rights, has been followed by demands for greater say in the decision-making processes (FGRC, 2003: 3-7). Much power has concentrated in the leagues over the last ten to twenty years, especially where leagues continue to sell television rights collectively.

According to the Article 7.6 of the UEFA statutes leagues are defined as: 'A combination of clubs within the territory of a member association and which is subordinate to and under the authority of that member association' (UEFA, 2004a: 10). The statutory subordinate status of leagues is also stated in article 18.1 of the FIFA statutes: 'Leagues or any other groups affiliated to a member of FIFA shall be subordinate to and recognised by that Member' (FIFA, 2004: 13). The subordinate status is central to an understanding of power relationships in the governance structure of football. Whilst the leagues perform a regulatory role with regard to the rules of their own competition, the broader regulatory framework should be the preserve of the national associations, as are the wider issues of governance concerning issues like the international calendar and the transfer of players, and overall structures of competition. This dictates the way in which UEFA and the national associations integrate the leagues into the decision-making process and also the manner in which UEFA communicates with the leagues. Essentially the leagues are sanctioned and licensed by the member associations.

Like the G14, the leagues, through the EPFL, see themselves as the most important representative of the elite professional game. The EPFL is, by its nature, more representative, given that it represents all the clubs in each respective premier league, across the fifteen most prominent footballing nations in Europe and representatives of the EPFL have been quick to draw comparisons with the G14 that represents only eighteen clubs as Ian Blair remarked. Moreover, there is a general belief amongst the leagues that their role in the professional game and in generating revenues justifies a greater role in decision making at European level:

There is a feeling that the leagues, which at the end of the day drive the business end of football, everyone that plays in the World Cup, most of them come through the European leagues, everyone that plays in the European competitions comes through the leagues, everyone that plays in the major national countries in Europe comes through the European leagues. So we do drive an awful lot of the business end of football. I think we do believe that we should have an ability to influence at that level of the game (Iain Blair, company secretary, Scottish Premier League, personal interview, 11<sup>th</sup> February 2005).

It is very important for professional football to have the grassroots, to have the basics for football. For the grassroots, it's very important to have professional football. It brings the money to spend for development. The DFB get money from the league to finance the base ... the income of the national team, 82 per cent is in the pocket of the grassroots. Eighteen per cent is to the league for players for the national team. At UEFA it's the same. For the Champions League, they spend the money [that comes] from professional football from the top clubs that play in the Champions League ... professional football brings the money, it [should] have a vote, a direct vote, it's normal (Wilfried Straub, general secretary, Deutsche Fussball Liga, personal interview, 8<sup>th</sup> March 2005).

On a range of issues the EPFL is an entirely appropriate body through which the professional game should be represented on issues such as players' contracts, club licensing, the release of players for international fixtures, dispute resolution are issues relevant to all clubs. The EPFL will increasingly lobby for more influence within UEFA, citing the role of the leagues within the national associations as a yardstick for change. Given the representation of the leagues within the national associations, merited by their expertise on professional issues and in view of the financial contribution they make to the game, questions arise as to why such a system of representation is not replicated on a European level. Conversely, the representation of the leagues within the national associations is a reason cited by UEFA for not integrating the leagues into the membership structure of UEFA, or for being given more influence within the decision-making procedures. If the leagues are already represented within the national associations, in some cases heavily, then they, as a consequence, already represented within UEFA.

The formation of the EPFL, and its development into a fully-constituted organisation, has certainly caused a certain amount of disquiet in the national associations and UEFA, and a concern about the long-term motives of the organisation:

The reason that body got together [EPFL] is because there are areas of common interest amongst the premier leagues. We have similar problems, similar issues, we are all dealing with competition authorities, we are all dealing with broadcasters, with the EC etcetera. At one level UEFA is comfortable with that, because I think it sees us taking a degree of responsibility for the professional level of the game. At another level the executive committee has concerns about the European leagues. They specifically require, and we have quite happily said, that they specifically require us to say that we are not going to run competitions (Iain Blair, company secretary, Scottish Premier League, personal interview, 11<sup>th</sup> February 2005).

The omission of competition organisation from the EPFL's stated objectives was an important issue for UEFA. The EPFL, as a representative body with expertise in the area of competition, could have constituted an alternative means for clubs to organise competition outside UEFA's jurisdiction. That the EPFL opted not to include the competition competence illustrates UEFA's ability to influence the policy process, but also the precariousness of its position in terms of a new and influential actor inserting itself into the policy process. The omission of the competition competence in the short-term should certainly not be taken as a reliable guide to long-term ambition. The leagues, as a key stakeholder in professional football, have a natural interest in UEFA's most valuable properties.

The growth in influence of the EPFL raises two particular questions. Does the expertise of professional football demand a greater integration in the decision-making procedures, and to what extent does the political leverage of the leagues require a greater inclusion in the decision-making procedures? By addressing these questions one can analyse the future role in governance of the EPFL. There is no doubt that the EPFL can provide a valuable resource of expertise in European football. The EPFL has already assisted UEFA in its development of regulation at a European level

(on the transfer issue for example), particularly in the context of dealings with the European Union on matters such as employment law and the sale of television rights. Similarly, the EPFL also has a clear interest in sustaining the national league structure in the same way as UEFA, so there may be areas in which the two organisations can co-operate in attempts to consolidate the existing competitive structures, as Iain Blair indicates: ‘There has to be a balance between the domestic and the international game. The only way to achieve that is [to] let those who are involved in the domestic game have an influence. Not to make the decisions, not to say this is how it should be, but to actually have an influence and be listened to by those that are running the international game’ (personal interview, 11<sup>th</sup> February 2005). There may be, therefore, clear advantages to integrating the EPFL into UEFA’s governance processes.

Representatives of the leagues certainly talk up their level of influence within the game, and the need for the decision-making structures to reflect that level of influence:

The reality is that the balance of power is moving to the clubs and the leagues, I don’t think there is any doubt about that. I think if that is resisted just because some people think it is a bad thing then we are missing an opportunity. We have to recognise that is what is happening and it’s driven by the market ... I think what we have to do is recognise that the power is moving to the clubs and the leagues but harness that power for the benefit of the game as a whole. Not an easy task. But I do see that fighting can only end in tears (Iain Blair, company secretary, Scottish Premier League, personal interview, 11<sup>th</sup> February 2005).

As we have noted, the influence of the leagues in the national context has unquestionably increased. However, it does not necessarily follow that the growth of influence at a national level means that the EPFL benefits from a similar growth of influence in the European sphere. The context in which the EPFL operates is very different from that in which the national leagues operate. Whilst Blair correctly argues that the leagues drive the game economically at a national level, this is simply not the case at the European level. Blair refers to the increasing power of the leagues and the clubs, but in the European context it is the elite clubs themselves in the context of European competition that drive revenues. It is therefore the competing clubs that hold the political aces in the European context rather than the leagues, whose leverage in the international sphere is therefore reduced. This is recognised by elite clubs of Europe:

One point I would like to make is that there is a big difference between clubs and leagues because every national association has a league, and within that league there are the big, and the middle and the small sized clubs, and as it is on national level, it becomes on international level, that the big clubs are in a minority. But they are a necessary minority. When it comes to European competition for clubs, the leagues are not to be involved anymore, because the leagues are just qualifying through their system those who advance to European level. It should be and has to be as much as possible a direct dialogue with UEFA, if UEFA is the organising body of the competition (Umberto Gandini, organising director AC Milan, personal interview 14<sup>th</sup> February 2005).

Nevertheless, whilst the leagues themselves have no inherent power over European competition, it may be that the EPFL provides a framework in which the elite clubs can achieve their objective of gaining greater independence from UEFA in the organisation of competition. The EPFL could act as a potential ally of the clubs. There may be potential for the clubs in choosing this particular route. The EPFL represents only fifteen leagues, and so European competition could potentially be organised with a smaller field of participants thus increasing the revenues available to each club. However, there are also diverging interests between the elite clubs and the leagues that would act as an obstacle to co-operation. The leagues would always be looking to defend their own competition. The elite European clubs may, however, be seeking to increase European competition at the expense of the domestic competition with the potential effect of weakening the domestic leagues.

Thus it may be that co-operation with the leagues would cause similar problems that the clubs encounter working with UEFA. A far more likely scenario is that the elite clubs would seek their own solutions independent of both UEFA and the leagues. Umberto Gandini is dismissive of the future role of the EPFL and the leagues in the European context:

They can even use the G14 offices in Brussels – would be fine, no problem, we have space, would probably be cost saving for both of us. But if they want to come here, to come in and rule like the French league guy says and so on, forget it. We don't care. We honestly don't care. Again, 15 plus leagues, they are so different, so different. In every league you have the top three or four clubs and the rest. In an association of leagues, you have the top four or five leagues and the rest. And they are desperately and deeply different from each other ... I think the leagues have to realise that if they are going to have an organisation to run their business better, fine, but if they want to have an influence, forget it, especially when they have leagues like the Spanish league which has no control whatsoever over what Madrid and Barcelona do. Or in Portugal where Porto doesn't care what the league says. How can the Portuguese league be more important than Porto or Benfica for European football? It's impossible ... the challenge will come from clubs (Umberto Gandini, organising director AC Milan, personal interview, 14<sup>th</sup> February 2005).

The concern that the leagues, through their expertise in competition, have a right to be involved in the organisation of European competition does not correlate to their level of political leverage. Additionally, UEFA and TEAM are recognised as having successfully built and organised a well-marketed and organised competition. Secondly, as Rick Parry, former CEO of the FA Premier League stated with regard to the Champions League:

I'm happy with it, but then organising competition isn't very difficult. It's not rocket science. When we started the Premier League the philosophy was that we would keep it simple; for five years we ran it with five people. It's pretty straightforward. UEFA, they do it well. The Champions League is perfectly well managed, the presentation, the commercialisation, the dressing of the stadiums, it feels like a special competition, and it's done very, very well. It's okay, so leave it, don't feel the need to fiddle with it all the time (Rick Parry, chief executive, Liverpool FC, personal interview, 17<sup>th</sup> February 2005).

In this context it is difficult to see what added value the leagues would bring to the organisation of European competition. Moreover, a maximum of four clubs from any one league compete in the Champions League, so why would a body that represents, for example, twenty clubs be the appropriate vehicle to represent those four in a different competitive context? Consideration must also be given to other weaknesses in the position of the EPFL. Whilst the power of the leagues may have grown in the last decade, the leagues may face future pressures undermining their role within the governance structure. The declining level of competitive balance in domestic leagues is unlikely to change in the foreseeable future, and may indeed decline further. If that is the case, it is likely that the national leagues may themselves face new pressures.

#### *vii. The Professional Football Committee*

Whilst the national associations are the sole members of UEFA, UEFA has increasingly sought to integrate the leagues into its channels of communication. A Memorandum of Understanding between UEFA and the premier leagues of Europe was signed on the 27<sup>th</sup> January 1998, predating the Media Partners intervention. This agreement can be seen in the context of the financial growth of the leagues, their increased independence, and also their increased leverage within the national associations. There is unquestionably a desire amongst the leagues to extend the influence they have at a domestic level to the international domain, and the agreement the EPFL has with UEFA can be

seen as the first step in that direction. The terms of co-operation included in the memorandum can be seen in appendix 5. The key aspects are the formation of the UEFA Professional Football Committee (PFC), and the right of the EPFL to appoint five members. The terms of reference of the committee are also included in appendix 5. Again the critical aspect of the relationship that UEFA has with the leagues, through the Professional Football Committee is that the committee itself has no decision-making powers under article 37.3 of the UEFA statutes: 'Committees advise the chief executive, who may delegate certain duties to a committee' (UEFA, 2004a: 20).

The terms of reference of the Professional Football Committee are of some interest. There is a commonality of interest between UEFA and the PFC. For example, the maintenance of national league structures is reflected in the objective 'to promote and safeguard the interests of Professional Football Leagues within Europe with regard to their specific problems', and 'to promote all interests of the Professional Football Leagues'. Also the PFC has no role in devising the format of UEFA club competitions, only discussing the impact of such competitions on the domestic leagues. This accurately reflects the limited role of the leagues in the organisation of European competition. Indeed, whilst the decisions of UEFA clearly impact on the domestic leagues, one must critically question the extent to which the leagues, through the EPFL, should have decision-making influence. Whilst there is a congruence of interest between the national associations and the national leagues with regard to, for example, the structure of European competition, the leagues are ultimately representative only of their member clubs. It is difficult to see why the scope for decision-making should be extended to the leagues through the PFC. There are few issues in which decisions impact solely on the leagues. Where this is the case there may be a case for greater delegation to the leagues. This is the case for example on the distribution of income from the Champions League to non-participating clubs. Such a task has no impact on any other stakeholder, which allows UEFA to delegate the responsibility to the PFC. Whilst the leagues talk about being 'partners' in the decision-making process, what this ultimately means is that the leagues wish to be party to decisions in areas in which they currently have no influence. Whereas the national associations are, by and large, in a position to take decisions in the broader interests of the game, taking into consideration the influence and interests of a wide range of stakeholders, the leagues would continue to lobby strongly and solely in the interests of their member clubs. The decision-making influence of the leagues should therefore continue to be tightly controlled, and subordinate to the national associations.

It is incumbent on UEFA, and in the organisation's interests, to carefully consider the views of the leagues, and how decision-making impacts on them. This is evident in some of the issues raised by the league representatives. If the national associations are to retain sovereignty over decision-making then they have a responsibility to take decisions equitably and with awareness of the impact of the decisions they are taking. This can only be achieved through open and genuine dialogue with those upon whom the decisions impact. It may be that this principle applies most critically at a national level, where the leagues have a more entrenched relationship with the national association, and at a global level because of FIFA's role in the regulation of the game. There is considerable disquiet, for example, at decisions taken unilaterally by FIFA, without any prior discourse with the leagues. This was particularly evident in the decision taken to halt all professional football in Europe from May 14<sup>th</sup> 2006, one month prior to the FIFA World Cup, leaving clubs unable to play (and therefore generate revenue) for an unprecedented period of time. The international calendar and negotiation of match days may therefore be a legitimate area in which the leagues have a more influential role (personal interviews with Jean-Marie Philips, President, Ligue Professionnelle de Football, Belgium, 20<sup>th</sup> January, 2005; Wilfried Straub, general secretary, Deutsche Fussball Liga, 8<sup>th</sup> March 2005; Umberto Gandini, organising director, AC Milan, 14<sup>th</sup> February 2005). Again, protection of the national leagues is also a key objective of the national associations, and as such may be a point in which UEFA can heighten the influence of the leagues. As Iain Blair argues: 'The domestic game can survive without the international game but not vice versa and that's not recognised. There needs to be a greater ability of those involved in



domestic football to influence the international calendar' (Iain Blair, personal interview 11<sup>th</sup> February 2005).

There is dissatisfaction amongst the leagues about the structures of stakeholder integration within UEFA. Scepticism remains about the extent to which genuine consultation takes place, and league representatives argued that consultation is either followed by decisions taken which are at odds with the advice and recommendations given, or that decisions are taken without recourse to any advice at all. Representatives of the leagues raised these concerns in relation to the specific contemporary issues:

The executive committee in December approved or recommended a change in the competition rules such that artificial pitches may be used without impediment in UEFA's club competitions. That had been discussed at no time to my recollection in the Professional Football Committee and to the best of my knowledge had been discussed at no time in the Club Forum ... I think the concept of having interest groups who know and understand the areas of the game in which they are involved in is very, very good. But I think you have to use them sensibly (Iain Blair, company secretary, Scottish Premier League, personal interview, 11<sup>th</sup> February 2005).

Blair also therefore notes that the committees, for some, are simply tools by which UEFA can say that they are listening and consulting, and rather than the desire for a genuine discussion and a basis to glean the requisite expertise. Again these complaints highlight the need for a greater transparency and accountability in the decision-making process of UEFA. Dissatisfaction is evident in the decisions that are taken, but also, in the process itself. Just as the clubs complained, so too have the leagues argued that advice is offered and then subsequently ignored. Of course, taking advice from all sectors of the game inevitably leaves certain sectors disappointed but through transparency in the process, disappointed stakeholders could be able to see the logical process by which decisions are taken.

#### *viii. UEFA and FIFA: governance and club competition*

##### *A brief history*

In chapter one, we reflected on the breakdown in responsibilities between FIFA and the continental confederations with specific relation to UEFA. Whilst FIFA has traditionally enjoyed responsibility for organising the World Cup, and authority over global regulation of the game, UEFA has had responsibility since its formation for the organisation of international club competitions in Europe, and since 1960 for the European Championships (Euro) for national teams. In the first report on the activities of UEFA, reference was made to the relationship between two organisations. UEFA secretary Pierre Delauney stated:

We must also emphasise that our work should in no way, supplant the important role played, at our head, by the International Football Federation. It is this Federation that continues to have sovereign power with regard to the different international regulations we have laid down for ourselves. We are here, on the contrary, to give this organisation our complete co-operation (Report on the activities of UEFA, 1954-1955).

Delauney also notes FIFA's role in sanctioning UEFA's role in the organisation of club competition:

Since the first March 1955 our executive committee has held three meetings on the 21<sup>st</sup> June 1955, the 14<sup>th</sup> August 1955 and the 18<sup>th</sup> and 19<sup>th</sup> March 1956. Each time it settled the large problems with which it was faced. Its main concern has been the founding of a European club

cup ... Noting that the article 9 of the FIFA statutes lays down that a tournament involving more than three teams of different national associations must be authorised by the FIFA and certainly because a competition of this extent cannot be ignored by authorities constituted as ours is, the executive committee of FIFA declared that this competition could only take place if it was directly organised by the European Union. Despite the heavy task this competition would entail, our committee having taken into account all the responsibilities involved, decided to look after the running of it (Report on the activities of UEFA, 1954-1955).

The history of the two organisations has therefore gone a long way to dictating the divisions of responsibilities. However, the progression of global international politics in the post-war era has impacted significantly on the relationship between the two organisations. Post-war decolonisation in particular led to a dramatic increase in FIFA's membership, weakening European influence within a one-country, one-vote democratic structure. Indeed, according to Sugden and Tomlinson: 'the mounting awareness, within the European associations, of the emerging threat to their privileged position within world football's power structures, was the motivating factor behind UEFA's formation (Sugden and Tomlinson, 1998: 28-30). Following the foundation of UEFA in 1954, the FIFA presidency was held by two Englishmen, Arthur Drewry and Stanley Rous between 1956 and 1974.

Following the formation of UEFA in 1954, the next significant critical point in its relationship with FIFA was Joao Havelange's election defeat of Sir Stanley Rous for the FIFA Presidency in 1974. It was at this point that the 'politics of international sport began to work against the established Eurocentric domination of the administration of the international game. Havelange's victory against Sir Stanley Rous was a power change of seismic significance not just for soccer but for the global political economy of sport' (Sugden and Tomlinson, 1998: 20-21). Utilising a system of patronage – what Sugden and Tomlinson, quoting Bayart, refer to as the 'politics of the belly' (1998: 144-151; Bayart, 1996) – enabled by the commercialisation of the World Cup, Havelange exploited the structure of FIFA to retain control of the organisation until his retirement as president in 1998. By rewarding FIFA's more impoverished members with financial support and patronage, Havelange was able to control FIFA in the manner of a personal fiefdom for nearly twenty-five years, and easing the succession of his general secretary Sepp Blatter into football's top job in 1998. There were bitter battles for the FIFA presidency in 1998 and in 2002 and prior to the 2002 election, President Blatter was called on to resign from his position as president after the filing of a criminal complaint to the Swiss Public Prosecutor on behalf of eleven members of the FIFA executive committee. The complaint was based on a report compiled by the then FIFA general secretary Michel Zen-Ruffinen listing thirteen cases of misdemeanour by the FIFA president (Sugden and Tomlinson, 2003: 29-38). Blatter's victory at the 2002 election in spite of this says much about the internal politics of FIFA, and served to further frustrate UEFA in its efforts to regain greater influence within the global governing body. So whilst the division of responsibilities has been relatively clear in the last half century, the relationship between the two organisations has been characterised by barely disguised hostility for a substantial proportion of that time. It is in that context that re-evaluation of the relationship between the two organisations is taking place. This has been evident in two specific areas: the respective roles of the two organisations in governance and regulation, and in the organisation of club competition.

UEFA's declining influence within FIFA led to an attempt in 1995 to alter the relationship between the confederations and FIFA through the *Visions* proposals. According to Darby, 'the central precept of the proposals was to incorporate the confederations more centrally into the world body by involving them in a pivotal manner, in the key functions involved in administering international football' (Darby, 2002: 114). The main proposals of *Vision I* were to reduce the six existing confederations to four, merging Oceania with Asia and CONCACAF with South America; rotating hosting of World Cup finals; the selection of FIFA Executive Committee members by confederations rather than by the president; rotating the FIFA Presidency between confederations

with a four year maximum term (Darby, 2002: 114). *Vision II* was concerned with the redirection of funds from the World Cup to the national associations.

Whilst the *Visions* proposals were initially treated with scepticism by FIFA (Darby, 2002: 114), compromises were reached. Firstly, new national associations would apply first for membership of their respective confederation and subsequently to FIFA; the confederations would be responsible for players' transfers within the same continent, with FIFA responsible for transfer of players between continents (this has subsequently been reversed), and the executive committee of FIFA was to be elected by the confederations rather than appointed by the president. The European members of the FIFA executive committee, without a direct mandate within UEFA, also sit on the UEFA executive committee with the intention of smoothing communication with between the world and European confederations. A detailed analysis of the electoral relationship between UEFA is beyond of the scope of this study, requiring as it would a critical analysis of FIFA relationship with each of the confederations, but this would certainly be an interesting area of research for scholars of football governance in the future.

### *Governance*

Reference to the structural relationship between the two organisations aids a critical understanding of the how responsibilities and competences between the two organisations might develop in the future. Firstly, the fact that the national associations are members of both UEFA and FIFA creates a situation in which, despite the historical division of responsibilities, national associations have a critical relationship with two international organisations, and must be responsive to both. Former FIFA general secretary Michel Zen-Ruffinen explains some of the problems this poses in the context of the governance of professional football:

The basic problem is that the associations are members of the two respective international organisations. The second one, UEFA, is not a member of FIFA. You have a very peculiar structure with a world governing body being able to give instructions to national associations worldwide, and another body at European level, which is able to do the same basically, totally independently from what FIFA is saying. So the fact that there is no membership between the continental confederations and the world body has lead to some problems in the past and most surely are still there. You are trying to define the rights and duties of the confederations by a contract, which in my opinion is not very logical. On the other way, it is also an advantage mainly that UEFA is not totally bound by what FIFA decides and in my opinion UEFA has a key role to play in football because UEFA and the confederations they are in charge of taking care of the clubs' interests. For me biggest problem is that FIFA has never really taken care of the clubs, which are the basis of the football pyramid. UEFA in that sense has a philosophy, which is totally different from FIFA because they are more linked to the professional football than FIFA. FIFA is just at the top, has the World Cup to generate money for four years and basically only is there to organise national associations' competitions, which is quite different from professional football club competitions (personal interview, 1<sup>st</sup> March 2005).

The dual membership of national associations of both FIFA and UEFA may, therefore, be the source of discord between the two organisations, in which they become rivals for different aspects of the game as opposed to partners. Such a rivalry inevitably hampers efforts to find logical and mutually beneficial solutions to some of the challenges faced by the governing bodies. The problem is that beyond the statutes of the two organisations the relationship is not as clearly defined as is necessary. Should the two organisations wish to define their relationship and areas of responsibility more clearly, then this would be possible under both FIFA and UEFA statutes (articles 20.4 and 3.2 respectively). By developing a clearly defined contract the two organisations could remove the ambiguity of responsibility that currently characterised the relationship, and a procedure to follow when the statutes come into conflict. Instead of the logical strategic pursuit of shared objectives the

boundaries of responsibility have been coloured by organisational jealousies rather than strategic alliances. FIFA vice-president David Will acknowledges the tensions, but also notes the improvement in relations over the course of the last two years:

There were counter jealousies, one against the other over recent periods. The growth and strength of UEFA, and the kind of money that UEFA was generating, huge development in the Champions League in the last ten or fifteen years, FIFA became I think a little bit jealous of this huge strength that built up in Europe. Europe on the other hand was a little bit jealous of certain things that FIFA controlled which they felt should be a confederation issue, still subjects of discussion, things like transfers. UEFA still thinks that transfers within Europe should be controlled by UEFA and that transfers internationally, inter-confederational should be controlled by FIFA, for example. Whereas FIFA was jealous of this huge power-base they had built in UEFA, UEFA at the same time, were constantly saying that's our business, what's FIFA doing interfering, I don't just mean transfers, I mean all sorts of things. Why are they making an announcement about this? This is a European matter. Nothing to do with FIFA – let them get on with the huge international role. So there have been a lot of jealousies, personality difficulties, no doubt about that, which have now been solved in that Lennart Johansson and Sepp Blatter now get on very well together. Each respects the others' positions. Far more importantly, Lars Christer Olsson and Urs Linsi get on extremely well, the progress and cooperation between the two bodies in the last couple of years has dramatically changed. So having gone through a very difficult period, absolutely no doubt a very difficult period from I would say early nineties, 94, through to 2002, things are now good ... from non co-operation to excellent co-operation (personal interview, 21<sup>st</sup> April 2005).

This structural relationship between the two organisations has therefore historically generated a culture of rivalry and jealousy rather than co-operation and shared objectives. UEFA's more consistent and regular involvement in elite club football has clearly been a major source of friction. Despite the improvement in relations noted by Will, contention remains over the division of competences and responsibilities. Furthermore, it is also worth noting that FIFA's internal operation and culture fundamentally affects the ability to re-evaluate the relationship between the two organisations. Whilst the UEFA Congress elects representatives to the FIFA executive committee, the organisational culture of FIFA is characterised by both the executive power of the president, and also the control he can exercise over the governance structures of the organisation. This is endowed through the statutes of the organisation – for example, the president has sole responsibility for appointing and dismissing the general secretary (FIFA Statutes: article 32.3) and 'supervising the work of the general secretariat' (article 32.2b) – but also through FIFA's organisational culture. The president retains a tight control over the committee structure for example, as former general secretary Michel Zen-Ruffinen explains:

Basically confederations do write to FIFA, send lists in which there are all the proposals. According to these statutes, basically these lists should be accepted as proposed. But again, it goes the other way around most often, not that much with UEFA, but especially at least two other confederations where FIFA or its president decide they would like this guy, this guy and this guy in the committee for reasons which are not always very understandable. And that leads to committees which are a mixture of people imposed by the confederations and people co-opted by FIFA, the purpose being of course to make sure every committee may be controlled (personal interview, 1<sup>st</sup> March 2005).

Whilst the evidence of Zen-Ruffinen could be questioned on the basis of his acrimonious tenure as general secretary and his subsequent departure, the organisational culture of FIFA, and the dominance of the president and the political repercussions arising from that have also been

articulated elsewhere (Sugden and Tomlinson, 1998 and 2003). The nature of FIFA as an organisation means that control of the organisation is dependent of the support of national associations. The quest for this support, through patronage and power politics impacts enormously on the role of the confederations within the context of football global governance. Divisions are created within the confederations as a means to secure FIFA presidential election. By retaining and extending control of specific areas of the game FIFA can generate the revenues required for successful candidates to manipulate the democratic structure of FIFA as a means to maintain control. The irony is that, whilst FIFA and UEFA have remarkably similar organisational objectives, in terms of supporting the interests of the national associations and national team football, and promoting the development of the game and solidarity between different nations and different levels of the game, the relationship that has developed between the two different organisations actually weakens the ability to achieve these objectives.

In the context of political struggles within FIFA and between FIFA and UEFA it is hardly surprising that areas of responsibility between the two organisations remain contentious. FIFA's formation of the World Club Championship, for example, represents its first foray into the organisation of club competition, whilst UEFA has become increasingly keen to increase its role in the regulatory areas of the game. These issues remain the subject of debate between the two organisations as Will articulates above. Any effort to sensibly renegotiate the boundaries of responsibility has inevitably hit upon the well of distrust and acrimony that has built up over the course of the last two decades, although there have been points at which the mutual interest has brought the two organisations working together.

It is clear, however, that UEFA sees some kind of re-evaluation of the breakdown of competences between FIFA and the confederations. The challenges to the authority of UEFA from the clubs and leagues may ultimately be leading to an overall re-evaluation of its role within European football, and there seems little doubt that UEFA sees an extension of its regulatory power within the European game as one means of achieving that. According to Liverpool FC chief executive Rick Parry:

Arguably UEFA is trying to find a new identity, a new role for itself. Historically, of course, it was the national associations and FIFA in regulatory terms. And the only purpose really of the confederations was to organise competitions. That was the purpose. And no doubt it still is the purpose in some of the documentation. Fifteen years ago UEFA would have been a modest little organisation, modest secretariat, whereas now its competing in a sense with FIFA to take greater influence on the back of the ascendancy of European club football, and to a lesser extent at international level. Obviously, the Champions League has been immensely successful. But you see that tension came very evident certainly in the post-Bosman era. I was at the Premier League at the time and involved in the UEFA working party to put new transfer rules in place in response to Bosman, spent a lot of time on it, a lot of effort went into it, and the end FIFA said, its very interesting, but its not UEFA's job its our job, and you see it resurface now I think to an extent with UEFA debating the role of agents. So, I think it's an organisation looking for a new identity, and there's undoubtedly a degree of power struggle going on between UEFA and FIFA (personal interview, 17<sup>th</sup> February 2005).

Parry's direct involvement in the transfer negotiations is revealing as it illustrates the importance of UEFA's involvement in negotiating a solution with the EU, but at the same time demonstrates FIFA's reticence about the delegation of certain responsibilities. The delegation of European transfer activity to UEFA would bring regulation closer to those upon whom it impacts. Moreover it would free up FIFA's time and resources to concentrate on other important international matters.

In its recently articulated strategy, UEFA states: 'The division of competences between FIFA and UEFA/the confederations should be evaluated with a view to defining more clearly the different tasks and competences, and allocating them so that the tasks are completed in the most efficient way for football. Within Europe, there are many areas that work well currently, and there

are some areas where there is a duplication of activities or inefficiencies' (UEFA, 2005b: 33). The document goes on to state: 'perhaps different solutions in different confederations would be better for the development of world football' (UEFA, 2005b: 33). This final comment is almost certainly a cloaked reference to the need to delegate more responsibility for certain areas of the game to UEFA. Whilst FIFA is the body with overall responsibility for regulation, rightly so given the need to have consistent regulations through the sport across different nations and regions, there is a case for a greater degree of delegation of responsibility to the continental confederations. As UEFA chief executive Lars Christer Olsson argues:

I think what could be done is to make FIFA more flexible in a way that they delegate or they assist the confederations in different ways. The needs of Oceania compared to Europe are different and that should be reflected in the relations (Lars-Christer Olsson, chief executive, UEFA, personal interview, 16<sup>th</sup> November 2004).

Whereas FIFA might be the most appropriate organisation to regulate certain aspects of the game in less developed confederations, the level of professionalism with UEFA is such that it could more effectively take responsibility on a European level. UEFA unquestionably has the resources and infrastructure to cope with extended responsibility, and indeed would probably do a better job of policing transfers on the continent of Europe, and the role of agents than FIFA is capable of<sup>59</sup>. An extension of responsibility confers legitimacy on the organisation that operates these tasks.

Recently, UEFA also made clear its intention to take a more direct role in the control of agents in European football, by formulating a working group to 'develop recommendations and proposals to improve the situation within professional football in Europe' (UEFA, 2005b). The regulation of agents officially remains a responsibility for the national associations and for FIFA, but not the continental confederations. Whilst UEFA desires a greater degree of regulatory responsibility, there are arguments why international regulation takes place under the jurisdiction of one organisation. It would be inappropriate, for example, for different continents to have different regulations concerning common matters (personal interview, Jérôme Champagne, deputy general secretary FIFA, 3<sup>rd</sup> March 2005). Nevertheless, it would be perfectly feasible for FIFA to develop the regulations at the centre, and then for the confederations to implement them in the regions. However, FIFA does not want to relinquish its role, fearing an overall diminution of authority in favour of an economically powerful UEFA, in spite of concerns about the ability of FIFA to exercise its responsibilities effectively:

Hard to see it being delegated with any great will. FIFA doesn't capitulate to lose power. Of course, there is an argument that you need co-ordination right across the world. You can't have one set of rules for UEFA and one for Africa, but that actually pre-supposes that FIFA does the job properly. And it certainly hasn't done anything to usefully or sensibly regulate agents, for example. And arguably the transfer system is a bit of a nonsense at the moment. And there's no doubt the economic basis is very much Europe, that's where the strength is, in terms of the clubs and the major national associations. I think FIFA will have to be careful. But UEFA won't be given power. It might have to take it, it certainly won't be given it willingly (Rick Parry, chief executive, Liverpool FC, personal interview, 17<sup>th</sup> February 2005).

The problem is that FIFA will not be ready to do that because they will lose a little bit of their power and therefore the situation will not develop in that sense in the next years (Michel Zen-Ruffinen, former general secretary, FIFA, personal interview, 1<sup>st</sup> March 2005).

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<sup>59</sup> Indeed, it took FIFA thirteen months, after receiving a request from the English FA to look into the transfer of Harry Kewell from Leeds United to Liverpool, to decide that it had no jurisdiction on the matter and handed the file back to the FA ([http://www.thefa.com/TheFA/NewsFromTheFA/Postings/2005/09/TheFA\\_KewellClarification.htm](http://www.thefa.com/TheFA/NewsFromTheFA/Postings/2005/09/TheFA_KewellClarification.htm)).

UEFA's day-to-day involvement in club football through its role in the organisation of club competition brings it far closer to the individuals and organisations involved than FIFA. Similarly, UEFA's role in regulating European club competition could be naturally extended to incorporate the regulation of both agents and international transfers in Europe. Moreover, it is widely seen that FIFA has lacked the necessary competence to effectively enforce its own regulations in these areas. The pernicious role of agents in the football industry has been widely recognised in the media for a considerable time, and FIFA has failed to take any effective measures to either reduce their influence or regulate their actions in any effective fashion. Indeed, UEFA's intervention in this area, it claims was based on the request on 'several occasions by key stakeholders to take action on the role of agents in within professional football in Europe' (UEFA, 2005c). That in itself is an indictment of FIFA regulatory performance. Rick Parry argues strongly that regulatory responsibilities need to shift in the future:

I think there's a degree of vacuum, because you're not getting that from FIFA, that's for sure. FIFA is a busted flush, without a lot of credibility in many people's minds. So if I was in UEFA, looking at seizing any opportunities, that's where I would be looking to seize. FIFA aren't going to give it up. I'm a great believer that responsibility is 80 per cent taken, 20 per cent given. So I think I might be thinking that there is a big opportunity to shape its own rules on agents, on transfer rules, on transparency, and if FIFA complains, well tough. UEFA in Europe has some very strong cards to play. Why shouldn't their countries pull out of the World Cup? What would happen to FIFA if they did? It would be absolutely decimated. Again we hold probably far more cards than we sometimes think, but you've got to be prepared to play them (personal interview, 17<sup>th</sup> February 2005).

Parry ideally illustrates the nature of the challenges that UEFA faces in this area. He draws attention to FIFA's ineffectiveness in regulating at an international level, but at the same time notes FIFA's unwillingness to countenance the redrawing of regulatory boundaries. The history of inter-organisational conflict, the inevitable clash of personalities between individuals within the two organisations, and problems in the structural relationship between the two organisations militate against new solutions based on the merits of the arguments advanced. FIFA will seek to protect its privileged position within the game, irrespective of its inability to discharge its responsibilities effectively. In that situation, UEFA may well be left only with the opportunity to play the fairly drastic cards that Parry suggest that UEFA has in its armoury.

### *The FIFA Club World Championship*

FIFA's incursion into club football through the formation of the Club World Championship constitutes one area in which the traditional boundaries of responsibility between FIFA and the confederations have shifted. This, it is argued, constitutes a threat to UEFA through the potential future challenge to the hegemony of the Champions League as the pre-eminent club tournament in World football. As Radnedge has argued: 'I believe one day UEFA will come to regret allowing FIFA to get its foot wedged in the club door. Lennart Johansson and Lars-Christer Olsson may need an English lesson. What price G14 clubs, for example, taking a leaf out of the formation of the Premier League a decade ago and approaching the governing body with their ambitions for world domination?' (Radnedge, 2005: 43) The competition has been the subject of much contentious debate. Primary amongst this is the addition of a further competition to an already congested football calendar, and this was most clearly illustrated by Manchester United's withdrawal from the FA Cup in order to play in the inaugural tournament. Of course the tournament raises a number of argument both for and against. As FIFA and UEFA executive committee member Michel Platini argues, such a tournament was conspicuous by its absence in the international calendar:

I am for the World Club Championship. Because it's the only competition missing to football. But when I worked on this tournament I think that we have one confederation champion, and we need to make to make a tournament with the confederations. Not an invitation, but the Champion of Europe needs to play the other champions. It's the only competition we missed in international football. We don't have a competition between the champions of the confederations, to be the world champion. I was world champion with Juventus. But we played one game. We need to have respect for Asia, Africa, Oceania, and North America (personal interview, 21<sup>st</sup> March 2005).

The motivations behind the tournament are no doubt many and varied. European club football is dominant and one motivation behind the tournament was to allow clubs from different continents to compete against Europe's elite as a means to foster development (Jerome Champagne, deputy general secretary, FIFA, personal interview, 3<sup>rd</sup> March 2005). Needless to say, economic reasons were also instrumental in the formation of the competition. According to former FIFA general secretary Michel Zen-Ruffinen:

The motives for me are absolutely clear. There are some people who like their clubs or their associations to earn more money and the only way to do that is to play big countries, and the only way to play big countries is to organise such a competition ... Through such competitions you will have the possibility to do so and therefore attract people and money. For me, the sports argument with these competitions is subsidiary. Clearly, the FIFA World Club Championship as it is organised should not exist. It does not interest people. How can you imagine the interest of supporters to see a match between Real Madrid and a club from Central America. It's not attractive. There is a gap of level between the two (personal interview, 1<sup>st</sup> March 2005).

Of course, the impetus for the tournament is an amalgamation of sporting and financial motivations. In actual fact, the development of the tournament has aptly demonstrates the intrinsic connection between the two. The dominance of European club football, in financial terms and also with regard to standards, means that from a sporting perspective, the tournament has little in the way of sporting merit. Only South American clubs would provide anything in the way of genuine competition. If the competition were to be organised on any kind of scale, the questionable sporting credentials of the tournament would be reflected in the lack of interest and subsequent lack of financial value. This was evident in the problems that Traffic, FIFA's marketing partner, had in selling the rights to the 2001 event resulting in its postponement (FIFA, 2001). The subsequent contraction of the tournament, in which the Champions of Europe and South America will play a maximum of two games in the next tournament in Tokyo in December 2005, reflects both the sporting and financial status of the competition. The new format of the competition is a reasonable and more realistic incarnation of the current potential of the competition. According to FIFA vice-president David Will:

I think it will be a hugely successful tournament, which it has not been so far. But I think the new concept of the tournament, which will be an annual event, to replace the Toyota Cup ... the team that wins the Champions League is usually delighted to go and play in the Toyota Cup. And the new concept when they go over there and play two matches is very attractive. The money will be good. So far as the concept is concerned, it's the President's baby, its Blatter's baby, absolutely. He was the one who wanted it and pressed for it, and the lesser confederations were very keen on it ... he also accepted eventually, that the original concept was just not on. Having eighteen clubs, playing in a tournament with groups and so on, it just wasn't going to happen. If he did that he simply would not have the Real Madrids, the AC Milans, the Manchester Uniteds, you simply wouldn't get them. I think the concept is now



good, I think it will be a hugely successful tournament. It'll become one of the highlights of the international calendar (personal interview, 21<sup>st</sup> April 2005).

And in regard to FIFA extending its role in club competition?

No. Simple, short answer, no. I think the Club World Championship is it. I think FIFA to some extent has, a little bit, had their fingers burnt with the Club World Championship as produced before ... in Brazil, it was a disaster from every point of view. The second was even totally cancelled because they couldn't get the sponsors basically. So I think FIFA a little bit had its finger burned, and realised that their duty was for the international national teams, and not the clubs, which were essentially internal to confederations and to the national associations, and that the Club World Championship was enough. I cannot see FIFA becoming more involved in club football (David Will, FIFA vice-president, personal interview, 21<sup>st</sup> April 2001).

No risk at all. You have eight or ten teams in this club world championship, and you can only bring three of your top teams. Again there is no interest at all from the people so I don't see the problem ... I don't think FIFA is a threat. FIFA has its own garden and they work in their own garden and as long as UEFA leaves them in peace they are happy so it's not a problem of danger for UEFA (Michel Zen-Ruffinen, former FIFA general secretary, personal interview, 1<sup>st</sup> March 2005).

I don't see it developing at all. Why should it develop? We already think it has developed far too far (Thomas Kurth, general secretary G14, personal interview, 18<sup>th</sup> January 2005).

We didn't need another competition. I can understand FIFA's strategy to get on club football, I understand. I think it's also nice to have world club champions, even if to have a system that is already reduced ... I don't think it will ever be a competition to which you would die for, but it's nice to have (Umberto Gandini, organising director, AC Milan, personal interview, 14<sup>th</sup> February 2005).

In the short and medium term, and so long as European club football remains economically advanced, UEFA will have little to worry about in terms of FIFA's involvement in club competition. In that situation the Champions League is likely to remain the pre-eminent club competition, and it is inconceivable that FIFA would seek to usurp the club competition of one of its own confederations, unless it was replaced by a global competition that could be justified on sporting and financial grounds. Furthermore, the reception of the clubs to the tournament has lingered somewhere between lukewarm and hostile. Should FIFA decide to venture further into club competition and wrestle European club football from UEFA, it would be subject to all the same pressures and problems that UEFA faces in that area, but without the professional infrastructural advances that UEFA has made in order to deal with them. Nevertheless, FIFA has developed a link with the clubs independent of UEFA involvement. However, the prospect of an alliance between FIFA and the clubs that would affect UEFA's role in club competition seems remote. As Thomas Kurth argues:

I don't think that the Club World Championship will grow further, even if FIFA might wish to expand it. This could only happen if the clubs were actively involved in discussing competition format related issues and if the clubs had a direct say in such a decision. Right now the clubs have no say, are not associated to any decision taking process in FIFA, not even when it is about the Club World Championship. As long as this way of governing football continues I can't see a realistic opportunity for FIFA to increase its club football activity (personal interview, 18<sup>th</sup> January 2005).

## *x. Summary*

The major pressure on UEFA from within the ‘football family’ is seen to come from Europe’s elite clubs, through the G14 organisation, and from the leagues, through the newly formed European Professional Football Leagues (EPFL). Yet this should not be considered in isolation from some of the issues we have already discussed. Governing bodies cannot make decisions and structural transitions based solely on the level of pressure applied or, worse, the perception of the intensity of that pressure. As mentioned earlier the authority that exists in the hands of the national associations, and UEFA and FIFA is not inconsiderable, and may perhaps have been underestimated. So when King argues that UEFA may eventually become little more than a forum for the clubs participating in the Champions League, or other future competitions, he considers only the influence the clubs may have in shaping the future, and underestimates the concomitant pressures to remain within the existing structures that have forged Europe’s pre-eminent cultural pastime. Governing bodies need to consider a variety of factors of which the pressure applied by stakeholders may just be one, albeit a highly significant one.

The history behind FORCE and the restructuring of committees certainly lends credence to the view that UEFA reacted to the changing power dynamics in European football. The clubs certainly felt a growth in their level of influence, which hastened the need for UEFA to adapt and end the outdated requirement that all club and league business be conducted through national associations. The reactive reform of the committee structure is in little doubt. Current opinion on the effectiveness of such bodies is mixed to say the least. The fact that the ECF exists is some sort of success for the clubs, given the desire of the clubs to gain influence within the governing bodies, which sometimes demonstrate inertia rather than dynamism. Also, with regard to the European Club Forum it is difficult to assess the success of such a body after such a short time. The UEFA administration is confident, though, of the ability of the committees to fulfil the purpose for which they were created.

Yet the seeds of doubt are already being formed. A familiar lament amongst the clubs and leagues is that a lack of consultation has been replaced with consultation that ultimately ignores the opinions expressed. It was also suggested that decisions may have already been taken by the UEFA administration before such consultation has even occurred. One must also accept and deal with the political reality that is shielded by the structure of the ECF. In the same way that the G14 loses credibility from its arbitrary and unrepresentative membership, the ECF lacks credibility from the fact that it comprises too many clubs that are too different to represent any truly effectively. So whilst the elite clubs have claimed that their own leagues cannot effectively represent their views, it remains to be seen whether UEFA’s mechanisms of consultation can be representative of the elite clubs. Of course, the prime objective was not to ‘represent’ the elite clubs, rather a vehicle through which they could communicate their views. When it comes to an evaluation of the governance of European football and the role of stakeholders within it, one has to consider both the representative value, and the political weight of the various stakeholders. Before such analysis, and the consequent consideration of how best to integrate stakeholders into the governance framework, it is necessary to note some preliminary dynamics. Again these dynamics are effectively shaped by the duality of competition. Clubs regularly competing in European competition as well as domestic competition have different demands to satisfy than those operating predominantly in the domestic sphere. Wage demands, the demands of spectators, the need to build a squad capable of challenging for honours all mean that the interests of the elite clubs diverge from others.

What emerges from this divergence of interests is a lack of clarity with regard to the appropriate stakeholder representative bodies. The leagues, through the EPFL, will seek a greater role in decision-making, both within UEFA and more generally. But whom does the EPFL represent? Is it possible for the Lega Calcio (Italian league) through the EPFL to represent both AC Milan and Reggina, two clubs living in different economic worlds? Similarly, on a pan-European scale, one has to question whether the ECF can represent both Manchester United and Maccabi Haifa. Yet simultaneously, there is a countervailing dynamic. Despite the interests of the elite clubs

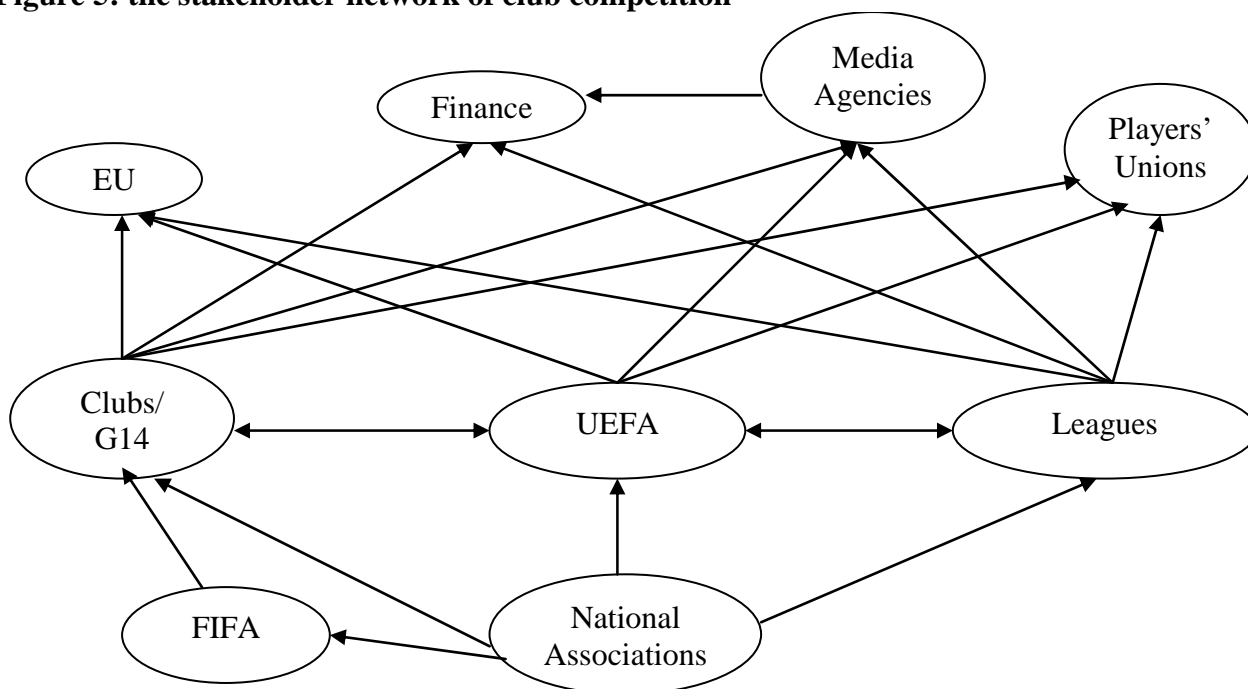
diverging from those of a different stature, the elite clubs still need other clubs to compete against, and in order to compete there has to be at least a degree of collectivity and shared interest. So the difficulty arises from the fact the clubs and the leagues simultaneously have both shared and diverging interests, arising out the dual environments in which certain clubs operate. The fundamental question is whether the shared interests are great enough to outweigh the divergent interests that have the potential to disrupt current models of governance and competition.

The existence of the various bodies – the national associations, leagues, and clubs, and the organisations that represent them – encourages caution rather than wild prediction about the power and influence of this body or that. In accordance with theories of governance and stakeholder networks, it is unlikely that any single organisational actor will have a monopoly on change. In that context, UEFA through a policy of co-optation and the construction of a ‘stakeholder democracy’ has cleverly controlled governance developments by integrating clubs, leagues and players into the system, yet at the same time withholding genuine decision-making power. It is questionable whether such a strategy is sustainable in the long term, but by opting for dialogue rather than defence, UEFA has at least placed itself in a position in which it has direct contact with the major interests on a regular basis. As such it will play a greater role in controlling the agenda that if it had continued to communicate solely with national associations. In that situation it would be likely the clubs and the leagues would have been more eager to seek solutions in alliance with each other, and external bodies as was evident in the Media Partners proposals in 1998. The football stakeholder network has matured significantly in the last decade. Stakeholders are increasingly aware of the power of relationships that they can develop with organisations that form a part of the same network in order to apply pressure to and force concessions from the controlling authorities. The Media Partners proposal, for example, demonstrated a moment of weakness for UEFA in the face of a coalition of interests including major financial institutions, media and marketing expertise, and the co-operation of the clubs that would have been unheard of a decade before. UEFA’s ‘centrality’ or ‘betweenness’ in governance had diminished in an increasingly dense stakeholder network where relationships have rapidly developed outside the established structures.

That said, on a day-to-day level, UEFA remains an integral part of the process. As such the level of ‘centrality’ is difficult to gauge. Whilst UEFA cannot be said to be what Rowley refers to as a ‘commander’, nor has it lost control of all processes. In reality, its position within the global governance structures means it has acted as a ‘compromiser’ despite the fact that it cannot place itself consistently between other pairs of actors. Figure 5 illustrates the complex stakeholder network of club competition. Whilst UEFA retains a relationship with each of the stakeholders in the context of the organisation of competition, each of the respective stakeholders have relationships with each other (or at least the obvious potential for relationships) outside of UEFA’s structures.

A return to the autocratic control of national associations is implausible, and so UEFA’s task will be to insert itself in the policy process in a way that nullifies the possibilities of independent action of the self-interested stakeholders. The initial steps to that have been achieved through the construction of bodies of communication and consultation, although the sustainability of these structures will depend on updating them to address the concerns of those who seek to benefit from greater integration. That does not necessarily mean that UEFA should divest itself of authority, but that the consultative structure must operate in a fashion in which participants feel they are being genuinely taken into account rather than pacified. Whilst the leagues and the clubs may be able to build external relationships in which UEFA is unable to act as an intermediary between stakeholders, through dialogue with each of the relevant organisations, UEFA can at least minimise the potential for external agreements and independent action. In that sense the organisation has reacted positively to the new and emergent threats.

**Figure 5: the stakeholder network of club competition**



The consolidation of the leagues into the EPFL, and the moves towards formalising the relationship the leagues have with each other, and also through the Memorandum of Understanding EPFL has with UEFA, mean that the EPFL is likely to pose some sort of institutional challenge to the structure of UEFA in the future. Such a challenge may propose, for example, that UEFA has a dual membership structure of national associations and leagues. Yet the reality is that the most important clubs, the 'brands', do not wish to be represented by the leagues. It is these clubs that will hold the key to the front door of consumer interest, and thus the enormous revenues that will no doubt be the cause of claim and counter claim from organisations jockeying for position.

Yet how such a process might look in future is far from clear, especially given the various tensions existing between the various organisations. The G14 clubs consider the European Club Forum an inadequate mechanism of consultation. UEFA and the EPFL bemoan the lack of representation of the G14, and the clubs of the G14 do not consider their interests represented by the leagues. As discussed earlier, the effectiveness of the European Club Forum and the Professional Football Committee, as counterweights to the G14 remains to be seen. UEFA representatives rightly note the initial successes of the organs in question, and it is important to note that UEFA is increasingly willing to discuss and negotiate with its key stakeholders. This in itself has marked a considerable watershed. However, representatives of the clubs and leagues also point to the areas which may be the subject of contention in the future, such as the level of representation of the biggest clubs. Importantly, it may be that any method of consultation that stops short of direct involvement in decision-making will be rejected by the clubs on the basis that it does not reflect their powerful economic role in the process. As Roberto Bettega, vice-president of Juventus FC argues:

The objective is to be part of the decision-making process. We believe, in general, the big clubs in general are the engine, because at the end of the story we are paying the players, we are investing the money ... when we talk about the international calendar and so on we want to be part, we don't want to say we want to do it, but please, we believe it is correct that the clubs are consulted when you have to decide, not after the decision. This isn't just about Real Madrid or Juventus, it is about clubs in general (Roberto Bettega, vice-president, Juventus FC, 15<sup>th</sup> February, 2005).

It is likely that these bodies will evolve and be fine tuned in the future in response to such issues. Either way, the complex organisational milieu means it is unlikely that UEFA will be a static observer when shaping the future structures of the game. Indeed its position of authority within the current environment means that whilst it will not have the capacity to dictate change to suit its own needs and those of its member associations, it may be able to guide and steer change that is well managed, protecting what is good about the structure of European football. Market forces will continue to be a driving factor in the future organisation of football and it will be the job of UEFA to harness those forces and adapt in order to protect the elements of the European model of sport that have longevity and desirability.

#### **Section 4: The governance of European football: a three-dimensional approach**

UEFA's stakeholder network is dense and dynamic. The players, the leagues, the clubs and the national associations all have weapons at their disposal. The growth in authority and autonomy of the clubs and the leagues is unquestionable and has been acknowledged by UEFA itself, most recently in the proposals announced at the UEFA Congress in April 2005, aimed at consolidating the authority of the national associations. But the durability and longevity of the national associations and the resilience of the model of interdependence that characterise the structures of global football are a disincentive to unilateral action. But at the same time, serious tensions remain. Organisations and individuals will always seek out what they lack, and in an industry in which a concrete knowledge of one's own political strength is uncertain, the levers of power will continue to be contested.

UEFA is simultaneously a representative of nations, a regulator and organiser of competition, a formulator of policy, and a focal point of governance. Within each of these tasks the organisation can find means by which to sustain itself, and protect the European model of sport. Whilst the national basis of competition may be under pressure from clubs, and may change at some point in the near future, and whilst spheres of decision-making may change, one must be cautious before promoting wholesale changes in governance. Whilst the integration of stakeholders into decision-making processes is natural within a self-regulatory framework, there is a need to bear in mind the distinctions between the various organisations, and in particular the pre-eminent role of the national associations in governance. But UEFA must also recognise its limitations, and utilise the contemporary reality as a means to protect what is good of the past. The changing world means football must change with it, and certain aspects of the European model of sport may need to be re-evaluated as a means to protect others.

At the 2005 UEFA Congress in Tallinn, UEFA released its strategy in the document, *Vision Europe: the direction and development of European football over the next decade*. The document ponders a number of strategic questions regarding the vision and philosophy of UEFA, and attempts to address the trends, threats and problems shaping European football, and evaluate options available to UEFA. The document covers a range of issues, notably relationships with stakeholders, the relationship between FIFA and the confederations, the structure of club football, and the governance structure of UEFA itself. Unsurprisingly, the strategy developed by UEFA is, on the face of it, conservative. Whilst there is obvious merit in the stated desire to re-empower the national associations, and much that can be realistically achieved, there is little attempt to fundamentally re-evaluate the relationships between stakeholders, or to reconsider the relationship between governance and club competition. Also, the document refers comprehensively to the trends that have placed the current governance structure under increasing pressure, but the strategy and solutions posited veer little from the established patterns of behaviour that characterise UEFA's relationship with its wider environment. Whilst the vision and philosophy articulated in the document contain a series of laudable and consistent objectives, the selected 'strategic options' seem unlikely to be able to deal effectively with the 'key trends' as identified. There is much that is good in the document, but there is also a disinclination to consider potentially beneficial solutions and options that might entail a more fundamental reassessment of the governance and competitive structures as they exist. Of course other strategies might bring more seriously into question the role of the incumbent organisations and individuals, a natural buffer to radical reform. Moreover, any fundamental re-evaluation could set in motion a process of reform that might be difficult to control, with fundamental but undesirable shifts in control. Indeed, incremental change and guarded development may in fact be the best strategy open to UEFA. However, without having the same institutional constraints, it will be argued here that a broader range of strategic options are available that have the capacity to not only improve the position of UEFA in relation to its increasingly powerful stakeholders, but also more effectively address some of the trends which are transforming the nature of football on the continent of Europe.

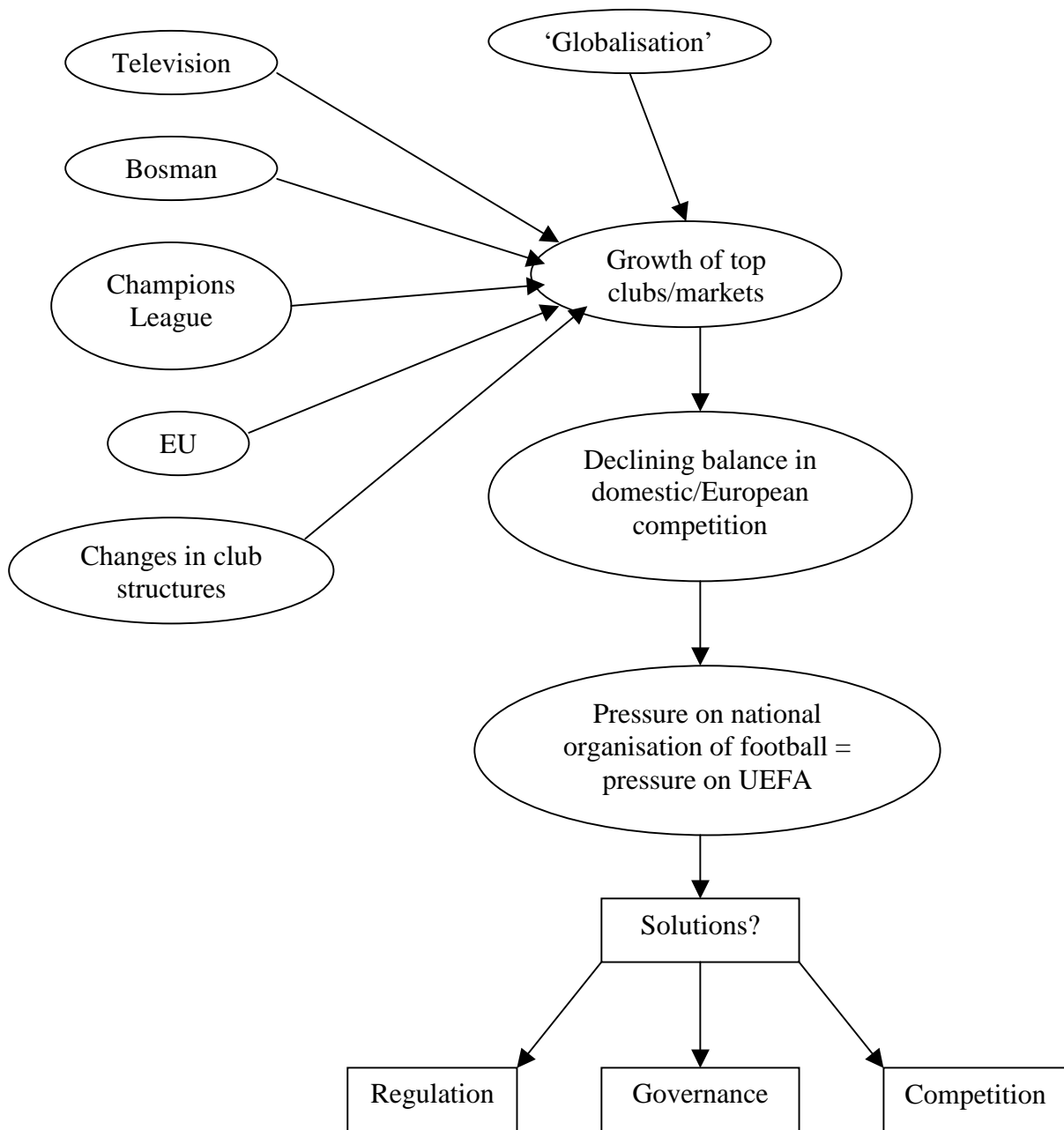
The corporatisation of UEFA structures has allowed the organisation to operate more effectively and become more responsive to the needs of its key stakeholders. Yet the hostility of the clubs, and the new threat posed by the leagues, are evidence that ongoing organisational evolution will be an important part of UEFA's work. A number of different strategies are open to governing bodies aiming to reinforce their regulatory position. Mitchell, Crosset and Barr (1999), for example, have developed a framework through which to analyse the strategic options available to sports associations regulating teams, proposing a taxonomy that encourages compliance through six strategies. 'Punitive' and 'remunerative' strategies constitute the most common attempt to make desirable behaviour more attractive and, and violation less so (see DeShriver and Stotlar, 1996; Padilla and Baumer, 1994). Such strategies are clearly an integral part of UEFA's relationship with its stakeholders. Both the clubs, and to a lesser extent the leagues are remunerated through payments from the Champions League, and there is a clear disincentive for clubs to exit the existing structures of competition through the threat of the punitive sanctions threatened by UEFA. 'Cognitive' and 'normative' strategies attempt to alter perceptions of the context in which clubs operate and provide information that shows undesirable behaviour is not in their interests, and educating competitors as to the value of desirable behaviour. These two strategies are probably the least characteristic of UEFA's approach to stakeholders, and also the least likely to have a significant effect. UEFA's claim 'we care about football' cuts little ice in an increasingly commercialised industry. Indeed the clubs' view that the governing bodies themselves govern in self-interest does little to help the construction of a general view as to what constitutes the 'good of the game'. Football is characterised by the keen defence of self-interest, as Celtic FC chief executive Peter Lawwell argues:

Solidarity is a two-way thing. My short experience in football, it's self-interest. No matter whether you are AC Milan, or Inverness Caledonian Thistle voting for a structure of the SPL, or Dundee who have just come out of administration. It's self-interest at different levels. Dundee will vote for the best SPL structure that suits Dundee. AC Milan will vote for the best structure in Europe in terms of TV and media rights that suits them. So this feeling of solidarity, or accusation of lack of solidarity of the top clubs, is equally as pertinent to lower clubs and that's a fact. I've only been here a year, a year and a half, but it's self-interest, believe me (personal interview, 11<sup>th</sup> February 2005).

Cognitive strategies, that aim to show participants that it is in their interests to conform, may be of more use and are sporadically used by representatives of UEFA. For example, the provision of information regarding the commercial optimisation of the Champions League, and questioning the financial and sporting value of alternative structures of competition, and information regarding levels of consumer interest, may help to encourage those participants considering their options to remain within the established frameworks. UEFA has also successfully adopted a 'generative' strategy in which opportunities for desirable behaviour are increased. The revision of the Champions League for the 1999-2000 season, and the rejection of the Media Partners proposal is a perfect illustration of the strategy based on the view that 'if you build it they will come' (Mitchell et al, 1999: 226). Structures of competition will therefore play the primary and critical role element in ensuring UEFA's continued role in the future.

An organisation like UEFA should be able to make reasoned and considered decisions about any change in the governance structure of the organisation with a fuller understanding of the opportunities available, at the same time protecting the aspects of governance that make for an effective and coherent framework. The process of change is illustrated in figure 6, showing how the transitions in European football can be addressed by a three dimensional strategy by which UEFA can continue to play a defining role in the governance of European football, protecting the more important aspects of the European model of sport, but understanding and adapting to the dynamic environment in which the organisation operates. The three areas in which UEFA can utilise its position to shape the future are in regulation, competition and governance.

**Figure 6: European football in transition: a three-dimensional strategy**





The structure of club competition in Europe, as we have seen, has been the subject of some debate. We have looked already at the influences that the clubs have brought to bear on the structure for competition and the growth and development of the Champions League is testament to that. The role of UEFA and TEAM in the development of the 'product' has played an important role in enabling UEFA's continued role as organiser of competition. Indeed, this is even recognised by the European Commission which exempts the joint sale of broadcasting rights partly on the basis that 'UEFA's joint selling arrangement leads to the improvement of production and distribution by creating a quality branded league focused product sold via a single point of sale'<sup>60</sup>. The clubs themselves recognise the quality of the product delivered by UEFA, which delivers concrete revenues year on year. As the comments of David Gill above confirmed, the development and commercial exploitation of the competition through broadcasting and sponsorship has clearly played an important role in satisfying the requirements of the clubs, at least in the short-term. The exploitation of the Champions League is also a clear disincentive for the clubs to opt out of the established structures. According to TEAM chief executive, Richard Worth:

We have faced the reality of going into the market place and selling a reduced concept at a time when the market for many, many different reasons was still affected by September 11<sup>th</sup>, by a market downturn, by a combining of pay-TV platforms in Europe. You can't point to one thing and say that's what made the market turn around. If you take the arguments of Media Partners at that time that TEAM, UEFA are taking too much money, there's much more money available, what else are they going to say to get attention? They needed to come up with something that grabs the attention and of course those are the kind of sexy things that the clubs love to hear and its very easy for those that don't have to go into the market place to capitalise on the opportunity to say 'ah, it could have been much more'. We have faced that reality and we have, this is absolute fact, if you compare the old format, seventeen weeks, with the new format, thirteen weeks, by match week, or by matches available, we created more money out of the thirteen match weeks, than we had in the equivalent seventeen ... we know where the value comes from. Yes, there's always going to be a little bit more you could make here and there, but can it be doubled, trebled? The market pays what the market can stand and a lot of it is driven by natural competition in those markets ... my contention is and my understanding is that the Champions League achieves what it can pretty near full value with what we have to play with inventory-wise (Richard Worth, chief executive, TEAM, personal interview, 1<sup>st</sup> March 2005).

Worth's comments illustrate two important points. Firstly, their experience of facing the market place directly demonstrates the reality of what revenues are available. This experience affords both UEFA and TEAM credibility in that they have negotiated consistently lucrative deals for the clubs in the context of a complex and transient market place. However, Worth's reference to the 'inventory' with which TEAM has to work also highlights the opportunities that might be open to clubs participating in a structure that was not confined to the restrictions placed on competition by UEFA which dictate the product that TEAM has to sell. Needless to say, there is a divergence of opinion with regard to what revenues might be available in alternative structures:

The breakaway initiative has calmed down tremendously, because times have changed. The market hype has gone. Now I think the clubs are much more realistic as far as the expectation for revenues are concerned. Of course, they want always to have as much money as possible, but I think they are facing very tough realities in their own national markets, looking at Germany, Spain, Italy ... in the Champions League there's a constant flow of good revenues

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<sup>60</sup> 'Joint selling of the commercial rights of the UEFA Champions League' (COMP/C.2-37.398 - Antitrust) (23 July 2003)

to the clubs and they have different priorities nowadays. I don't think it's any more on their agenda (Thomas Klooz, deputy chief executive, TEAM, personal interview, 11<sup>th</sup> March 2005).

In a €4.5 billion market, 85 per cent is generated by domestic leagues. That is a joke ... I see no way that in ten years we do not have a new top European competition, which is the new locomotive of European football revenues ... What is the real thing? It's no longer a question. It's Europe's answer to Hollywood. It is a bigger major than Hollywood altogether and we're not doing that. It would be our biggest industry in Europe and we are not giving birth to that (Rodolfo Hecht Lucari, president, Media Partners, personal interview, 15<sup>th</sup> February 2005).

Given the respective positions of these two marketing organisations, it is hardly surprising that there are two such divergent views on the same issue. It is likely that European club competition is where the opportunities for future exploitation lie, given that the commitment to domestic club football has constrained the level of European club competition. These constraints imposed by the governing bodies are of clear concern to the elite clubs, who have argued that UEFA has prevented them from maximising their potential. According to Juventus vice-president Roberto Bettega:

We are not against the way that UEFA is dividing the money from the Champions League. We want just to optimise the revenues from Champions League. If we went from 400 million euros to 1100 million euros, I mean we had the space to optimise the competition through the 32 teams, through the second group stage. We are not fighting for how they divide the money; we are just looking to obtain the maximum. Of course, the target of each club that is a professional club is to optimise our work (personal interview, 15<sup>th</sup> February 2005).

Despite the feeling that European revenues have been under-exploited, seeking solutions outside of the established competitive framework would remain a leap in the dark for clubs. Whether they are prepared to take that leap is arguable. Indeed, it is argued that the consumer commitment to domestic competition is still so strong as to limit the prospect of change.

It could happen when the European Union is united in one country, and I would be dead a couple of times before that. I think people are underestimating the national and regional identities, and that is a huge and very important factor when it comes to sport ... I think to keep on developing the sport, and developing the interest, fans are the most important part. So you cannot have a discussion purely constructed out of ordinary business policies or private business enterprise ideas, because it doesn't work in connection with the fans (Lars-Christer Olsson, chief executive, UEFA, personal interview, 16<sup>th</sup> November 2004).

In the short-term, UEFA adopted a successful generative strategy to dissuade clubs from breaking away. But what will be the long-term implications of the development in the European game identified in chapter three for the competitive structures of European football? Is a European super league 'inevitable', as certain commentators like to assert, or is it 'unlikely to provide a viable alternative to the current structure'? (Michie and Oughton, 2004: 35) Despite the challenges, particularly the constraints imposed on clubs by market size, the organisation remains committed to the national leagues as the foundation of football in Europe: 'UEFA club competitions are built on top of the national competitions whereby the national competitions constitute the core competitions of clubs' (UEFA, 2005b: 13). Despite the commitment of UEFA (and consumers) to national league football, greater flexibility in the structure of competition may have considerable benefits.

There is a realisation that problems exist, but the composition of the international bodies hampers the ability to look at alternative structures and solutions, and little genuine attempt has been made to gauge the desirability of changes to a system that, in the context of the socio-economic, technological and political development of the last two decades, is under increasing

pressure. According to Moorhouse: ‘FIFA, UEFA, the national associations, insofar as they have facilitated any discussion at all have, have encouraged a low level of debate in which the solution to almost any problem in football is said to be the maintenance of, even a return to traditional labour market restrictions’ (Moorhouse, 2002: 70). Whilst polemic in the extreme, Moorhouse does highlight the unwillingness of the governing body to consider solutions that might constitute a re-evaluation of their own role and competences within the game. Whilst it may be difficult to start with a blank piece of paper with the multitude of stakeholders and financial interests at stake, the need for a comprehensive understanding of the current financial and competitive environment in European football is overdue. UEFA’s strategy document is full of credible objectives, but there is little evidence that the organisation has been willing to think outside of its own cultural and historical parameters, where some of the more viable and genuine solutions may exist. It is the contention here that through the re-evaluation of the current structures of competition solutions may be found to some of the polarising trends of the last twenty years.

The range of options with regard to club competition are many and varied, from keeping things exactly as they are, to the radical reorganisation leading to a single European league system, to cross border leagues as the basis for European qualification, to changes to the current formats of European competition. Whatever occurs in the future, and despite the economic logic pointing towards rationalisation, interaction across the industry has demonstrated that there remains a current desire to continue to gorge on both domestic and international diets. The assertion of the ‘inevitability’ is at one level both pointless and diversionary. It is something that cannot be disproved and so is therefore assumed to be correct, and it serves to stultify analysis of the contemporary reality, and the range of possibilities open to people and organisations. Given that the threat of a breakaway European super league in its most extreme form (with clubs leaving the domestic leagues, and the formation of a new league structure) is highly unlikely in the short and medium term we need to take a look at some of the other alternatives. Similarly, it seems unlikely that many clubs would play in a competition operated by an organisation other than UEFA. This however, remains a possible medium-term, or even short-term development. Whilst it has been argued that the punitive sanctions available to the governing bodies and the interdependence of actors within the industry are clear deterrents to unilateral action, by building an effective competitive structure, UEFA can continue to utilise a generative approach to satisfy the challenge of the clubs. It is also worth mentioning that, as well as the structure of competition, the implementation of competition also assists UEFA in its continued control of competition. The extremely high organisational quality of the Champions League, to a large extent through the influence of TEAM, also buttresses the status quo, and improves the image of UEFA as a more dynamic and professional organisation.

*i. The ‘bread and butter’ and the ‘icing on the cake’*

One of the most common refrains of those defending the existing structures of competition in Europe is that the Champions’ League represents the ‘icing on the cake’ and that the national leagues represent the ‘bread and butter’. It has been the official line of UEFA for decades, driven as the organisation is to ‘safeguard’ and ‘respect’ the overall interests of the member associations (UEFA statutes, article 2). Representatives of UEFA have been consistent in their objective of preserving the existing leagues, and that those leagues should provide the basis for selection in European club competition:

Domestic leagues are the basis of our entire system. If the national championships are eclipsed everything disappears. We mustn’t turn our backs on national competitions in pursuit of money, otherwise we are heading for disaster (former UEFA CEO, Gerhard Aigner quoted in Moorhouse, 2002: 80).

The European competitions are the icing on the cake and the domestic competitions are the bread and butter and this is where the identity between the clubs and the fans is so dominant ... Arsenal against Tottenham is much more important than Arsenal against Juventus, unless it is the final of the Champions League (Lars Christer Olsson, UEFA chief executive, personal interview, 16<sup>th</sup> November, 2004).

The preservation of the national leagues is clearly viewed as a vital element of the continued authority of the national associations, but Aigner's apocalyptic analysis seems somewhat exaggerated. National boundaries are just one means by which to form the parameters of competition and the apocalyptic fear registered by UEFA may not reflect the impact of changes in the geographical boundaries of competition. That said, generating information about future revenues under different formats may be an impossible task as Richard Worth explains:

It's a very hypothetical question because there will always be a domestic league of some description. If you took the top three Spanish clubs out and said now you're playing in Europe, it doesn't mean all the other 158 Spanish clubs don't exist anymore, they still need to play and there will still be a value to that. It's an almost unanswerable question, what is the value of a European league not only in financial terms but also in spectator consumer interest terms. Somehow, you can't really know that until you start. Some things like the seventeen-match Champions League, you didn't really know what were the pitfalls until you started to play with it. There were advantages and some of the advantages were financial, but what was proven, I think, at the end of the previous World Cup was that the player fatigue element was enormous. And the best players, the French team played at the World Cup and didn't score a goal, a lot of their players were out on their feet. It wasn't because they were bad players but it could have been because what the Champions League had done at that time was encourage them to play more and more at the very highest level all the time, there is a limit there. How can you predict what the impact of something like the European league could be without actually going into it and doing it? (Richard Worth, chief executive, TEAM, personal interview, 11<sup>th</sup> March 2005)

Inherent in the objections to alternative structures is the fear of what the consequences of such change might be. Indeed it could be argued that a process of change would have the capacity to reinvigorate national competitions, by promoting a greater degree of contest amongst equals. Also, whilst one could reasonably argue that a pan-European league would eat further into the revenues of the domestic leagues, it is not unrealistic to argue that solidarity within and between different levels of the game could be maintained in the context of changing parameters of competition. Indeed, Hecht argues that the only long-term means of ensuring the general health of the game is to let those with the greatest market value follow their own path:

In Italy which is, after the UK, the biggest market in Europe, and absolutely is the place where the biggest brands are, where is the competition? You have three big clubs which make up 70 per cent of the fans. So at the end of the day maybe you have a fourth club, Roma. That generates 12 super events. Those are the events. I want those events, but I want those events in a different context, a different frame. I want to play with Juventus with Milan, with Inter with Roma, but I also want to play with Man U, with Bayern, with Barcelona. In other words you want stars to be on a proper stage, not in a neighbourhood theatre. And if the deal is that the small guys need the big guys for the small guys to survive 100 per cent okay, but my point is that in order to make the subsidy possible and healthy and lasting in time, at least you have to release the big guys of the deadly embrace of playing the small guys (Rodolfo Hecht Lucari, president, Media Partners, personal interview, 15<sup>th</sup> February 2005).

Either way, the primacy of the national leagues is being increasingly challenged and European competition is increasingly important to those participating year on year. Nevertheless, it would be premature to argue that the emphasis placed on European contest is all consuming. The dismissal of Vicente del Bosque after securing the Spanish League for Madrid in 2003, but having failed to take the club beyond the quarter-final of the Champions league in the same season illustrates Real Madrid's commitment to the European title. In contrast, however, Manchester United, retain the services of Alex Ferguson, despite the fact that he has secured only one Champions League in nearly twenty years at the club, on the basis of his phenomenal success at a domestic level. It is probably true to say that the value of European competition has increased in the minds of competitors, but certainly without having become the sole, or even primary, sporting objective.

The view that it is the rarity of meetings between the elite clubs that makes them 'special' and therefore valuable seems to be overstated. When Manchester United played AC Milan in the season 2004/05 it was the first time these clubs had met since 1969! Even if one accepts that the rarity of the event adds to the sense of occasion, such rarity seems to be out of proportion to the contrasting desire amongst the elite clubs for more regular competition. Rodolfo Hecht argues:

You should really stop and think and consider you are talking probably brand number one and brand number three in world football, they played once in forty years. I mean I think that really makes you understand the magnitude of the problem. Not the unwillingness of these guys to look into it, but they are not really capable of it (Rodolfo Hecht Lucari, president, Media Partners, personal interview, 15<sup>th</sup> February 2005).

As we discussed earlier, whilst an overall system of control through the national associations serving the game is appropriate, the attitude of the governing organisations to the clubs in terms of who they can play, how many times, and in which environment, may be overly autocratic. It seems perfectly reasonable for a club, or groups of clubs to have an opinion and a preference with regard to whom they compete against. The Champions League shows UEFA's flexibility in the construction of competition, and such flexibility will remain important in the future. European football is changing, the challenge is not to resist the change, but harness the principles underpinning UEFA's role in European football, whilst adapting to a rapidly changing environment. Characterising the motivations of the clubs as driven solely by greed will achieve little other than to consolidate the views in opposition to those seeking to block change. Is it illegitimate for Celtic, Rangers, Ajax, PSV, and others to want a more sustained and comparable level of competition, or for AC Milan to want to play with Manchester United in a competitive arena more than once every forty years?

Before one looks at the future of the Champions League, one has to look at the breakdown between national and international club competition. The maximum number of games played in the Champions League from the group stage to the final is thirteen. In Spain, England, Italy and France each club must play 38 league games, in Germany, 34. On top of this clubs also play in at least one domestic cup competition. Whilst appreciating that the popularity and success of European competition may be in some way connected to the rarity with which teams meet, the familiarity of supporters with European club football is likely to increasingly diminish the validity of this position. Existing patterns of supporter behaviour also lend credence to the view that an expansion of European football could be sustained in terms of popular support. The big matches at a domestic level, either between local rivals such as Roma and Lazio, Liverpool and Everton, Rangers and Celtic, or competitive rivalries such as Marseilles against Paris St. Germain or Real Madrid and Barcelona, are not diminished by the fact that they are played at least twice a year every year. Indeed, it could be argued that the opposite is true, that rivalries are built and developed on a history of games and the changing fortunes between the two sides. The process towards more European football was started through the formation and continued with the development of the Champions' League.

Such a process is likely to continue. If so, it becomes a matter of managing change effectively so that the principles of the pyramid can be protected, and governance improved, whilst simultaneously providing for a new and increasingly vigorous competitive environment. Many have questioned the capacity of sport governing bodies to change of their own accord. Their interest in maintaining the *status quo* is strong, although as argued here, perhaps the fears aroused by the prospect of changing structures, are not as great as perceived. Nevertheless, if the governing bodies do not take the initiative themselves, there will be surely others that will. The consequences of that for both governance, and the overall health of the game could be seriously damaging. The validity of the views of certain clubs therefore needs to be acknowledged, even if these views do not sit easily with the established authorities. UEFA and the national associations will need to look at new, innovative and entrepreneurial solutions that protect the principles of the pyramid, but reflect the changing milieu in which European football is being acted out. The first of these tasks should therefore be to re-evaluate the breakdown between national leagues and pan-European competition. Change should not be stifled, but driven, shaped, and most importantly managed effectively. Any change should be looked upon as an opportunity to consolidate the pyramid, rather than be resisted out of unwarranted fear of change. Whilst the national associations have the leverage to ensure that this can be the case there may have to be a leap of faith which sees the fear of change subordinated to the potential of new opportunities.

*ii. National leagues and European leagues: the problem of co-existence*

In the development of the structures of competition a number of factors will be important. Perhaps the most crucial of factors in the development of competition will be ability to retain consumer/supporter interest as it is only through consumer interest that revenues can be raised. Secondly, one has to consider what aspects of a sporting competition are important. Sporting standards need to be weighed against excitement and unpredictability of outcome. Thirdly, one also has to place the structure of the competition in the context of the political reality in which the competing clubs desire a minimum number of guaranteed games. These three elements salient to the formation of sporting contest may conflict with each other at certain points, but there will also be points at which the different elements will be congruent with one another. The future of European competition will need to deliver each of these criteria: interest, standards, revenues. To these three obvious criteria, I would add a fourth. A fundamental objective of UEFA is to develop football in each of its 52 member associations. Participation in competition is a fundamental aspect of this, and so opportunity and inclusiveness should also be a defining element of any future structure.

As discussed above, much emphasis has been placed on the possibility of a European league. But as we have also noted, there appears little inclination amongst the major European clubs to leave their domestic leagues in order to compete solely at a European level. Were a European league to exist, then, it would have to be alongside domestic league competitions. Former European footballer of the year, and UEFA executive committee member, Michel Platini has argued that if 'sport' is to be placed above 'money' in the formation of European competition, then knock out is the necessary conclusion (quoted in Barclay, 2005). Whilst changes from the European Cup format to the Champions League inevitably stirred objections about the purity of the event, there is little doubt that the changes have improved the standard of the competition. UEFA states in its strategy document the desire for 'competitions which achieve higher and higher levels of football quality' (UEFA, 2005b: 9). Whilst the promotion of more league football has rightly been portrayed as being driven by financial concerns, league competition is also widely regarded to produce the most accomplished winners. The division drawn between sporting and financial reasoning is, to an extent, disingenuous. There is in fact a high degree of congruence between a product that maximises financial returns and raises sporting standards. It is certainly the case that knock-out produces a greater degree of unpredictability in competition. Each game would have a greater weight of importance, through the elimination of the losing team. Yet sporting considerations

extend beyond unpredictability. It is widely considered, and logical, that league competition produces the most deserving winner, rewarding quality over a lengthy period of games. Indeed, the fact that qualification for European competition has been based on performance in domestic leagues, rather than cups, is an explicit acknowledgement of this.<sup>61</sup> Likewise, a European league would be the system most likely to provide the most deserving winner in European competition. The formation of a European league would also satisfy the desire for a guaranteed number of games. If this is the case, then why is there a resistance to a greater level of league football at a European level?

There are inherent problems in the co-existence of national leagues and a European league running side by side, although opinions diverge as to the reasons why. Szymanski and Kuypers argue that in a dual league system the physical pressure placed on the players would lead to the clubs focusing their attention on the European league as the more valued competition. Decreased interest in the domestic league amongst clubs would thus devalue it to the point that super league teams would see little point in their continued participation. They argue that if the authorities were to continue to rule that participation in a European league is on the basis of national participation, they would ultimately choose to breakaway (Szymanski and Kuypers, 2000: 303). There are serious flaws in this argument. Firstly, it underplays the inclination of the clubs to continue to operate within the existing structures. The very fact that qualification for European football is based on national league performance creates the imperative to focus heavily on domestic performance. The clubs compete vigorously on both fronts, with the Champions League offering a financial reward that consolidates domestic success. Bigger squads are employed to achieve this. Whilst players from the top clubs have been 'rested' in anticipation of European ties, these clubs have sufficient resources to remain successful in domestic leagues (although there may be some evidence that clubs participating in European football perform less well in domestic games immediately following international ties). So it does not follow that by emphasising European competition, interest in domestic leagues would suffer.

In actual fact, in a system in which domestic and European leagues run concurrently, the opposite effect to that predicted by Szymanski and Kuypers would be more likely to occur. In any league system, it is typical that only three or four teams sustain a challenge until the end of the season. That some clubs' seasons would end early through a run of poor results would be likely to be the case in a European league just as it is elsewhere (although a greater degree of competitive balance, through more 'big' clubs competing against one another may make the league more competitive than is currently the case in national leagues). With a relatively small number of clubs challenging for the only position that matters, clubs suffering in a European league would be likely to turn their attention to the domestic league in which they are likely to be challenging. More importantly, supporter behaviour in the Champions League suggests that when a team no longer has anything to play for they won't bother to turn up because the games are considered 'dead'. Supporters would almost certainly transfer their interest to the domestic league in which the club in question would likely to be challenging. Additionally, domestic leagues retain interest in a multiplicity of ways which European football cannot; through the fight for first place; the fight for European positions (both Champions League and UEFA Cup); through the fight to avoid relegation; through local rivalries; and through an historical level of interest in the 'bread and butter'. So whilst leagues theoretically produce the best winners, such a system could be undermined by unpredictable levels of consumer interest, economically devaluing the competition, and a lack of interest amongst some teams devaluing the competition from a sporting point of view. It may be that fans behave differently in the future, and become increasingly acclimatised to run-of-the-mill league games in Europe as they are in domestic competition, but evidence suggests that this is a considerable way off, as David Will argues in respect of the recent changes to the Champions League:

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<sup>61</sup> Indeed there is evidence to suggest that the clubs still place greater emphasis on the national leagues as opposed to European competition: 'I believe the national championship is the most important. Of course the Champions League has more prestige. But in the Champions League you need luck to go your way. Over 34 Bundesliga games, good and bad luck even themselves out' (Karl Heinz Rummenigge, quoted in World Soccer, February 2005).

It's interesting because it's a warning for anyone, any clubs who think the answer is a European league ... we went into a situation where there are more games, the audiences went down, on the television and on the terracing, they dived. I think it was a salutary lesson for some of these clubs ... if you're not at the top, if you are half way down this European league, people are not going to be interested. So the Champions League has practically recreated itself since they changed back to the old system, and I think it will remain a hugely successful competition (David Will, vice-president, FIFA and member UEFA executive committee, personal interview, 21<sup>st</sup> April 2005).

Finally, if one has to question whether a club like Porto, which has demonstrated that it is capable of winning the Champions League with a knock-out phase would be satisfied finishing consistently in the lower reaches of a European league. Certain clubs are used to winning or at least challenging at the top of their domestic leagues. Those same clubs may fail to pose any regular challenge to the more economically powerful clubs in a European league system (for example Manchester United, Real Madrid, Milan, Juventus, and Barcelona) and one has to question whether that would be an acceptable situation. Whilst leagues produce a greater congruence between quality and winning teams, knock-out tends to create greater excitement and opportunity, thus improving competitive balance.

The prospect of a pure European league replacing or even co-existing alongside the current national structures therefore seems highly unlikely. If that is the case, then what can we expect of a future European competition? In 2000 AC Milan's Umberto Gandini argued that the 'Champions League is developing slowly but constantly towards a league system' (quoted in King, 2003: 164). This progress was clearly and obviously impeded by the removal of the second group stage for the season 2003/04. Similarly, the enthusiasm for a European league may have waned, perhaps reflecting an appreciation of the difficulties inherent in organising both national and international club competitions. In the same interview, Gandini stated: 'We want a European league one way or another to take place', but with the very significant caveat that it should 'not be detrimental to the national leagues and national associations'. In 2005, however, Gandini claimed that his 'ideal' solution would be to reduce the competition to 24 teams starting with four groups of six, followed up by quarter-final knockout:

My personal ideal option is to reduce to 24 clubs, to have 4 groups of 6, play 10 games, 5 home and 5 away and then quarters, semis and finals. That's my ideal set up. But with the existing qualification system from the top associations. So if going down from 32 to 24 would mean 3 teams instead of 4 from Italy, I say 'no thanks' ... What I would like to see in the medium term is that the Champions League would be for the top associations' cup. Top 12, top 8. And the others would play UEFA Cup, with promotion and relegation between the two competitions (Umberto Gandini, personal interview, 14<sup>th</sup> February 2005).

The drive of the biggest clubs is not unerringly towards a pure league system. In the free market systems of the United States, no competition is based on a pure league structure. Similarly, European competition is likely to continue along the lines of some sort of hybrid league-knock out structure. In spite of the removal of the second group stage by UEFA, there may be scope in the expansion of the number of teams in each group. Whilst this would inevitably increase the number of 'dead' games, there is sporting merit in consolidating and extending the league stage within the format. It would also increase the number of guaranteed games for clubs, which would in turn satisfy television. But for the reasons articulated above, so long as European competition co-exists alongside domestic competition, knock-out rounds will continue to be an essential part of the European contest, generating the excitement, and consequently the consumer interest necessary to sustain a financially valuable tournament.



iii. A two-tier Europe? Standards versus opportunity

The more interesting aspect of Gandini's comments, and the common element in the differing structures he argues in favour of, is an even greater degree of representation of the larger national associations. The desired outcome is therefore more realistically a consolidation of the position of the biggest clubs within the largest markets. This would involve both a greater guarantee in qualifying, with the result of an emergent competition made up almost entirely of clubs from the largest markets, and a consequent reduction of smaller nations' right to compete, along the lines proposed by Media Partners. King also argues that 'a European football competition which comes closer and closer to representing a genuine competition of the European Union is conceivable' (King, 2003: 249-50). Of course this means the reduction of the competitive field from the 52 UEFA members, to the more economically advanced members of Europe.

What Gandini is essentially proposing is a two-tier European system of competition based on the differing standards emanating from the various nations. In essence such a system is already in place in the Champions League and is the natural consequence of the expansion of UEFA membership as discussed earlier. Again the question is related to finances, standards and the opportunity to compete. Of course, moves to consolidate the biggest markets at the expense of smaller and poorer nations are financially driven, but at the same time, a competition of clubs from the wealthiest markets would generally be of a more consistently high standard than from those outside. In the ten years since Bosman, the winners of European competitions have come from only nine countries, as illustrated in table 3.

**Table 3: Winners of European competition, 1995-2005:**

|                 | <b>Champions League</b>          | <b>UEFA Cup</b>        | <b>Cup Winners' Cup</b>  |
|-----------------|----------------------------------|------------------------|--------------------------|
| <b>Italy</b>    | AC Milan, Juventus               | Parma, Internazionale  | Lazio                    |
| <b>Spain</b>    | Real Madrid                      | Valencia               | Barcelona, Real Zaragoza |
| <b>England</b>  | Manchester United, Liverpool     | Liverpool              | Chelsea                  |
| <b>Germany</b>  | Bayern Munich, Borussia Dortmund | Schalke, Bayern Munich |                          |
| <b>Portugal</b> | Porto                            | Porto                  |                          |
| <b>Holland</b>  | Ajax                             | Feyenoord              |                          |
| <b>Turkey</b>   |                                  | Galatasaray            |                          |
| <b>Russia</b>   |                                  | CSKA Moscow            |                          |
| <b>France</b>   |                                  |                        | Paris St. Germain        |

Source: www.uefa.com

Given the ascendancy of the major countries in the contest for European honours, to what extent should the competition reflect the dominant clubs and nations, and to what extent should the competition reflect the geographical considerations of an expanded Europe? The rights of the smaller teams have often been accorded a considerable degree of merit in the media. Moore, for example, questions the motivations of those arguing for a reduction of the number of so-called weaker teams:

'Weak'? Does he mean teams like Hapoel Tel Aviv, the Israeli club that knocked Chelsea and Parma out of the UEFA Cup ... or Lille, who knocked Parma out of this season's Champions League? Or Helsingborg, who did the same for Internazionale last season? Or Nantes, who beat Lazio home and away this season despite being bottom of the French league? For 'weak', read 'unglamorous'. It is a false move. While it is true that the measurable financial contribution by clubs from Scandinavia, with their small grounds, and Eastern Europe with

their impoverished television viewers, is small, their presence gives the competition legitimacy (Moore, 2002).

To win in one-off matches is always possible, but the table above demonstrates the general inability of clubs from smaller, poorer nations to compete to the standard required.<sup>62</sup> Gandini makes a measured and persuasive argument about the future structuring of European competition that the elite competition should be just that, with the right to compete based on the ability to compete as much as geographical representation:

I don't have a problem if Andorra plays Germany, but if Andorra has defeated San Marino, and Estonia, and then maybe Switzerland, and then it plays Germany ... I don't care if a team from Kazakhstan or a team from Malta, plays against Manchester United in the group stage of the Champions League, but in order to get there they have to overcome certain difficulties. I don't like the 3<sup>rd</sup> qualification round in which you have the 3<sup>rd</sup> or the 4<sup>th</sup> team of Italy, Spain or England and goes and plays and risks the season by one wrong night playing with a Slovak team or a team from Lithuania. It's not in the interest of the competition (Umberto Gandini, personal interview, 14<sup>th</sup> February 2005).

The standard of competition is clearly an important aspect of any competition. What the arguments illustrate is not whether big clubs and nations should play against small ones, but the extent to which they should play and the point at which they enter. One clearly needs to find a balance between standards and equality of opportunity. At the same time though, Moore correctly highlights some of the problems inherent in talking about 'weak' teams and 'strong' teams and 'big' clubs and 'small' clubs. The big names have not always been the best teams. And the best teams have not always come from the strongest countries. Such matters need to be taken into account in deciding on a qualification process.

Proposals that lobby for increased participation of clubs from the strongest associations and the downgrading of weaker associations highlight an important tension, and one that will need resolving if competition structures are to radically change. There is certainly an argument that a competition of a larger number of equals from the top associations would generate a competition of, broadly speaking, higher sporting standard. But at the same time, the representation of nations across Europe has always been a fundamental principle of UEFA competition. Clubs from smaller nations have already been disadvantaged through the co-efficient system and Gandini's proposal would be an extension of this. This is not necessarily a defence of a 'national' system of competition, more recognition of the fact that UEFA has to balance the quest for sporting standards alongside other significant principles including representation, development of the game across the continent, and opportunity of access. These tensions are ideally illustrated by the division of opinion amongst the various stakeholders. Michel Platini's arguments in favour of knockout, and broader geographical representation, are, for example, strongly rejected by Bayern Munich's Karl-Heinz Rummenigge:

It has no chance. The Champions League is the best club event in the world. It's run fantastically by UEFA and TEAM. We'll never go back to the old way of doing things. I met Michel Platini before the final of Euro 2004 and asked him about this, and he replied that the

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<sup>62</sup> Interestingly, the same journalist recently focused on the number of 'mismatches' in national team competition as support for changes to the national team qualification stages. After recent World Cup qualifying matches played between England and Northern Ireland, and Poland and Azerbaijan respectively (with 4-0 and 8-0 scorelines), Moore asked, 'why are these mismatches, for which the traditional Easter weekend has been sacrificed, taking place?' arguing that such fixtures constitute a 'waste of time as a competitive event' and 'in these days of fixture congestion it seems ridiculous to clog up the international calendar with so many meaningless matches' (Moore, 2005). Yet a similar list of international upsets could easily have been collated similar to those he cites as evidence for the continued inclusion of smaller clubs in European club competition. Why does one offer legitimacy, and the other constitute a mismatch? More than likely this is due to the perception of 'greed' amongst the big clubs.

problem with the present system was that a team from Malta or Cyprus never gets to the Champions League and so cannot meet at Bayern Munich. Football, like everything in life, has to look forward. Nobody is interested in seeing a Cypriot team in the Champions League but everybody wants to see Real Madrid and Manchester United in Europe. This has to be recognised by Michel Platini (quoted in *World Soccer*, February 2005).

The differing view of two of Europe's great former players highlights the balancing act that UEFA has to perform. It has a responsibility to foster development and opportunity for its smaller members, but must at the same time produce a competitive tournament that drives standards upwards. It is necessary to acknowledge that certain clubs and certain countries are never likely to challenge for European prizes, but at the same time recognise their right to compete. Competitive balance is important, but should not be the only factor that determines the composition of competition.

The increased dominance of a small number of national associations would not only deny the smaller associations access in the short-term, it would be likely to set in train a longer term development in which European football would become even more dominated by a small number of clubs from a small number of nations. It is one thing creating a competition in which the best clubs play more regularly against each other, but it would be something else to create a format which led to a long-term exclusion of developing nations. Only by competing against the elite, and through exposure to the highest standards Europe has to offer, can aspiring clubs from developing nations hope to develop fully so that they might effectively and seriously compete with the established nations in the future. Hecht's assertion that 'there are no new brands' ignores the developing potential of Eastern Europe, and possibility of the emergence of new elites to challenge established powers.

Europe is in flux. The expansion of the European Union to 25 nations is recognition of economic development in Europe outside the dominant nations of the west. Inevitably, the football economies of Europe will mirror to a large extent the economies of the nations in which they play. That the being the case, countries such as Russia, the Ukraine – with potential giant Dynamo Kiev, and the emergent Shakhtar Donetsk – may come to challenge the established nations of Europe that have dominated recent years: 'I am sure Russia will come. They have money, they have people. Ukraine will also come. They have money they have people ... It will change in Europe, we will have not only five, but probably seven or eight big countries (Edmond Isoz, chief executive, Swiss Football League, personal interview, 2<sup>nd</sup> March 2005). Turkey, for example, highlights how quickly a footballing nation can develop when part of system offering equality of opportunity. Defeated 8-0 and 5-0 by England in 1984 and 1985 respectively, Turkey reached the World Cup semi-final in 2002, with Galatasaray defeating Arsenal to win the UEFA Cup in 2000. An organisation like UEFA should always keep one eye on the future. If the Champions League is structured to the exclusion of over three-quarters of Europe, a process of concentration will increasingly limit the ability of a new, vibrant and economically stronger east from playing the new role that reflects that.

Additionally, and significantly, the grading of teams on the basis of 'associations' does not fully appreciate the potential of the clubs across nations. Celtic and Rangers, for example, have the unquestionable potential to be top clubs in Europe through their fanbase at home and abroad, stadium infrastructure and economic potential. Yet football in the association in which these clubs are based is currently at a low ebb, both in terms of the quality of its domestic league and the national team. Whilst Celtic and city neighbours Rangers have long dominated the Scottish league,<sup>63</sup> the transformed context in which European football takes place, with growing importance on the size of markets, changes in the labour market, and the growth in salience of European competition, means the constraints of the domestic league in which these clubs play have become increasingly significant. Were the entry of clubs to be linked to the quality of national associations, these clubs of enormous potential would be severely disadvantaged.

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<sup>63</sup> Between 1922 and 2005, Rangers and Celtic have won 64 league titles between them.

The argument that only the big national associations should be represented is mirrored by the view that certain clubs should be entitled to some kind of special dispensation when it comes to being entered into European competition. Such a view has been posited on a number of occasions, perhaps most famously by Silvio Berlusconi, when AC Milan finished 11<sup>th</sup> and 10<sup>th</sup> in the Italian league in 1997 and 1998 respectively. Similarly the Media Partners initiative guaranteed a number of clubs the right to compete for the first three years. Umberto Gandini, reflecting upon future breakdowns in competition in Europe says:

I see that you play, on weekends, national league which always qualifies you for a certain role. But then you play in Europe on a more regular basis with more guarantees. I think that in order to be successful, a European competition on a league system could work if certain clubs are there are on a couple of season guarantee, two or three seasons. Then you can have investments because you know that you will have always Madrid, Barcelona, Milan, Juve, Manchester, Arsenal and so on. But then if these teams do not perform then they go out no question. If I am a founder of European football and I do nothing for three years, I do not deserve to stay there (Umberto Gandini, personal interview, 14<sup>th</sup> February, 2005).

Gandini raises the interesting notion that certain teams are ‘founders’ of European football:

Originally the G14 idea and history started by conversations with then chief executive Mr Aigner, who understood and agreed that there were eight clubs who could have been considered founders of European football because of the success they had in their fifty-year history. He recognised that these clubs were special. Real Madrid, Barcelona, Juventus, Milan, Inter, Liverpool and Bayern Munich and Ajax. These eight were considered different. You have to listen to them a little bit more. That’s the core on which G14 was formed (Umberto Gandini, personal interview, 14<sup>th</sup> February, 2005).

The implication is that certain clubs, because of their history of success, are entitled to certain specific privileges. Yet Gandini himself notes that guaranteed entry into a league system is required as a mean to generate *investment*. The basis of entry into the competition would be fundamentally connected to a financially-based decision and as such would fundamentally alter the ethos of the European model that equates promotion with domestic leagues and from domestic to European competition, with sporting success alone. Others have also prioritised economic welfare over sporting success. Hoehn and Szymanski have argued, for example, the negative effects of the demotion of the biggest clubs:

Perhaps more worrying from a welfare point of view [than the promotion of weak teams] is the possibility that the very largest clubs may be demoted. The effect of such demotions is clearly adverse for the supporters, who in themselves are a significant fraction of consumers, but such demotions tend to affect adversely interest in the competition as a whole. Moreover, such clubs are usually promoted back up with ease in the following season, thus diminishing the uncertainty associated with the outcome of the junior championship. Despite the increased welfare associated with fans of lesser clubs being able to see their team compete against a major, this effect seems unlikely to offset the adverse effects (Hoehn and Szymanski: 1999: 227).

And thus the economic value of the product is given precedence over the sporting integrity of the competition. The purpose of sporting competition is to determine a winner from a competing field, and to reward sporting merit. If a large team is relegated then the reason for this is that they deserve to be relegated, because they finished in a lowly position. The economic effect is a consequence that has to be dealt with. Moreover, the contention that ‘supporters’ are adversely affected by the demotion of big team is unfounded. It is just as reasonable to assume that supporters of other clubs

would be delighted by the demotion. Crucially, the biggest clubs do not always produce the best teams. As has been stated, sporting bodies need to be commercial in order to survive and prosper. But commercial considerations should not be the first, let alone the guiding factor in the composition of competition. The acceptance that sport is commercial, and has to be so, is not to accept the subjugation of sporting values, as Per Omdal argues:

What I am hesitant about is the wild card thinking that we have in some areas in football, like Manchester United say they propose to have a new qualifying formula for the Champions League, with the wild card, like we heard from Milan some years ago. And we should never ever let the money decide on a sporting level, never ever (Per Ravn Omdal, vice-president of UEFA, personal interview, 8<sup>th</sup> April 2005).

Whilst the longevity, economic growth, and history of certain clubs are clearly recognisable, it is important to recognise that the glamorous names do not always produce the greatest teams of an era. The two are not naturally interchangeable, and analysts of European football have occasionally fallen into the trap of making that assumption. Other less feted clubs have also reached the pinnacle of European football, notably Red Star Belgrade in 1991.<sup>64</sup> Whilst the longevity of the biggest clubs seems not be in question, it is still true to say that the 'biggest clubs' do not always produce the best teams. Valencia for example, has won two of the last three Spanish league titles. Similarly, Liverpool, a G14 member, may be considered one of the 'bigger clubs' but as a team are a pale imitation of Liverpool sides of the past, and other less famous names today, despite their Champions League victory of 2005.

In sporting considerations, the 'name' should mean no more than the quality of a team in the present, rather than the 'fanbase plus buying propensity' as advocated by Hecht. We should not be misty eyed about 'brands'. We should recognise their appeal and admire their longevity, their ability to attract support, and their formidable economic growth, but such factors should never be prioritised when deciding sporting structures. If certain clubs are 'special' as Gandini asserts, and their 'brands' outweigh all others as argued by Hecht, then we can expect to see such teams competing on merit. Justification of special treatment by reference to being the 'founders' of European club football is a smokescreen for the untenable desire for special privilege. These clubs were not the founders of European club football, but rather their successes in the competition they continue to dominate enabled them to be the founders of their own dominance. If these great clubs cease to be great, it will be because they no longer been able to utilise the competitive advantage they have developed, and because other clubs have risen to challenge them successfully. Given that their competitive advantage is already so healthy, the idea that they require special status is perverse.

*v. Summary: a new basis for competition in Europe?*

So how can this conflict between raising standards, promoting development, and offering opportunity and access be resolved? Is it possible to have a competition of equals and at the same time offer access to one flagship to 52 different nations? Where should the balance be drawn? The expansion of UEFA, successfully negotiated for the most part, has certainly placed pressure on the competitive structures. Gandini's lament that the third or fourth placed Italian team could be eliminated by a team from Slovakia in a two-legged tie might be interpreted as the selfish lament of

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<sup>64</sup> King relies heavily on the writing of Brian Glanville, famous for his appreciation of the total football played by Ajax and Holland in the early 70s. Glanville also equates *style* of play of play with the *quality* of play although the two are not necessarily congruent, but King follows his views slavishly. Similarly, much reference is made to the quality of the finals themselves as evidence of a decline in standards. Finals have often been laborious affairs and do not necessarily reflect the quality of the teams participating in them. The 2003 final between Juventus and Milan is evidence of this. Similarly the Red Star Belgrade team of 1991 played some of the most exciting football seen in Europe in modern memory, but decided to bore their way to victory in an uneventful European Cup final following a 0-0 draw and penalty shoot out.

the privileged. It is certainly overly defensive with regard to the status of the bigger nations. But it does also highlight the important point that generally speaking, clubs from the larger markets provide for a higher standard of competition. But whilst one has to accept the reality that certain nations are stronger, and deserve greater representation within the competitive structures, it is difficult to see the wider merits of creating a two tier competitive structure. Whilst competitive balance within a competition is important, one would not want to lose the diversity that characterises the current competitions, nor compromise the sporting (and financial) development enabled by a more open competitive environment. Nor would one want to create a closed shop in which entry becomes difficult to the point of exclusivity, with structural obstacles to the rise of new teams from new nations.

The future of competition needs to recognise the interests of the elite clubs, but also look beyond it and shape a competitive system which addresses the many issues that we discussed in chapter four, and namely to make leagues more competitive, and acknowledge that the draw of international club competition may be becoming more powerful. UEFA and the national associations also need to acknowledge both their own capabilities, but also their limitations. National leagues are increasingly uncompetitive. The socio-economic and political context in which UEFA operates means it is likely to remain so. One can either decide that that is acceptable and continue with the *status quo* (which remains, it has to be said, successful in many ways) or attempt to forge change in which competitive balance is heightened, with a greater competition between equals, and in keeping with UEFA's objective of developing the game across the continent. In a dual league system, redistribution is never likely to succeed in achieving this to the degree required. Despite assertions to the contrary, it is politically implausible that UEFA could equalise the economic differences between leagues utilising money generated by the Champions League.

As suggested earlier, UEFA and the national associations can only act within their own competence. The organisation cannot change labour law, roll back technological developments in broadcasting, or alter the size and wealth of nations. But whilst understanding the limitations imposed by the environment, football's governing bodies can take decisions which acknowledge and understand that environment, shaping football within it, protecting the European model of sport. The model itself, and the principles that underpin it are perfectly sustainable, but it may be that they are not sustainable within the current structural framework. The task then will be to create a structural framework in which the key principles – promotion and relegation, solidarity between different levels of the game, universality and unity of governance – can be maintained.

If redistribution between and within leagues, to the point that it would make a discernible difference, is implausible then other more creative solutions will need to be found. A number of possibilities might be taken into consideration. Proposals to create cross-border leagues have aimed to address some of the iniquities evident in European football. An 'Atlantic League' was proposed in 2000 by a number of clubs from smaller nations deemed to be discriminated against by the current structures.<sup>65</sup> The flawed plan was formulated so as to create a market that would be capable of competing with the major domestic football markets. The plans were shelved for a number of reasons, not least objections from the national associations in question, and the international bodies. Moreover, there were unanswered questions as to how the league would fit into the broader competitive structures, such as what relationships the league would have with their domestic leagues, and qualification for European competition. Inevitably, the prospect of cross-border leagues and greater flexibility for competing clubs raises fears and objections amongst those that may have something to lose. Smaller national associations, for example, fear the loss of their largest clubs to rival associations. Similarly, smaller clubs competing in major markets fear the loss of their places in the leagues in which they compete. National associations, the bodies responsible for ratifying any such changes, also fear that the diminishing of purely national leagues, inevitably leads to the diminishing of the national associations per se, with knock-on effects for international

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<sup>65</sup> The clubs involved included Rangers, Celtic, Porto, Benfica, Feyenoord, Ajax, PSV Eindhoven, and Anderlecht, Bruges and 'three or so clubs from Scandinavia' ('Celtic back Atlantic breakaway': <http://news.bbc.co.uk/1/hi/sport/football/600748.stm>)

football, and their role in the overall of governance of the game. It is the contention here that whilst these objections may be understandable they are based largely on self-interest rather than a dispassionate and neutral analysis. It is difficult to accept that certain clubs must be forever constrained to compete within the national territories in which they reside. The implication of this would be to condemn some great clubs to the opportunity of sporadic success. Of course Ajax and Porto most recently have won the Champions League from outside of the 'big five', but the reality is that they are currently at a clear competitive disadvantage. Moreover, isolated victories should not mask the fundamental unjustness of the sporting and economic constraints imposed by location (that go beyond the right to compete). Whilst the national associations are naturally ill disposed to changes in the national basis of competition, there is some recognition of both the discriminatory effect of the established structures, and also a willingness to at least consider alternative arrangements:

There could be a competition between Russia and Belarus, or Ukraine and Azerbaijan and some of these countries, and still keeping the same national associations ... I think if there is an agreement between England and Scotland to have a joint competition, I think UEFA could agree to that (Lars-Christer Olsson, chief executive, UEFA, 16<sup>th</sup> November 2004).

If some countries like Serbia, Croatia, they want to have a league I am not against. If politically they want, governments want, if the national associations want ... for me I think you can help this region to survive (Michel Platini, member UEFA executive committee, personal interview, 21<sup>st</sup> March 2005).

There's an ongoing discussion between these clubs on the one hand and UEFA on the other, about some kind of competition to answer that. There is something missing from European football, there's no doubt about that ... people talk the Atlantic League and things like that, I don't know if that's the answer, I don't pretend to know the answer, they don't know the answer. They're coming up with different concepts of what the best thing would be ... nobody has really reached an answer that's truly acceptable ... I can accept, because I've been spoken to long and hard by Celtic and Rangers, for example. I can accept that there is something missing for the clubs that are not the massive clubs in Europe, there is something not there for them. There should be and maybe UEFA should be working a little bit harder on that (David Will, vice-president FIFA, member UEFA executive committee, personal interview, 21<sup>st</sup> April 2005).

The restructuring of the UEFA Cup with the introduction of a group stage, the support for the 'Royal League' competition between clubs in Scandinavia, and the positive comments above indicate a recognition that alternative structures of competition may have the capacity to resolve some of the problems affecting the European game, even if initial efforts stop short of a wholehearted re-assessment of the existing structures.

As such, any such initiatives would have to be driven from the centre rather than on a national basis. This is another example of where UEFA's principle of subsidiarity – delegation of responsibility to the national associations rather driving policy initiatives of its own accord – may hamper the search for solutions rather than assist in their provision. Any integration of teams from one national association into the league of another needs to be very carefully considered. A cross-border league would inevitably involve a change of regulatory authority for the national associations involved. Were the Spanish and Portuguese to form an Iberian league, for example, regulatory authority would have to be shared through some kind of joint vehicle. In some ways this could be an opportunity for the national associations to regain initiative in certain areas. For example, the role and influence of the leagues and clubs within the national associations could be re-evaluated in the context of creation of a new competition.

It is the contention here, however, that there should be a greater degree of flexibility with regard to domestic league structures, which might follow one of a number of paths. Common to each of the possible solutions articulated below is the desire to equalise market value of the leagues in question, and thus promote greater equality in pan-European competition, and also to increase the competitiveness of feeder leagues by the increasing the number of clubs of equal financial weight in each competition:

1. *Ad hoc integration of clubs:* This would involve national leagues structures remaining largely as they are, but with the ad hoc integration of specific clubs which have demonstrated that the leagues in which they currently compete affect their ability to compete in the European sphere through either sporting or financial constraints, or a combination of the two. Celtic and Rangers provide the perfect example of this in that they are financially constrained by the Scottish market, and constrained from a sporting point of view through the low level of competition in Scotland. As such these two clubs could apply to play within the English structures. Similarly, Porto and Benfica could apply to play in the Spanish league. Because of the inevitable local objections (from clubs, leagues and national associations) this is an area in which UEFA, with a more holistic view of the problems evident in European football, could take the lead from the centre, developing coherent and equitable procedures and criteria through which clubs could apply to play in different leagues, but at the same time preventing a 'free-for-all'. Clubs would have to demonstrate that the league in which they play consistently and systematically hampers their ability to progress. All clubs would then be entitled to apply to play in different leagues (within geographical limits), but decisions taken based on clearly defined sporting criteria. Potential problems would include the possibility that dominant teams, could be replaced by similarly dominant teams, which would serve only to replicate existing systems. Additionally, there may be a considerable impact on solidarity systems, and it would undermine the system of participation on the basis of promotion and relegation. As such, it is not an attractive option.
2. *Ad hoc regionalisation:* This would involve integrating the entire league system of the nations involved. Thus, the English and Scottish Premier Leagues could be replaced by a British Premier League, or the Spanish and Portuguese leagues, with an 'Iberian' league. Potential problems would include the nature of initial integration, although the unification of East and West German leagues following reunification demonstrates the feasibility of such a process. Those finishing in the top 4 or 5 spots could then go on to play in the Champions League. A series of amalgamations could take place across Europe, thus creating a series of markets with greater similarity in size, offering renewed opportunity to larger clubs now operating in small markets.
3. *Full-scale regionalisation:* This would involve the creation of between five and ten regional leagues in Europe. The leagues could remain as feeders for European club competition. The benefit of such a development would be to create a smaller number of leagues with broadly equal market value, with the potential to allow all clubs to realise their full sporting potential. The logistical problems of creating such a system would however, be enormous, including the division of income within the new leagues in order to retain competitiveness, the high cost base, and also the erosion of national identities and rivalries that remain an integral part of the European football's competitive base.

Whilst there are potential problems and drawbacks to each of the solutions listed above, it is not the objective here to formulate perfect solutions (for they do not exist) but to encourage debate, and to encourage the established organisations to consider the various options. At the very least, the national associations, through UEFA, could commission research with a view to gaining a fuller and more comprehensive understanding of the impact of construction on different competitive structures



in European football. Does European football wish to continue with a 'double level of predictability' (Moorhouse, 2002: 108) in which certain clubs dominate domestic competition, and in which clubs from certain nations dominate international competition, or should it seek new solutions promoting greater competitiveness and equality through ingenuity, boldness and creativity?

## Chapter 8. Governance: UEFA and the co-optation of stakeholders

The structures of football competition will play a significant role in the development of football on the continent of Europe. It is also contended that the shape of those competitions will impact directly on the governance of European football in the future. Whilst it has been argued that the G14 organisation lacks the authority that is commonly perceived, UEFA will have to remain alert to the needs and the desires of the clubs in order to keep the global governance of football unified. One means of ensuring the continued unity of the game, with all football taking place under the jurisdiction of the national associations, the continental federations and FIFA is to integrate them more fully into the governance and decision-making procedures. During the course of this research, and in other literature, a number of proposals have been forwarded as a means to achieve this at various levels and they include the following:

- Diversifying the membership of UEFA: integrating the leagues
- Co-optation of stakeholders: G14, leagues and the opening-up of decision-making
- The creation of a Professional Football Council within UEFA (see Ducrey et al, 2004)
- A continuation of the existing consultative committee system
- The creation of a separate league body in European football

The purpose of introducing such changes would be to co-opt the recalcitrant stakeholders further into becoming a part of the system as a means to prevent unilateral action outside of the system. It is worth bearing mind, initially, that compromise within the system may not always be the best approach to dealing with the demands of stakeholders, whatever their level of aggression. A concession granted soon becomes assimilated into a system, and then followed by the demand for further concessions. It has been suggested that there is a dispersion of influence and authority within European football, and although the perception that the power of the big clubs has increased is a reasonable one, the national associations remain in a position to shape and control, if no longer able to dictate change. There is no need for the national associations, and UEFA to acquiesce to the demands of the clubs or the demands of the leagues, but that is not to say that it should not listen to their concerns, and make changes based on the merits of the various different arguments. In making decisions about future governance structures, UEFA and the national associations need to be guided by the principles outlined in chapter 4 (iv). As noted above, the principle of sporting merit through promotion and relegation is considered non-negotiable. In terms of governance, the national associations need to pay due regard to equally important values. Retaining the hierarchy of governance in which the national associations remain the overall guardians of the game will be vital in ensuring that due consideration is given to all levels of the game. That is not to say that other organisations should not be offered greater influence at certain points in the process, but it underscores the need for a coherent and logical organisational hierarchy that determines ultimate decision-making power and responsibility.

### *i. Subsidiarity*

The principle of subsidiarity has become common in discussions regarding the future directions of a number of political organisations, most notably the European Union (see for example, Henkel, 2002; Cameron and Ndhlovu, 2001; Barber, 2005). Definitions of subsidiarity vary. According to Henkel, the principle broadly refers to the ‘limits of the right and duty of the public authority to intervene in social and economic affairs’ and argues that ‘the principle clearly distinguishes between the actions of different levels of authority in a society and state, whereby the highest most centralized level should only take actions if and insofar as a subordinate level cannot achieve the same goal in a better or equally sufficient way’ (2002: 362). Henkel goes on to draw the distinction between subsidiarity and federalism: ‘The goal of subsidiarity is the definition of different levels of authority in state and society as well as the appropriate distribution of powers thereof. In contrast,

the necessary connection of the state and society is the aim of federalism. Thus on the one hand federalism presupposes and follows subsidiarity. On the other, federalism provides the frame in which subsidiarity is exercised' (2005: 363).

This definition provides an appropriate mean by which to analyse the different spheres of decision-making in international football. The principle of subsidiarity is increasingly promoted as a means by which to guide the future direction of the governance of football, both at a domestic and a European level. It is also a philosophy that UEFA itself embraces: 'As an Association of Associations, UEFA's philosophy is one of subsidiarity, delegation, and empowerment of the national football associations – federalism, rather than centralism' (UEFA, 2005b: 12). This statement itself illustrates some problems of definition, interchanging 'subsidiarity' and 'federalism'. Additionally, 'subsidiarity' is also confused with 'delegation'. UEFA's principle is to devolve power to the national associations. Subsidiarity, on the other hand, refers to the most appropriate location of decision-making, rather than the devolution of decision making *per se*. The definition above, which says that 'the highest most centralized level should only take actions if and insofar as a subordinate level cannot achieve the same goal in a better or equally sufficient way' identifies that there may be a point at which centralised decision-making is most appropriate. It is argued below that in an increasing European competitive environment, UEFA's best course of action may be to empower itself, even if that does not accord with its traditional policy of devolution to the national associations.

At a national level, evidence also suggests that the location of decision-making is under increasing challenge. The separation of league structures from national associations is one example of this. Similarly, the English Football Association has recently undergone a structural review in which stakeholders were invited to make submissions in answer to a series of questions about the internal governance processes of the FA. The need for greater subsidiarity was argued by a number of organisations, notably the Football League and the FA Premier League, as a means to increase efficiency in the decision-making processes.<sup>66</sup>

These submissions form the latest part of a broader trend in English football to disperse the decision-making authority in English football, away from what is perceived to be an unwieldy centralised national association, in which those individuals representing the national game are seen to be making decisions on professional issues and *vice versa*, towards greater 'freedom' for the various stakeholders in the game. This has manifested itself most obviously in the growing independence and autonomy of the FA Premier League in 1992. As was noted earlier, this growing independence of leagues is not limited to England. Similarly, representatives of the professional game have argued the logic of the localisation of decision-making:

We're too democratic. We try in the league here to become more independent. Not outside the federation, but to have the competence for all matters, professional matters and not amateur matters. So that's the trend we try to become, it's our first fight. One, two or three years, because I think it's necessary because we are specific in the football world. In the football federations, professional clubs are different from the others (Jean-Marie Philips, President, Belgian Premier League, personal interview, 20<sup>th</sup> January 2005).

I think the executive committee should really be much more like the board of a holding company, and I think the real decision-making power in the specialist areas should be with specialists within those particular areas. So that in terms of the general guidance of the ship if you like, an executive committee. But an executive committee is not the committee what happens in this particular situation or that particular situation. You would have, as you would have in the board of subsidiary companies, the local management deciding the way things should be done locally, within guidelines, within policies agreed upon at the board level, but I do think that for the executive committee of UEFA to think that it can determine everything

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<sup>66</sup> [http://www.thefa.com/TheFA/StructualReview/Postings/2005/06/FAStructuralReview\\_Responses](http://www.thefa.com/TheFA/StructualReview/Postings/2005/06/FAStructuralReview_Responses)

within European football, if that is its view, is naïve. Now in fairness they do seek guidance from etc. etc. etc. but at the moment the final decision is then taken by the executive and that it is entirely possible for the executive to take a decision which goes quite contrary to the advice of the experts ... that's a weakness in the system (Iain Blair, general secretary, Scottish Premier League, personal interview, 11<sup>th</sup> February, 2005).

I believe in football, people should only vote for areas that affect them themselves. If there's something covering the wider issue of the game, okay, you have to bring all the factions on board ... If teams are involved in the decision-making process in matters relating solely to them I think that's fine, as long as the governing body is looking at its key objectives. But within that, okay, I've ultimate responsibility for the Champions League but you will listen to and take advice of the clubs that play in it. I don't have a problem with that. I do have a problem with Rangers, if I'm sitting down on an SFA committee, take the amateurs, and I'm taking decisions which only relate to the amateur game in Scotland, and I'm making decisions against something ... why should I be doing that if I'm not an amateur? (Campbell Ogilvie, general secretary, Rangers FC, personal interview, 11<sup>th</sup> February 2005)

It is easier to say that we don't like UEFA to be the guardians of the temple. We don't think we are the barbarians, therefore we don't like this opposition we have when clubs are coming up and demanding and discussing and asking for a second consideration. I think that a statutory role of an organisation like UEFA being the angels, there to supervise the destiny of football, I think it's too big, too much, overloaded. Definitely, they have to take into consideration 52 different entities and countries and also clubs ... I think that UEFA should co-ordinate its competition, national team competitions, because it's made by associations. What we are missing is an entity within, or compared to UEFA which runs the competition for clubs ... in reality there is a missing point between UEFA as an association of associations, and the clubs who belong to the associations when they are competing against each other. They will probably need an authority on them which is not made by associations. This is probably, as a club, the aspect that we would like to see the most. Don't forget that the majority of the business, negatively we are talking about business, that UEFA controls, is made by the everyday activities of the clubs. And the European club competitions are the ones, especially the Champions League, who are bringing most into it, and this amount of money is then redistributed by UEFA to the entire football family. And the majority of this business comes from ten, twelve clubs in all Europe (Umberto Gandini, organising director, AC Milan, personal interview, 14<sup>th</sup> February 2005).

As a member of the council of the Scottish Football Association council and as secretary of Rangers, Campbell Ogilvie sees the issue from two perspectives arguing that as a representative of the professional game, he should have greater capacity to influence the direction of the professional game, but less capacity to influence the amateur game. There is certainly merit in this approach, and as we discussed when analysing the role of committees in UEFA and the existing culture of decision-making there appears to be a divergence between those taking decisions, and those upon whom the decision impacts. Of course, there are times when this is entirely appropriate, for example when disciplinary issues are being decided. Such decisions need to be taken independently and neutrally as far as possible within a framework of self-regulation. Similarly, the need for independent regulation is necessary to protect the integrity of competition, and to place requirements on the clubs that clubs will always be less reluctant to place upon themselves. UEFA's 'homegrown' player proposals are an ideal illustration of where UEFA is seeking to promote the training of young players and to improve competitive balance, an initiative that the clubs would never have undertaken of their own accord. However, there are also areas where it seems reasonable that clubs should have a greater degree of influence within the decision-making process. It is doubtful, for example, whether a club that has never played or is never likely to play in the UEFA

Super Cup should have a role in deciding the location of where the Super Cup is played. The logical extension of this is to argue, as Umberto Gandini does, that there should be a body within UEFA or outside, comprised of the competing clubs which has responsibility for club competition.

These examples, however, also indicate the dangers of promoting subsidiarity as a means by which to resolve the problems arising in European football. Gandini's comments in particular point to the motive behind the drive towards greater delegation or subsidiarity in decision-making. The view that the clubs 'make the business' highlights the financial justification for greater independence and illustrates the probable desire for greater financial as well as decision-making autonomy. What this serves to illustrate is that delineating decision-making boundaries on the basis of subsidiarity is problematic. Whilst the clubs of course have a paramount interest in club competition, the finance and structure of club competition also directly impacts upon others, including those directly involved (players, for example) to those who benefit from the finance generated by such organisations (such as the national associations, and as a consequence grassroots football and the leagues). Increasing subsidiarity in the professional game has meant and could mean further isolation of elite game from the lower levels of the pyramid. Subsidiarity has been promoted as a means of making the decision-making and governance structures more effective and efficient, but in reality the principle can also act as a convenient smokescreen for the professional organisations, in attempts to gain greater independence and autonomy from the established structures. Needless to say, the ultimate objective, despite denials, will be to take total financial control of what such organisations perceive to be their assets, and the revenues generated from that. Subsidiarity, then, would constitute not only or even a means by which to streamline decision-making, but the means by which clubs and leagues sought to increase their own financial position, to the inevitable detriment of other areas of the game. The principle of subsidiarity could, for example, be used to invoke and justify the individual sale of television rights. Inevitably, then, the concept of 'subsidiarity' raises for football similar issues characteristic of subsidiarity elsewhere, namely the relative desirability of localisation and centralisation of decision-making.

The concept of subsidiarity may be too broad and intangible to be of genuine value when considered in isolation as a guiding principle. However, if we consider the concept, and the desire for greater localisation of decision-making in the theoretical framework that promotes specific principles located within the European model of sport, then we can perhaps draw some specific decision-making boundaries in which the localisation of decision-making is afforded, and where centralisation of decision-making is the means by which the viability of the pyramid is protected. As we noted above, the various stakeholders have legitimate and reasonable concerns. This is evident both in terms of how they are integrated into the decision-making processes, and also in terms of what they perceive to be their interests. The demands of the big clubs and the big leagues should not be summarily dismissed as being motivated by self-interest. Such polemical propositions are hardly helpful in finding solutions to the multi-faceted problems of European football. As Gandini suggests, the elite clubs are not 'barbarians', but vitally important stakeholders. There is genuine dissatisfaction with the way in which stakeholders are integrated into the process. Whilst I have argued that in order for the worldwide framework of football governance to remain coherent and logical and in order to protect the principles core to the European football project, the national associations must ultimately remain the sovereign vehicles of governance, the manner in which stakeholders are integrated into the processes must be the subject of continual evaluation.

In that context, UEFA could utilise a concept of 'controlled' or 'supervised' subsidiarity in shaping the future direction of European football governance. UEFA's reference to subsidiarity in its strategy document demonstrates that the organisation has yet to effectively find the appropriate balance between centralised control and subsidiarity. Indeed it could be argued that UEFA's strategy is the obverse of what would constitute a more effective way forward. As we have argued, UEFA is hamstrung to a degree by its very structure, and its objectives, which focus on the sovereignty of the national associations. Whilst the empowerment of the national associations has been defended here as a necessary aspect of coherent football governance, the wariness of

interfering in the affairs of national football creates difficulties for UEFA. Certain problems in European football are pan-European, rather than national problems. As such they will require pan-European solutions emanating from the centre. The tendency to defer to the national associations naturally inhibits the ability of the organisation to develop centralised answers. For example, it could be judged to be in the overall interests of European football to decrease the amount of domestic club football, and increase the amount of international club football. Yet it is likely that such a move would be instinctively resisted by the national associations making up the UEFA membership, and as such limit the ability of UEFA to conduct a genuine and comprehensive analysis of the merits of such a development. More recently, the debacle surrounding Liverpool's qualification for the 2005-06 Champions League demonstrated the inconsistency and confusion created by the delegation of decision-making to the national associations, rather than more decisive action by UEFA.<sup>67</sup>

Whilst it has been argued that UEFA should remain an association of associations, it may be the case that the interests of the national associations constitute an obstacle to otherwise desirable developments. The national associations have a crucial role to play, but that does not mean that such a role is forever unchanged. A challenge for UEFA may be to encourage the national associations to re-evaluate their positions, and think more radically about their role in relation to UEFA, maybe divesting certain powers and responsibilities to UEFA in an acknowledgement that pan-European problems require more centralised solutions.

It has been illustrated above how European football, and the creation of a more level playing field than currently exists, may require a centralised system of regulation that could only be achieved on a pan-European basis. UEFA is seeking to develop a more centralised regulatory role, and UEFA Club Licensing and the homegrown player proposals are evidence of this. Indeed, the unwillingness or inability of UEFA to impose the regulation on all its members will inevitably affect, to one degree or another, its impact. In the UEFA strategy document, it also states that UEFA should 'expand its co-ordinating and monitoring role' (UEFA, 2005b: 27). In terms of the grassroots development such a policy is entirely sensible, but in the context of professional football in Europe such a policy seems both naïve and anachronistic. As we suggested in section one of this chapter, an expansion of UEFA's role in the development of policy and regulation will be a necessary aspect of both the provision of solutions in European football, and as a means to buttress its own authority.

By contrast, UEFA seeks to control and dictate where there may be genuinely greater scope for subsidiarity in of decision-making – such as in the formulation and control of club competition – and thus inflaming the relationship between UEFA and the national associations on the one hand, and the leagues and clubs on the other. Controlled subsidiarity has the potential to recognise the legitimate interests of the various stakeholders in a more active role in the decision-making process, whilst simultaneously acknowledging the collective nature of sport, the interaction between amateur and professional football and the mutual interdependence of the various levels of the game, and the need for an overall system of independent control. The application of this type of controlled subsidiarity will be considered when looking at some of the proposed changes and developments advanced.

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<sup>67</sup> In 2004-05, Liverpool won the Champions League but finished fourth in the Premier League. UEFA's rules for entry for the Champions League limited the number of teams from one nation to four. In the event of the Champions League winners finishing outside the top four, UEFA delegated responsibility to the national association for choosing either the fourth placed team or the Champions League holders. The FA selected the fourth placed team, Everton, before the final of Champions League had been held, and then lobbied successfully on behalf of Liverpool following their victory over AC Milan in the final, thus allowing five teams from England to compete in the 2005-06 season, contravening UEFA's own rules, and causing recrimination between the FA and UEFA.

## *ii. A two-pillared UEFA? The national associations and the leagues*

UEFA's structure as an association of associations has come under increasing pressure. A number of issues arise from the composition of congress and the role of its members. The size of UEFA, with 52 associations, causes its own specific set of difficulties. As a number of stakeholder representatives have noted, the member associations vary enormously in size, economic power and sporting tradition, and some of the challenges UEFA will have to face in the future will revolve around the difficulties of incorporating such enormously different demands of the different associations, particularly in the area of competition. Presently, however, there is little impetus to make changes to the UEFA congress in order to reflect the diversity of its membership. Potential changes to Congress could include different levels of membership with accompanying voting rights, the elevation of the major associations and so on. During the course of this research, however, respondents placed little emphasis on altering the one member, one vote principle enshrined in UEFA's membership structures. The fact that the major associations have traditionally been well represented, and the political compromises that have been struck between the associations of varying sizes has meant that a fundamental reappraisal of the representation of the 52 national associations within the Congress has not developed into a major governance issue. This section will therefore focus, not on the role of the associations within the membership structures, rather the potential integration of other stakeholders within the membership and decision-making procedures of UEFA.

The formation of the EPFL was viewed with concern by UEFA, and although some of those concerns may now have been alleviated, specifically with the removal of references to the organisation of competition in the constitution of the EPFL, the existence of the organisation comprises yet another, potentially significant, centre of influence within European football. Whilst it has been contended that the 'expertise' the leagues offer has been exaggerated in some respects, the EPFL does nevertheless provide an overarching representative framework for the professional game, upon which UEFA relies heavily. It is therefore likely that the EPFL will seek to increase its authority in the European game in the coming decade. Composed exclusively of the member national associations, socio-economic and political trends, and concomitant trends within the football industry have left the membership base of UEFA itself open to question: Should the national associations continue to be the sole members of UEFA?

It is worth initially looking at some wider principles with regard to governance in sport. In our earlier discussion of the strength of the European model, and its underpinning principles, it was contended that certain principles must always form the core of decision-making, and as such structures must ensure that such principles can be adhered to. These principles included the need to ensure that whilst sport may change through commercial imperatives, the basis for decision-making should be sporting considerations. We also noted the need for independence, the need to prevent the ascendancy of specific, vested interests, and an inclusive approach. To what extent does the membership of UEFA both protect and constrain these principles? The leagues themselves have increasingly argued that their role as the economic drivers of the game should be reflected in the decision-making processes within UEFA:

The national associations can practically decide the future, and it's difficult to conduct change where somebody has a lot to lose, because today the national associations have 100 per cent of the power, and from my point of view they have to give 50 per cent. We have to find a solution where the power is 50 percent with professional football and 50 per cent with the associations, and at the end somebody has to decide, probably the executive committee of the UEFA, what's best in the general interests. UEFA has the possibility but it is not really easy, because they need to have a real feeling and to find the right way to innovate, to change the organisation and the structure ... Now you have the executive committee and the general assembly. On the ExCo it is fairly clear that half the people have to come from professional football and the other half from amateur football. Today the general assembly is only made up

of the 52 federations. These federations are receiving a lot of money from UEFA and FIFA and this money is produced by professional football. But in a democracy it is common that you have two chambers that can represent different interests. So I can imagine a chamber made up of the associations and a chamber made up of the leagues (professional football) and you would need the majority of the two chambers to make a decision. Everyone has to take into account the interest of the other. We have to find a compromise where we can go together. Probably professionals don't need the amateurs now. But in ten years, without amateurs we would have problems with the fan base, with the development of youth football and so on. And that means the idea is to have two chambers with practically the same weight, and that it would take a compromise to achieve a majority. The executive committee would be the representative of the two chambers. That means you would have equal representation between the professional world and the amateur world. That would for me be the ideal. But I know that the national associations are not ready for this, and that, for me, is the real challenge of UEFA. If they can manage this challenge, UEFA will stay and conserve its position, Champions League and so on, and we will have no problem, but it's a real challenge (Edmond Isoz, chief executive, Swiss Football League, personal interview, 2nd March 2005).

The dilution of the vote of professional football in the international organisations, in UEFA and FIFA is the problem we tackle. It's not good that only through the national associations do we have a diluted vote in the international organisations. We need a direct link with them to the executive committee. We have handled this in the contract between the DFB and the Liga ... I have a simple system. I say that it is not necessary to have the same vote on UEFA. My idea is that UEFA has 52 members, the national federations. And I say the 53<sup>rd</sup> member is the association of the European leagues. The UEFA executive committee has twelve members. Give professional football two members in the executive committee. You have freedom for the first time. You have respect. You could be an extraordinary member. It is very important to begin to involve professional football in a direct line to the ExCo. That's very important. That's a signal to professional football that their contribution is very important to football. Not only representatives of the national federations and the grassroots (Wilfried Straub, former chief executive, Deutsche Fussball Liga, personal interview, 8<sup>th</sup> March 2005).

As the evidence above demonstrates, there is no unanimity of view regarding how the leagues should be integrated into UEFA structures. Straub, arguing that the leagues should constitute a 53<sup>rd</sup> member of UEFA and be entitled to representation on the executive committee of UEFA takes a less radical approach than Isoz, for example, who argues that UEFA should be structured as two-pillars in which both the national associations and the leagues comprise the membership, with two chambers of congress and an executive committee comprised of equal representation of national associations and leagues. The constant refrain that the leagues drive the business and finance of football is used as the justification for demands for an increase of influence within UEFA.

The proposals of Isoz and Straub reflect, of course, their positions as the administrative heads of their respective leagues. The proposals demonstrate a natural inclination to consolidate and extend their own authority within the existing system. The leagues argue that given their integration into the structures of the national associations, they should be similarly integrated into UEFA at a European level. UEFA categorically opposes such a development: 'UEFA should remain an association of associations ... national associations are the owners of UEFA and therefore the decision-making bodies should reflect that' (UEFA, 2005b: 27). UEFA vice-presidents Per Ravn Omdal, and Geoff Thompson confirm the predominant view within UEFA:

I am 150 per cent a defender of UEFA remaining an association of associations. Many people representing associations like presidents, like general secretaries are recruited from the leagues. They are always represented in the executive bodies or elected bodies or whatever on



an association level so you don't need that level on a UEFA level. The indirect representation is more than enough. But it's important for UEFA to give an air and listen and communicate with the clubs and the leagues as well as the referees and the women and all stakeholders. But there's nothing except for money that should qualify the leagues to have a specific position within UEFA because this position should be maintained within the national associations (Per Ravn Omdal, vice-president, UEFA, personal interview, 8<sup>th</sup> April 2005).

UEFA is an association of associations. If the associations don't care for football in their country, I doubt that anybody else will. And so you've got to have that overriding arch of the national associations, who have responsibility by statute for football in their particular country. I think UEFA acknowledge their responsibility to assist their national associations in regaining, in some instances, not in many but in some instances, control of football in their particular country. I think that's a vitally important issue ... Having said that we've got to be aware of all our stakeholders, and their interests and fully consult with people, and give committees some authority to determine issues which affect their particular part of the sport. But I really can't see how you could move away from an association of associations. Everything is else subservient (Geoff Thompson, chairman, the Football Association, vice-president, UEFA, personal interview, 5th April 2005).

Typically, we again see the tenacious defence and advancement of their respective interests. The leagues seek to increase their influence, whereas the national associations, through UEFA, seek to maintain their existing position of privilege. Nevertheless, that does not necessarily mean that the positions of the different stakeholders are of equal merit. As has already been argued, the position of the national associations in governance is sovereign and it makes sense that it remains so. All the continental confederations are associations of associations, as is FIFA, reflecting the specific role of the associations as representatives of the whole game rather than specific aspects. As UEFA seeks to take a greater regulatory role, it will be vital that the organisation retains the independence and neutrality of interests that it gains from its current composition, which would inevitably be eroded by complicating its membership base. The leagues characterise themselves as representatives of the professional game, and as such imply that the national associations are solely representatives of the non-professional game. This is evident in both Isoz's and Straub's comments above. Firstly, given that the premier leagues represent only clubs, and not supporters, coaches, referees and lower leagues, they cannot claim to be fully representative of the professional game. Moreover, this argument that the professional game is somehow disconnected from the decision-making structure is actually based on something of a false premise. As Omdal states, analysis of the composition of the UEFA executive committee reveals that experience of the professional game is well represented within UEFA's key decision-making body. Franco Carraro of Italy and Gerhard Mayer-Vorfelder of Germany were heads of their respective leagues, Michel Platini and Villar Llona played football at the highest level, and a number of other members were connected to professional clubs. Many representatives of national associations therefore owe their positions to their experience of the elite game and the characterisation of the leagues as the sole professional representatives disguises the reality that the national associations comprise a wide range of interests in which the professional game is well represented. The professional game has demonstrated its willingness to use the existing structures to gain access to the decision-making process and that is entirely appropriate.

As Per Ravn Omdal suggests, the leagues are already often represented through the national associations. Moreover, the integration of the leagues would dilute and complicate the hierarchical structures of global football governance. In both FIFA and UEFA statutes, the leagues are defined as being subordinate to national associations. Placing them on an equal pedestal within UEFA would be contradictory to the organisational framework and would inevitably introduce a greater degree of conflict to decision-making. As argued above, the national associations must look after the broader interests of the game, rather than just the professional elite, and the exclusive membership of UEFA resting with the national associations allows this to be the case on a

continental level. This role, contends Omdal, also endows UEFA with credibility when it comes to negotiating with political institutions like the European Union:

The credibility and the identity and the legitimacy of football is created by the grassroots, by the social function. It's not created by the professionals. And we live in a political environment, a political continent, and we have to be aware of that. And UEFA is the guarantee that the top professional game is also financing partially the grassroots game, the education, development of the referees and so on and this is the reason why we are allowed to have some bylaws which are not exactly corresponding to normal competition law for whatever company ... In the article for sport, the specificity of sport should be recognised. And this is where we are, and it could not be done by the big clubs. It could be done by a credible body like a national association, or UEFA, seeing to it that all parties are being considered and benefiting from what we are doing (Per Ravn Omdal, vice-president UEFA, personal interview, 8<sup>th</sup> April 2005).

The composition of UEFA affords the organisation a unity of purpose in which the game at all levels is considered. By introducing the leagues into the membership of UEFA, this unity of purpose would inevitably be put under pressure and quite probably eroded. Similarly, as Thompson indicates, altering the structure of UEFA would be odds with the coherence of the global governing structures of football as a whole:

FIFA is an association of associations. All the confederations are associations of associations. You can't really have one confederation not of the same structure. It would be foul of FIFA statutes as a start. What you've got to do is ensure that those participants taking part in European competitions have a voice and that that voice is listened to (Geoff Thompson, chairman, the Football Association, vice-president, UEFA, personal interview, 5<sup>th</sup> April 2005).

Whilst recognising the importance of stakeholder consultation, it is crucial to remember that whilst the leagues are a key economic driver of the European game, they do not, and cannot represent any interests in football other than their own. They are unquestionably an important part of the football governance network, but at the same time their interests are limited to the interests of their member clubs, and their owners. To place the leagues on any kind of equal membership footing within UEFA, would be to shift the balance of interests in football from one in which the national associations retain authority through their position as the natural sovereign governors of the game, and the leagues and clubs through their economical and political influence, to a system dangerously in favour of the professional game to the inevitable detriment of a sporting model in which the interests of all levels should theoretically and practically be catered for. Indeed, Thomas Kurth of the G14 also fails to see logic behind changing UEFA's membership structures: 'I don't really see the point of the leagues becoming members of UEFA. And I don't really see the point of the clubs becoming members of UEFA' (personal interview, 18<sup>th</sup> January 2005). Indeed, if leagues do not feel well enough represented within the national associations, then that is an issue that needs to be addressed at the national, rather than international level, as well as in attempts to improve the mechanisms of consultation within UEFA, as UEFA have sought to do. Alternatively, if the leagues are seeking representation on the executive committee, then other stakeholder groups could also make similar justifiable claims. In that case, more careful consideration would need to be given to the nature of the composition of such a stakeholder board. That would raise some of the problems and issues characteristic of broader debates about stakeholder theory, namely, the extent to which the organisation has responsibilities beyond its owners.

Also, whilst the leagues may adopt an aggressive approach in attempts to extend their scope of authority, they do so with little leverage. Yes, the EPFL represent a large number of clubs across the continent (although by no means all), but in the context of the stakeholder network of European

football they do not adequately represent the clubs that matter, apart from in a strictly formal sense. Everything that the leagues can achieve at a European level, such as improving their capacity to deal with problems common to leagues and issues dealt with by UEFA but affecting all clubs (such as UEFA Club Licensing) can be dealt with through the existing mechanisms. Greater influence is requested out of little more than the desire for an increase in their own authority and no doubt a desire for the associated perks that go with it. That said, the need for effective integration of stakeholders was discussed earlier. The dissatisfaction with the integration of leagues into the governance process should not lead to their integration as members of UEFA, but it may mean that their role within the current procedures needs to be re-evaluated in other ways.

### *iii. Co-optations and a 'Professional Football Council'*

Clearly the level of expertise is an important issue for any governing board. It may be that co-optations should be utilised to ensure that such expertise is available to UEFA. Evaluating whether the current UEFA executive committee has sufficient expertise would be a particularly delicate task. Such an evaluation was beyond the scope of this research despite insider access to the organisation, and is probably a task that could only be effectively achieved internally with an unprecedented degree of self-evaluation. Anecdotal evidence suggested that there was an insufficient level of expertise on the UEFA executive committee, and if this is the case then an organisational audit of personnel, their experience and qualifications would be of obvious benefit.

Whilst it has been argued that there is little justification for a fundamental alteration of UEFA's ownership and membership structure, more convincing arguments might be made with regard to the composition of the organisation's decision-making structures. Stakeholder theory advocates that boards should incorporate stakeholders, with the result that they become more responsive to their wider constituencies: 'the stakeholder approach to the role of the governing board expects the board to negotiate and compromise with stakeholders in the interest of the corporation' (Hung, 1998: 106). This significance of the stakeholder approach is recognised by UEFA: 'stakeholder and interest groups must be involved in the decision-making and/or consultative process and consequently UEFA must develop effective structures and relationships with such groups' (UEFA, 2005b: 27). That UEFA accepts the importance of its relationships with its stakeholders is recognised in the changes to the organisation that emerged before, and as a result of Project FORCE. The question is therefore now not whether UEFA should integrate stakeholders into the decision-making and consultative process, but the extent to which they should do so. A number of different means of integrating stakeholders have been mooted. Subsidiarity in decision-making as promoted by Blair and Ogilvie might, for example, lead to different pockets of integration in which specific sectors of the game take responsibility for specific areas of decision-making. One example of this is the proposal that the professional game – either the leagues or the clubs – takes control of elite competition. This is discussed in further detail below. Another means by which to integrate influential stakeholders is a restructuring of the executive committee to reflect more greatly the diversity of interests in European football. This, for example has been advocated by Thomas Kurth of the G14, and Umberto Gandini of AC Milan, although they argue only for the representation of their own particular organisations:

The UEFA executive committee, which is the only one body that can take decisions within the organisation, could be composed of partly football association members, but also partly club members. At the moment there are no club members. Such a step could be extremely beneficial for all parties involved. First of all there could be a different mutual understanding. At present there is a big gap between clubs and federations, it's like a permanent conflict situation. If they were sitting around the same table, listening to each other and speaking to each other, if they could hear the arguments from the other side and could bring in their own arguments, through dialogue and communication eighty per cent of the problems could be

sorted out before they become serious problems (Thomas Kurth, general secretary, G14, personal interview, 18<sup>th</sup> January 2005).

I think it lacks by far of correct representation of clubs at executive committee level. We have been discussing that many times in UEFA, that's one of the requests we made when we founded G14. We said that UEFA is running the entire football scenario and so on, and you have certain responsibilities, which is fine. But when it comes to our future, when it comes to our competitions, when it comes to rules which are going to affect our business, we want to be there. We want to be there to explain. We want to be there to understand their views. We want to be there to vote. Not to be in a position where you just talk to us if you want. We don't know what is reported back to the ExCo, and then the ExCo decides what they want. This is still the most conflicting point we have with UEFA (Umberto Gandini, organising director, AC Milan, personal interview, 14<sup>th</sup> February 2005).

The introduction of co-optations onto the UEFA executive committee is certainly one means by which stakeholders could be integrated into the decision-making process. Indeed the executive committee has the statutory power to make two additional appointments (UEFA Statutes, article 21.1), although these have been used to maintain geographical representation within the committee. The potential benefits of the co-optation of stakeholders are obvious, at least in theory. A strategy of incorporation aims to nullify the possibility of exercising available threats, and seeking alternative solutions elsewhere. Kurth casts this political reality in a more positive light by developing the view that the incorporation of the clubs into the UEFA executive committee would improve the channels of communication and lead to the resolution of certain contentious issues. Isoz also advocated such a development, arguing that opposing interests can come together, discuss, and emerge with consensus-based decisions. There is certainly some merit in the approach that through dialogue and discussion issues and interests can be best articulated and understood. This does not, however, necessarily lead to the view that the executive committee should co-opt stakeholders onto the executive committee. Whilst such a strategy might have short-term tactical value, the acquiescence to demands under pressure is not the basis on which to develop long-term governance solutions. Influential stakeholders in football, notably the clubs and the leagues have multiple entry points to the decision-making process, and as noted above, such representatives can, by contesting the appropriate elections within the democratic framework, assume positions on the decision-making committees of the sovereign organisations. As such they would bring their experience of working within professional football to the top decision-making body, although it could correctly be argued that they would no longer be the representatives of the various organisations they have served, but the national association through which they were elected.

Whilst stakeholder theory has developed interesting and convincing arguments with regards to the significance of interests beyond shareholder value, criticisms remain of the co-optation of stakeholders directly onto boards (Sternberg, 1997)<sup>68</sup>. Whilst these criticisms have credibility they do not transfer ideally to football governance. UEFA is accountable to its owners, the national associations, but the political and economic reality is that it is highly dependent on other interests who see themselves as separate organisations, rather than part of the integrated governing organisations. In this context, the inclusion of stakeholders would be based not so much on the need for corporate social responsibility, or even the need to balance the interests of stakeholders, but would be based largely on the political and economic pressures that the leagues and the clubs bring to bear. The solitary refrain of the clubs and the leagues is that they generate the money and should

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<sup>68</sup> Sternberg argues that balancing stakeholder benefits is an unworkable objective, due to the fact that the number of potential stakeholders is infinite, there is not basis on which to decide what is 'beneficial' for stakeholders, and that there is no guidance to as to the balance of interests should be struck. Also she argues that stakeholder theory is incompatible with good corporate governance as the key element is accountability to shareholders. Stakeholder theory, on the other hand argues that companies should be accountable to all stakeholders, which Sternberg argues is unworkable (1997: 4-5).

therefore have a greater say in calling the tune. Yet surely, sport governance needs to be based on a more comprehensive and holistic approach than simple economic weight.

The advances in dialogue to which Kurth alludes can be achieved in the governance process without the dilution of the organisational philosophy, and the increased level of conflict that would be likely to follow the integration of leagues and clubs. Stakeholder integration into the key decision-making bodies – the executive committee of UEFA – would have the potential to significantly hinder the very objectives of the organisation, and dilute the unity of purpose. Just as it is argued that the application of stakeholder theory to business blurs corporate objectives with consequences for profits, share value, and the fundamental reasons for running a business<sup>69</sup>, the incorporation of specific stakeholders into what is a (largely) philosophically coherent entity, within a logical global governance framework, would simply muddy UEFA's organisational mission. This discussion has focused closely on the position of the national associations and UEFA in the context of the European model of sport. The introduction of financially interested organisations into the decision making-structures could distort the very purpose of the organisation. In this instance, stakeholders desire inclusion not so that they can better help UEFA achieve its stated objectives, rather that they can achieve their own self-interested policy goals within the system. It is better that the two key bodies of UEFA, the congress and the executive committee remain associations of associations. The associations should remain, as Platini argues, 'the boss' (personal interview, 21<sup>st</sup> March 2005).

So if the congress and the executive committee should remain the exclusive preserve of the national associations, alternative structures may need to be developed in which European football's key stakeholders can be incorporated. One of the most innovative solutions has been proposed by Ducrey et al. (2004). Following analysis of the conflicts between clubs and national associations in European football and the problems caused by UEFA's composition as an association of associations, and highlighting the palliative nature of UEFA's committee system, the authors advance the idea of the creation of a Professional Football Council, in which decision-making is shared between UEFA and the professional stakeholders 'on all decisions within the scope of professional club and national team football at European level' (2004: 83). The Council would report to the executive committee, which would only have veto were the Council to decisions outside of its scope. The composition of the Council would include five representatives of UEFA; two from the leagues; two appointed by the club forum; one players' representative; and a FIFA observer. The conservative composition recognises 'UEFA's ascendancy' which is buttressed by a casting vote for the UEFA CEO. The authors argue that 'the proposed solution brings many advantages to the current governance model of football, the most important of these being the representation of relevant stakeholders at decision-making level' (2004: 83).

The solution they provide is provocative and bold, and would have significant consequences. Firstly, it would further emasculate an executive committee already discontented by changes in the aftermath of Project FORCE. Such a radical re-evaluation of the decision-making structure within European football would almost certainly be resisted fiercely by its members and by the national associations more generally. Similarly, like a reformed executive committee, the council would be as likely to become a forum of conflict as much as a forum of consensus. The formation of such a council would also constitute a very basic form of subsidiarity that assumes a very basic breakdown between professional and non-professional football. As has been suggested there exists a mutual dependence through the various different levels of the game. The professional game relies on footballers and coaches developed and trained in the amateur game and the lower levels of the pyramid, which are in turn dependent on the resources generated by professional football. Thus, decisions taken in professional football impact directly on areas of the game that at first glance may seem far removed. To place what are superficially seen to be 'professional issues' into one separate territory may not be appropriate. Professional football may be too monolithic a

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<sup>69</sup> Sternberg argues that 'stakeholder theory is not only prone to impair corporate governance: it is bound to do so. In requiring business managers to balance stakeholder interests, stakeholder theory demands that managers violate the prior obligations to owners that they undertook in accepting their jobs' (Sternberg, 1997: 5).

category to facilitate effective decision-making, and it may be the case that the manner in which UEFA's consultative committees are already constituted provides a better framework for devolved decision-making.

Similarly, if subsidiarity is an important principle, it may be that the composition of the council is too broad to effectively delegate certain responsibilities. Certain decisions will specifically affect certain clubs; others will affect all clubs, in which case the leagues would be the most appropriate vehicle for the integration on decision-making. UEFA's creation of a Professional Football Committee including leagues, and the European Club Forum, including clubs (and which elects members to the Club Competitions Committee) more effectively recognises the different and varied interests of the different stakeholders. For example, the European Club Forum and the Club Competitions Committee provide more suitable means to elicit the view of the clubs with regard to the structure and commercialisation of competition, rather than a body that includes UEFA representatives, and the leagues and the players. This also recognises the political reality that it is the clubs that drive European competition, rather than the leagues themselves. Similarly, the players are employees of the clubs.

The leagues organise competitive football on a national level, and there is little reason for the leagues to be afforded a similar role at an international level, when only a small minority of their members compete in European football on a regular basis. As has been argued by Kurth and Gandini, a more appropriate structure would be for the competing clubs to compose the body responsible for competition rather than the domestic leagues, notwithstanding the pitfalls inherent in such a development. Iain Blair noted that the leagues expertise in the organisation of competition merited their greater inclusion in the decision-making process. But the one thing that almost everybody agrees is that UEFA's organisation of competition, working alongside TEAM, is exemplary. The one thing UEFA is not lacking is expertise in the organisation of competition. This argument coming from the leagues then seems to be little more than an envious desire to be involved in something that at the present time they are not involved in, rather than a genuine claim that they can add value to European football competition. If one looks at developments at a domestic level, and the almost pathological determination to control (particularly in England), perhaps such a move is not surprising.

Additionally, UEFA offered the elite clubs and leagues access to the executive committee through the creation of an expert panel<sup>70</sup>. The panel would have comprised UEFA's four vice-presidents (all members of the executive committee), four representatives of the leagues, and four representatives of the elite clubs. The panel would therefore have provided a forum in which representatives of the professional game could raise issues directly with members of the executive committee, with no concerns about the role of the UEFA CEO in relaying information. However, this proposed body was rejected by the leagues, which were uncomfortable about the parity offered to individual clubs. It is interesting that even though such a body would have provided a potentially important means of consultation that the leagues concern about the input of the elite clubs was sufficient to decide against participation. This indicates implicitly the divergence of interests between the elite clubs and the domestic leagues in which they participate. Whilst there may also be certain shared interests, differences were enough to hinder efforts to establish an unprecedented vehicle of participation.

#### *iv. The delegation of club competition*

It has been argued that the membership of UEFA provides the organisation with a coherence of governance in which national associations remain the sovereign governing bodies at the European level. Similarly, it has been argued that whilst a 'professional football council' undoubtedly has its

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<sup>70</sup> Expert Panels are allowed under article 38 of the UEFA statutes: 'The chief executive may, if necessary, appoint expert panels for special duties, and working groups for special limited (in time) duties. The members of the expert panels shall be exclusively appointed by the chief executive for a duration of two years. The chief executive shall draw up terms of reference as required.'

merits, there are also implicit dangers in creating a body with control over all so-called professional matters. But as discussed above, there remains a genuine dissatisfaction with the manner and mechanisms in which UEFA interacts with its stakeholders. An alternative, and one which may offer solutions, is to operate a system of delegated authority from the UEFA executive committee to the various committee structures. Such a system is already in place in certain areas. For example, the referees committee has delegated responsibility for all decisions regarding refereeing matters. As argued above by Iain Blair, a framework could be developed in which the role of the executive committee is altered in order to generate a greater devolution of decision-making. Blair's proposal has particular appeal, as it recognises the authority of both the national associations, and the overall authority of the executive committee as the board of the 'holding company'. The key task would be to delegate the appropriate amount of power to the appropriate bodies, and consider the extent to which the executive committee retained power of veto over the decision-making process.

Of all the significant issues in European football, perhaps it is the organisation of club competition that remains the most contentious. UEFA enjoys a dominant position derived from the historical development of the worldwide game in the early twentieth century and the development of the European clubs game from the 1950s onwards. The benefits of UEFA control of competition have already been identified, namely ensuring meritocracy in competition qualification, the rights of each of UEFA's members to participate, vertical and horizontal solidarity, and more broadly the continuing participation of club football within the established and unitary global football structure. Despite the imperfections, some serious, evident within European football these benefits are worth preserving, and so developments in governance taken by UEFA need to prioritise the important principles that emanate from the European Model of Sport. That said, it could be argued that the alleged lack of input in the decision-making process, regarding both the structure and marketing of competition, afforded to the clubs is unnecessarily inflexible. It is, after all, the clubs that compete, and the clubs that are responsible for generating much of the value. Indeed, the formation of the European Club Forum was a tacit recognition that the national associations cannot effectively represent the interests of the clubs on particular issues. If that is the case then why do the national associations, through the UEFA decision-making structure retain formal control of the right to decide on the format and structure of competitions? Given that control of club competition constitutes an area of such importance, it is useful to use the issue as a case study for future governance scenarios.

It has been suggested above that there should be a re-evaluation of competitive structures of European football. Rather than promoting a solitary solution, it has been argued that a number of different possibilities may emerge, but that whatever restructuring takes place it should take into account certain principles of the European Model of Sport: promotion and relegation; solidarity within and between leagues and different levels of the game; and the sovereignty of the national associations. We have argued that a process of evolving regionalisation may take place, but that a dual league structure remains the best means by which to organise European football. This is however, a potentially longer-term solution to problems posed by a lack of competitive balance, and the political difficulties of delivering an effective system of redistribution. Short-term problems remain in which the elite clubs are underrepresented and undervalued within the existing governance procedures. The Media Partners proposal illustrated UEFA's worst-case scenario, with the possibility raised of clubs operating outside of their jurisdiction. Whilst the prospect of such an outcome has clearly receded there remains a clear desire amongst the clubs, and indeed the leagues, for a greater degree of independence in the organisation of club competition:

The G14 shows somehow the way. You could have a body where you have 32 members, because you have 32 teams in the Champions League, and from these 32 you have 16 or 20 who are there every year. There are many ways in which you could compose this body, but the international competitions must be under the control of those who play in it (Thomas Kurth, general secretary, G14, personal interview, 18<sup>th</sup> January).

The participation of clubs in European competition is an immediate and very real experience, and as Gandini remarked earlier, it is important to recognise the market power of the continent's biggest clubs. Both Gandini and Kurth propose the formation of a body composed of clubs that is responsible for the organisation of European club competition. As Kurth says, such a body could be formed in a number of different ways and crucially it could be formed either inside or outside of UEFA. Despite Kurth's comparison with the Premier League, this does not provide the best blueprint. The FAPL has developed into a rival centre of power, and its financial potential has been inadequately harnessed in the English domestic sphere. Any delegation of authority then ought to be kept strictly within the confines of the existing governing structures of UEFA, rather than the creation, for example, of a 'UEFA Premier League'. Similarly, the G14 would also be an inadequate vehicle for all the reasons that it fails to be a truly credible organisation – predominantly its arbitrary and unrepresentative membership. Interestingly, the foundations of such a body might be most suitably found in UEFA's existing structures, the European Club Forum and the Club Competitions Committee. The ECF is based on performance over the previous five years, different levels of club, and also wide geographical representation.

The restructuring of English football in the 1990s perfectly illustrates the risks inherent in initiating reform. Unless the process of reform is very tightly controlled, events can be captured by influential interest groups and individuals so that the outcomes of reform are unrecognisable and far beyond the outcomes envisaged. When reform is initiated from a position of weakness, then the risks are particularly great.<sup>71</sup> The political equilibrium within European football is, as has been argued, finely balanced, but the growth in the power of the clubs and the leagues is a reality that should dictate the nature of any reform process. UEFA should certainly be wary of initiating a process in which the clubs and leagues see an opportunity to usurp the authority of the governing body. Evidence across European football suggests that conceding authority to the clubs may have the simple effect of fuelling the thirst of clubs for greater influence in the decision-making process rather than quenching it, so any delegation of authority would need to be strictly controlled so that UEFA retained the capacity to intervene and reassert its authority where necessary. That said, the current threats to UEFA's control of club competitions are currently slim, so changing and adapting from a position of authority may have its merits.

In delegating responsibility for competition to the clubs, a number of considerations would have to be taken into account. Firstly, to which clubs would responsibility be delegated to? What aspects of club competitions would the clubs be responsible for? The most complicated aspect of the creation of such a body would be its composition. At a national level the composition of the leagues is based on the obvious natural order, with leagues shares transferred annually on the basis of promotion and relegation. The national segmentation of European football, and the qualification for European competition from national leagues, means the selection of teams to play in European competition is of course based partly on merit (in that national performance determines the right to compete) but it is also based on the strength of different nations, and a value judgement based on the ability of teams from 52 different leagues and markets to compete. It has already been argued that geographical representation is important for both development and democracy in European football. Neither the G14 (representing only seven countries) nor the EPFL (representing fifteen countries) are adequately representative of European football to form the basis of such a body. If such a body were to form itself, outside of UEFA's jurisdiction, it would undoubtedly comprise a select number of clubs from a select number of the larger television markets, to the exclusion of other less affluent clubs and nations. The only logical conclusion that can be drawn from this is that UEFA must retain control over the composition of any body given delegated responsibility for club competition. Similarly, qualification criteria should also remain with UEFA in order to similarly

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<sup>71</sup> There are interesting political parallels here. The reform processes in the Soviet Union and South Africa at the end of the 1980s, and the beginning of the 1990s are particularly salient examples of how reform processes were initiated by incumbent governments, only to be seized by opposing political groupings who enjoyed greater legitimacy, political weight, and natural power than their discredited governments, leading ultimately to reforms far beyond those envisaged by incumbent governments.



protect the rights of less affluent clubs and nations to compete. Furthermore, it would not be possible for the clubs alone to decide on the number of available match days. The existing football calendar is the unsatisfactory result of the historical political jungle in which football operates, with each participant interest defensive of its own position in terms of number of available match days. This issue can only be addressed fully at a global level. As such, only the national associations, in the European sphere through UEFA, can appropriately determine the number of match days available for European club competition. Also, of crucial importance is to defend the principle of solidarity in which the Champions League contributes to the wider interests of European football. Were the clubs to have sole control of income then it is likely that the vast majority of income would be awarded to the clubs.

Although these important tasks could remain with UEFA, there are areas in which the clubs could reasonably be expected to take decision-making responsibility. For example, after the maximum number of match days available for European club competition has been decided by UEFA, there seems little reason why the clubs body should not decide on the format of the competition in which they play. Ultimately it is the clubs that participate and it seems peculiar that they have no decision-making power over the nature of the competition in which they play. Whilst the view that ‘whoever pays the piper calls the tune’ should never be the sole determinant of influence in a sporting model that covers all levels of the game – the need for universality demands that – the fact is that the participation of the clubs in UEFA competition generates resources from which all benefit. To put it in different terms, the participating clubs are operating in a system characterised by taxation without representation.

Delegation of certain decision-making powers with regard to UEFA’s club competitions could therefore be delegated to bodies representing the relevant interests. The table below illustrates one possible division of responsibilities between the clubs themselves, and UEFA and its executive committee:

| Authority retained by UEFA   | Authority delegated to a clubs’ body   |
|--|--|
| Representation of nations and clubs<br>(i.e. qualification system)<br>Number of available match days<br>Macro breakdown of revenue (i.e. proportion allocated to clubs, non-competing clubs, national associations)<br>Membership of club committee<br>Competition rules and regulations including UEFA Club Licensing | Competition format (on a three-year cycle)<br>Division of income between competing clubs (UEFA to arbitrate in event of dispute)<br>Fixture schedule<br>Commercial development |

This delineation of responsibility reflects the respective roles of the clubs and the national associations. It recognises the right of the clubs to determine the nature of the competition within the existing framework but it also reflects the role of the national associations through UEFA in harnessing the sporting and developmental values of the pyramid. The clubs would be able to adjust the format within the parameters set by the national associations. It could be reasonably argued that the division of responsibilities articulated here constitutes a complex compromise between UEFA and the clubs, and that it is better that competitions are formulated and marketed as part of a single process, rather than split into two separate areas. Nevertheless, such a division of responsibility does also show that there are areas that can, and perhaps should, be delegated to clubs – promoting the principle of subsidiarity – without fundamentally undermining the overall structures of governance within European football, recognising the right of the clubs to a greater degree of freedom, but protecting the value of principles that are a significant facet of European football.

#### *v. Transparency and efficiency in UEFA's decision-making structures*

Whilst it has been argued that a greater degree of delegation may be appropriate within the decision-making procedures of UEFA, the first and perhaps most easily achievable step should be to re-evaluate and improve the existing mechanisms of consultation, and improving cross-communication between committees, including the executive committee. There seems to be little understanding amongst stakeholders sitting on UEFA's committees about the chronology and process of decision-making, and which committees have the right to influence which decisions, and the process by which certain decisions are arrived at. Whilst it has been argued that there may be areas in which subsidiarity and delegated decision-making is entirely appropriate, certain decisions may, and frequently do, impact on multiple stakeholders. In that case it would be inappropriate for one specific consultative committee to have an undue influence on the process. In such a circumstance, there therefore needs to be a high level of transparency in the process, so that stakeholders know exactly how and where their interests and opinions are being expressed, and the ultimate weight that is being placed on them. Of course, it may be in UEFA's short-term interest to cloud the decision-making process so that it can proclaim vaguely that 'all stakeholders have been consulted' and that 'on the basis of consultation the following measure has been agreed'. Such tactics will ultimately only serve to frustrate key stakeholders within the game to the point that they may attempt to seek more favourable solutions elsewhere. It is far easier to accept an undesirable decision when the process by which the decision is made is open and transparent. Convoluted and unclear processes serve only to heighten scepticism about the motives of those that enjoy the decision-making authority with potentially damaging consequences. During the course of this research, complaints were made about the way decisions were taken on a number of issues, including: the homegrown player proposals; the sanctioning of artificial pitches; the removal of the second group stage of the Champions League; the location of the Super Cup; the structure of the UEFA Cup, amongst others. It is important to note that, whilst there was dissatisfaction about outcomes, as much criticism arose from a lack of understanding, and a lack of confidence in the process itself. Decisions will always be taken which are viewed negatively by certain hostile organisations or individuals. The football industry is such that there will never be a consensus on the relevant issues of the day. That is something that UEFA will never ever be able to change or resolve. However, the frustration and dissatisfaction that emanates from the lack of clarity in the process itself is something that can be quickly and effortlessly remedied.

UEFA already has a series of memorandums of understanding with certain organisations, most notably the EPFL and FIFPro. Within these memorandums are the readily available and understandable terms of reference and the areas in which the committee has the ability to discuss issues, raise areas of concern and so on. Similarly the terms of reference of the various committees are readily available and understandable. UEFA made substantial progress in streamlining the internal governance process of the organisation with Project FORCE. It is clear, judging by the responses of those employed by UEFA, and elected to UEFA (certain executive committee members notwithstanding) and stakeholders in leagues and clubs that the organisation has improved its performance, becoming more efficient and professional and speeding up the decision-making process. However, whilst the removal of executive committee members as members and chairmen of the various committees has increased the authority of the administration at the expense of the executive committee, it is clear that the role of the committees themselves needs to be clarified within the wider decision-making process. It appears unclear how decisions are made, where proposals begin, where they end, and who is able to influence them along the way. As David Will indicated, the increase in power of the administration has led to a situation in which even the executive committee itself feels somewhat emasculated. In that context, it is hardly surprising that the consultative committees feel unable to either influence, or even effectively make their voices heard. In this context, UEFA should consider clarifying the consultative procedures so that stakeholders, and in particular committee members, know exactly the point at which their input is recognised and applied. This should not prove an onerous task. Indeed, it will also reveal the

relative input of the executive committee and the administration with regard to strategy and its practical implementation.

Given that football governance operates within a political framework of what UEFA refers to as 'representative democracy', it seems reasonable to draw a political analogy. Governments pass laws, following a process in which policy positions are laid out, legislation is drafted, subsequently amended where required, and then voted on by the elected representatives. Within that context, interested stakeholders are often invited to comment on the proposed legislation and identify the positive or negative consequences should such legislation come into force. The procedure for making law is open and transparent so that each parliamentarian, civil servant, minister, and interested stakeholder will know and understand his or her role in the process. The process of decision-making within UEFA could follow a similar formula so that all those with an interest in the procedure are aware of their own the position within the overall process. This would lead to both a greater understanding, and crucially, acceptance of the decisions that are eventually taken.

The strategy document presented to the UEFA Congress in Tallinn recognises the value of the regulatory role in dealing with the transformations in European football. Through the development of policy, UEFA can utilise its current position of authority to take appropriate measures that aim to resolve the some of the problems evident in European football. That said, the relationship between the confederations and FIFA hampers UEFA's ability to act unilaterally in this area, given FIFA's role in regulating transfers, agents, the international calendar and so on. Whilst it is the contention here that 'policy' initiatives alone will not have the capacity to either consolidate the position of UEFA, or resolve the many challenges problems faced, in the context of a broader and more comprehensive strategy, such initiatives have the potential to contribute to the achievement of such an agenda.

UEFA is not, and should not be, a passive observer, standing by whilst football is shaped by those perceived to have the most power and influence, and who demonstrate the most willingness to exercise it. The need for neutral and independent regulation is crucial as a means to achieve a number of objectives including the fair distribution of resources, the maintenance of competitive balance, and also as a means to deal with issues such as doping, fair play on the field of play, and also to ensure effective regulation off the pitch in terms ensuring financial propriety, and regulating club ownership, for example. The nature of governance means that UEFA will not dictate the future, but nor does it mean that the organisation does not have the capacity to shape and steer football on the continent of Europe. Firstly, UEFA can seek to consolidate its authority, and its ability to govern neutrally, independently and autonomously, through its developing relationship with the institutions of the European Union as argued in chapter five. Secondly, the national associations have the power to implement existing rules, sanction for breach, and formulate new rules that aim to consolidate its own authority. The most obvious of these is the threat to expel clubs competing in rival competitions. Whilst this rule provides a clear incentive for clubs (and players) to remain within the established system, thus promoting UEFA's primary goal of retaining 'unity' between organisations in the 'football family', concerns regarding the legality of the provision, and also its limitations (preventing clubs participating in alternative structures, for example, will have no impact on changing market forces), mean that the provision will only ever be one, albeit important, facet of a wider strategy.

*i. Using regulation to achieve policy objectives*

In its strategy document, UEFA outlines a series of desired policy objectives, ranging from the implementation of practical and achievable initiatives, to what can best be described as optimistic long-term objectives. Whilst certain objectives appear distant and unrealistic, UEFA's identification of developments, and the statement of principles it sees should govern any future changes, offers an important declaration of intent. So for example, UEFA articulates its view about the way in which clubs should be structured: 'controlled and run by their members – e.g. supporters – according to democratic principles' (UEFA, 2005b: 10). Needless to say, clubs are not about to become mutual supporter run co-operatives overnight, but the statement of principle may be of use in developing a long-term policy with regard to club ownership. Whilst the contemporary political and economic reality means that such a prospect may be distant, the requirement that clubs in France and Germany, for example, must be structured in a particular way, illustrates that an organisation like UEFA may be able to pursue this as a long-term policy objective. Similarly, UEFA obviously cannot alter the size and value of a television market, or create fan bases where they do not exist, but there may, by contrast, be areas where UEFA can effect an alteration in the financial environment through regulatory measures. In the area of broadcasting rights, for example, even Rodolfo Hecht Lucari, advancing a free-market agenda with regard to the structure of competition, argues that individual selling of television rights has 'no merit' (personal interview, 15<sup>th</sup> February 2005). So UEFA's stated policy objective that aims for the 'central selling of core rights on all

levels – thus ensuring solidarity at source – and distribution mechanisms which guarantee an equitable distribution of wealth’ (UEFA, 2005b: 10) can be pursued as a long-term objective. UEFA recognises the ground the national associations have ceded to the leagues and the clubs over the course of the last decade. Certain economic and political forces have fostered that development, but the national associations themselves have also assisted through their failure to manipulate the processes in question to their own advantage. This is a point recognised by UEFA who identify the shift in power from national associations to leagues and clubs in the following terms: ‘the objectives and the stakeholders that leagues, but especially clubs, need to satisfy are far fewer and so decision-making is quicker’; ‘because associations are part political, part commercial entities – this can lead to political appointments within the administration. All things being equal, this leads to poorer performance by the administration when compared to purely commercial bodies’ (UEFA, 2005b: 22). As a response to the trend of clubs and leagues accumulating influence at the expense of the national associations, UEFA created a separate National Associations division in its internal structure in order to ‘serve UEFA’s member associations more effectively’ (UEFA Direct, February 2005b: 14). UEFA has also created what it refers to as the ‘Top Executive Programme’ programme designed to re-empower the national associations by offering assistance and expertise to the presidents and general secretaries of the 52 national associations through the promotion of best practice. This it is argued will help associations ‘maintain their standing as the parent body overseeing the whole of football in their respective countries.’<sup>72</sup> What chance of success is there for this strategy? Iain Blair of the Scottish Premier League argues that the attempts to re-empower the national associations through the Top Executive Programme will inevitably fail because it fails to appropriately reflect the changing balance of power within European football politics:

The reality is that the balance of power is moving to the clubs and the leagues, I don’t think there is any doubt about that. I think if that is resisted just because some people think it is a bad thing, then we are missing an opportunity. We have to recognise that is what is happening and it’s driven by the market. What we’ve got to try and ensure is that it is handled in such a way that we don’t lose all the good things about solidarity about the sporting concepts etcetera. I think UEFA’s approach at the moment, and I’m only sitting from the wings here, I think UEFA’s approach at the moment and FIFA would probably share it, is to try and re-empower the associations and that is not going to work in my opinion, because it is false, the power isn’t there. It doesn’t matter what you do to try and educate general secretaries of associations and give them business expertise, they are not in the same league in that respect as the guys like the Rick Parrys and the David Gills and others. So I think what we have to do is recognise that the power is moving to the clubs and the leagues but harness that power for the benefit of the game as a whole. Not an easy task. But I do see that fighting can only end in tears (personal interview, 11<sup>th</sup> February).

Blair correctly identifies the shifting political influences and he identifies the inherent weakness in basing a strategy wholly on attempts to re-empower the national associations. But that is not to say that helping national associations to become more professional in their approach, and more able to maximise their organisational advantages is by any means redundant. If the management of the national associations has been less effective and aggressive in the past, there is no reason to see why that should always be the case. Acting as a centre of information, expertise and experience, UEFA can certainly act as a disseminator of best practice on a range of issues, such as the maximisation of commercial assets, promoting and securing regulatory authority and so on. There is certainly no reason to believe that national associations are incapable of attracting corporate talent. So whilst changes in political leverage inevitably affect what national associations can achieve generating a greater degree of competence is certainly an important and potentially useful facet of UEFA’s work.

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<sup>72</sup> Chaplin, M. (2005) ‘Nyon know-how for all’, 28<sup>th</sup> February, [www.uefa.com](http://www.uefa.com)

The regulatory authority of the governing bodies remains a key means for UEFA of retaining its position in the context of European football. The FIFA stipulation that matches between clubs of different associations must be sanctioned by the respective confederation affords the confederations a key instrument in keeping the clubs under the control of the national associations and UEFA at a European level. Of course, that power is only as effective as the willingness to utilise it should such circumstances arise. As we noted above, the legality of the sanctions available to governing bodies may be questionable, but there is little doubt that the political fallout from the imposition of those sanctions deters the more recalcitrant members of the 'football family' from acting unilaterally. The non-compliance of the national associations, UEFA, and FIFA combined would have the capacity to seriously undermine the viability of any attempt to operate new competitive structures under the current framework. Between them, the governing organisations control domestic competition, national and international transfers, and national team football. The impetus to stay inside a framework is clear. Both the governing bodies and the national leagues are aware of the cards they hold in regard to the breakaway threat, and this has manifested itself in the spoken hard line approach they are willing to take to recalcitrant clubs, should they consider breaking away:

Well of course they can, but the consequence is also that they are not participating in association football. Nobody is stopping them from doing that (Lars Christer Olsson, UEFA chief executive, personal interview, 16<sup>th</sup> November 2004).

I don't think G14 ever will succeed. That's my strong view. G14 never will succeed to organise their own competition. They will be boycotted by UEFA, they will be boycotted by the national associations, they feel very strongly in taking measures against it ... If you want, go. It counts for Ajax, it counts for PSV. The Dutch FA, and the league will say: 'If you want, move. But never come back' (Henk Kesler, Director, KNVB, personal interview, 20<sup>th</sup> January 2005).

I have no problem with Bayern Munich leaving, please, go out, but never come back. In two or three years the top league [will be] damaged. I have no problem with Media Partners. I have said to the German president Mr Braun, he was an executive committee member of UEFA, go and say, 'make it'. No problem. The league will be the league. I am very sure (Wilfried Straub, general secretary, Deutsche Fussball Liga, personal interview, 8<sup>th</sup> March 2005).

Of course, for those interested in forming new competitions outside of UEFA's structures the potential benefits must outweigh the costs. As Mitchell et al suggest, 'the costs imposed, once they are caught, will outweigh the benefits of having violated' (Mitchell et al, 1999: 221). Of course the money on offer will be a key determinant of that. But even if one considers extra revenues to be available (which is by no means certain), the non-compliance of the relevant authorities may have the capacity to render such a tournament ungovernable, or at least to cause sufficient turmoil to make the risk too great.

The legitimacy that UEFA derives from being the sole organiser of international club competitions in Europe also has the potential to be exploited through the development of the rules and regulations of competition. The need for an organisation that can apply rules and regulations and codes of conducts, independent of the clubs, is an important means of raising standards, ensuring the good governance of the game, and also in helping to shape the future direction of European football. Left in the hands of the clubs alone, there could be little expectation that regulatory means of driving the agenda would be prioritised. UEFA recognise this competence as a means to 'reinforce the regulatory capabilities of associations and improve football overall' (UEFA, 2005b: 28). Two specific initiatives illustrate UEFA's ability to utilise regulatory measures to address polarising trends evident in European football: UEFA Club Licensing and, more recently, proposals that require teams to increase their quota of 'homegrown' players.

*ii. Regulating the clubs: UEFA Club Licensing and locally-trained players*

As noted earlier, the growing power of the clubs and leagues has negatively impacted on the ability of national associations in certain countries to regulate effectively (although the picture varies across Europe). Additionally, there are growing divergences between nations on the regulatory frameworks imposed on clubs. There are a number of reasons for this including cultural differences and the historical development of professional football in different countries. The result is that clubs competing in the same UEFA club competitions are subject to different regulatory requirements. According to the French Professional League (LFP):

On account of the importance of the Champions League and the level of competition on the market for players, many clubs have already gambled by ‘investing’ heavily and running up major deficits in order to take on decisive players who will enable them to achieve the sporting results and the image needed to guarantee them financial returns. In this way in the 2002-2003 season alone, first division clubs from the five main championships lost a combined total of 996 million euros, which rises to nearly 2 billion euros if we rule out the positive impacts of the ‘Salva Calcio’ decree on the accounts of Italian clubs (LFP, 2005: 10).

Differences between national systems of regulation, combined with the polarising consequences of commercialisation, have the increasing capacity to impact on sporting outcomes. The different environments in which clubs operate lead to the existence of an uneven playing field. The more tightly regulated countries are characterised by greater financial stability, but struggle to compete against clubs which enjoy more liberal regulatory regimes.

In that context, a greater equalisation and standardisation of regulatory regimes in Europe may be desirable, and UEFA is the appropriate body through which that could be achieved. The growing movement of players across national boundaries has led to a concentration of playing talent in the largest and most affluent markets. Given the ‘Europeanisation’ of football, following Bosman and the opening-up of the labour market in the European Union and beyond, it is incongruous that, with the exception of the regulation of competition itself, regulation of the game is almost entirely the responsibility of national associations at a domestic level and FIFA at a global level, with no continental level involvement. UEFA Club Licensing therefore marks an important attempt to address this and constitutes a major foray of UEFA into the regulation of clubs. The system was introduced to combat what UEFA CEO Lars-Christer Olsson referred to as ‘financial doping’<sup>73</sup> by clubs, which includes the non-payment of debts and potentially damaging short-term financial decision-making. Competing clubs will have to satisfy specific sporting, legal, administrative, infrastructural and administrative criteria with the following objectives: improvement of the economic and financial capability of the clubs, increasing their transparency and credibility, and placing the necessary importance on the protection of creditors; safeguarding the continuity of international competitions for one season; and monitoring the financial fair play in UEFA competitions. The system involves a rolling system of requirements that become more demanding over time.

The introduction of UEFA Club Licensing raises a number of interesting issues. Firstly, in the context of the diverging regulatory systems, what should the system consist of? Secondly, what process should be in place to ensure that the system is implemented effectively? The fact that UEFA Club Licensing has been formulated demonstrates the capacity to reach compromises on the content of the system. Similarly, there are trends that indicate a growing convergence with regards to regulatory and governance frameworks. For example, whilst clubs across Europe are increasingly looking to develop structures in which they are better able to exploit their commercial potential (in France and Germany, clubs have been permitted by their national association to alter their

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<sup>73</sup> ‘Keeping the house in order’, <http://www.uefacup.com/uefa/news/Kind=128/newsId=208440.html>, Monday, 19 July 2004

traditional membership structures in favour of a number of different, less constrained systems). Similarly, in less tightly regulated countries, there is a growing awareness of the need to improve governance and regulation. This is the case in England, and also in Italy, which has moved to improve its regulatory framework (Deloitte, 2004a: 17).

The likely effectiveness of the scheme has, however, been questioned, particularly with regard to implementation and enforceability. UEFA has delegated the implementation of the scheme to the national associations, who become the licensors. According to Szymanski and Zimbalist: 'Properly enforced, this system could ensure the financial stability of soccer, but there are reasons to doubt it would be properly enforced. First, big clubs still carry a lot of political power and can avoid sanctions through effective lobbying. Second, national associations are likely to differ in their standards of enforcement, and it is much more likely that the standard will be set by the softest rather than the toughest regime' (2005: 202-3). Similarly, the LFP also argues that implementation of the system is insufficiently rigorous to achieve its stated objectives: it is 'very difficult to guarantee fair treatment for clubs without a common control commission ... even if they are acting in good faith, national associations, for historical or cultural reasons, working in line with an identical process, may pass a different judgement on a similar case'. Furthermore, it is argued that 'spot checks that can be carried out by UEFA are not enough to guarantee the level of unity required' (LFP, 2005: 21-22).

Whilst it is important that the criteria of UEFA Club Licensing are stringent enough to make an impact, clearly it is vital that this pan-European system is effectively implemented. UEFA has sought to counter the problems posed by delegation to the national associations by introducing a programme of certification. The objective is to ensure that consistency and equal treatment is applied by the licensors (the national associations) who provide licenses to clubs (UEFA, 2005a). Whilst this is to be welcomed, problems remain with regard to the implementation process. The national associations can delegate further to the national leagues. This raises the critical issue of independence of regulation. Whilst the national associations would normally be considered independent in the context of regulation of clubs, in an international context such independence is diminished. The performance of their clubs impacts on the overall status of national associations, and it is therefore within the interests of the national associations to aid clubs rather than to sanction them. Interestingly, one of the motivating factors behind the introduction of UEFA Club Licensing was UEFA's objective of re-empowering the national associations. Whilst UEFA Club Licensing does offer this opportunity, it will be interesting to see if that opportunity is utilised given the fact that there are opposing pressures. The second, and more worrying problem, is that the national associations may in turn delegate control further to the respective league.<sup>74</sup> Given that the league is representative of only the clubs, it is debateable whether such a system would be effectively implemented to the possible detriment of their own members.

The introduction of Club Licensing is a positive initiative, and is the first step towards a greater degree of standardisation of regulation in European football. We would also argue, however, that the application of the system needs further consideration. Whilst the attempt to re-empower the national associations is laudable, this can only realistically be achieved by affording a greater degree of control to UEFA. Also, UEFA 'supports the introduction of this system within the domestic context as requirements to play domestic competitions' (UEFA, 2003c: p. 14), but it does not have the authority to impose it. UEFA sees this as application of the principle of subsidiarity and that such decisions need to be taken by members closest to where such regulations impact. However, as argued earlier, subsidiarity should mean that decisions are taken not simply at the most local level, but at the most appropriate level. The clubs are operating in an increasingly pan-European environment and that means that a greater degree of centralised control regarding the regulatory framework is now desirable. In order to achieve this, the LFP argues in favour of a

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<sup>74</sup> 'Under certain conditions the national association may fully delegate licensing responsibilities to an affiliated league, however, the national association is still fully responsible vis-à-vis UEFA for the licensing project as such' (UEFA, 2003c: p. 14).



'European financial control commission for clubs' (LFP, 2005: p. 25). This idea merits further consideration.

As well as drawing attention to some of problems with regard to implementation, Szymanski and Zimbalist also note its broader limitations: 'financial regulation will not deal with many of the problems that beset club soccer. These include the growing concentration of power in the hands of the big clubs from the big countries, the marginalisation of big clubs from small countries, the yawning gulf between clubs in top divisions and those in lower divisions, and the sudden and dramatic loss of income associated with relegation' (2005: 202-3). Whilst UEFA Licensing alone may not achieve this, UEFA can also regulate in other areas in order to encourage greater competition.

The UEFA 'homegrown' players initiative is a logical extension of the UEFA Club Licensing requirement that competing clubs must invest in youth development programmes (UEFA Club Licensing: 6.2). There are number of motivations behind the introduction of the proposals. UEFA's justification focuses on the need to promote the development and training of young players. For example, UEFA argues that 'football clubs have an important social and educational role in their local communities' and that the 'nurturing of local talent is not only beneficial for football as a sport' but also 'for society as a whole'. UEFA also argues the stipulations will 'help to provide a pool of playing talent in every European country and can also help to increase the quality of, and competition between, national teams' (UEFA, 2005a). Crucially, UEFA argues: 'the main aim is to get clubs to train more players themselves and to help ensure that football remains a sporting contest, not just a "buying" contest for the best players' (UEFA, 2005d).

At the centre of the debate about UEFA's proposals to increase the number of homegrown players are therefore the sporting consequences of such regulation. How will the stipulation impact on standards for example, and will the proposals have the capacity to increase the level of competitive balance? The 52 national associations of UEFA and the vast majority of clubs and leagues, as well as FIFPro, endorsed the proposals almost unanimously. The major clubs of England and Italy were conspicuous in their dissent. The complaints that were advanced by these bodies were based on a number of issues. Firstly, there were threats to take legal action on the basis that the proposals may be illegal under EU law regarding the freedom of movement of workers. It is unlikely that those objecting were doing so out of an ethical and ideological commitment to EU law, rather the intrinsic objection amongst the clubs to what they see as outside interference from the regulatory bodies. As David Gill argues:

On balance, we think it's an interference. I think a) it's possibly or probably illegal and, b) it's an obligation that's not necessary. To get a license to play in European competition you've got to have a laid out youth policy. You can't do it without that or you won't get your license. We as a club and the Premier League, we have the academy system and we put a lot of money into it. Our philosophy as a club is to have a mixture of homegrown talent and to be in a position to buy talent as necessary. But to say that out of 25 players 8 have got to be from your national association, I think it's just an interference too far (David Gill, chief executive, Manchester United, personal interview, 28<sup>th</sup> February 2005).

However, Gill's objection is philosophically debateable. The English football industry is characterised by the drive amongst clubs to become ever more autonomous, and the imposition of regulation from Nyon mirrors the traditional British dislike of political intervention both at a domestic level and international level. The objection to the regulation amounts to little more than an inherent dislike of outside interference rather than an objection based on the relative merits of the policy itself. Iain Blair alludes to these differing cultural reactions across Europe:

We in the UK have a culture that is for non-interference. If people are not doing damage you let them get on with their life and do what they want to do. You only interfere if it starts causing problems somewhere else, and that applies in so many aspects of life. We have got

this thing about non-interference. If you go to places like Holland, Austria, Germany, there is a different approach which tends to be more codified and regimented and it's a cultural thing, this is how we all organise and there's an acceptance of it within the culture. Neither is right or wrong ... in the UK the very fact that someone is interfering is enough to tell them to stop it (Iain Blair, company secretary, Scottish Premier League, personal interview, 11<sup>th</sup> February 2005).

Perhaps the more damaging accusation, however, is the accusation that UEFA's intervention will serve to lower standards. As Umberto Gandini argues:

UEFA always tries to bring artificial balance into their competitions by bringing down those who are flying away and not by doing things for which others can join. And the homegrown players rule has exactly the same spirit. You try to bring down the top clubs because the others will have more chances. Then when you look at the rules, you say, well the rich clubs will always be richer and instead of sending money around the system by the market, they will invest money in local players they will still create, and the rest will suffer because they don't have revenues coming from the market (Umberto Gandini, organising director, AC Milan, personal interview, 14<sup>th</sup> February 2005).

Gandini's argument that UEFA attempts to equalise the competitive gap by bringing standards down is a dangerous one for UEFA, given that the task of a sporting governing body must surely be to raise standards and foster excellence in elite sport.<sup>75</sup> However, a balance needs to be achieved in sport in which excellence is considered alongside the need for competitive competitions. This is recognised by UEFA: 'The average overall quality of the competition is more important than the peak – the peak sets the standard to which others aspire' (UEFA, 2005b: 13). The logical conclusion of pursuing standards above all else would be to produce one team with the world's best eleven players in their respective positions. It is difficult to envisage a less healthy development. Fortunately, sport does not work in this way, and it is often stated that the team is worth more than the sum of its individual parts. Gandini's argument with regard to standards does not stand up to inspection. The maximum number of homegrown players a club will be obliged to include in their squads will be eight. That leaves seventeen squad places available for signed talent, enough for a team and six substitutes.

The growth of diverse international squads has been a natural consequence of the Bosman ruling and the increased revenues available to the top club from television. It has been argued that the expansion of squads to include legions of top quality players has become 'standard practice' (King, 2003: 93). To accept that something has become common does not mean that it has, by consequence, become desirable. What is more unnatural in sport than to see an inactive sportsman? The limitation on the squad size, and the homegrown player requirement, may achieve the prevention of the hoarding of squad players who could be more usefully deployed elsewhere. The effect of this may well be to improve other teams, which consequently improves the overall standard of competition, without necessarily impacting on the standards at the top. The ruling demonstrates that a sporting governing body, in spite of the Bosman ruling, can still play a role in the composition of a football club's workforce, irrespective of the protestations coming from England and Italy. If UEFA can show similar ingenuity in driving policy, it may be in a position to, if not reverse some of the trends evident in European football in the last ten years, then at least play a role in shaping their direction.

Whilst this regulation applies to clubs competing in UEFA competitions, UEFA again does not compel the national associations to enforce the rule at a domestic level. UEFA does, however, recommend that this should be done; arguing that it is a 'sports rule that should, in principle, be applied uniformly across European football' (UEFA, 2005d). Like UEFA Club Licensing, in order

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<sup>75</sup> The principle of 'sporting standards' is conspicuous by its absence in UEFA statutory objectives, but it is articulated in other UEFA literature, and is included in UEFA's latest strategy document.

maximise the impact of this regulatory provision and to ensure uniformity, UEFA should have the authority to compel leagues to implement this type of regulation. In fact, the majority of UEFA's member associations have stated their support and their intention to incorporate the rule into domestic leagues, although some, notably the FA Premier League in England have been adamant that they will not. Again this illustrates the problem with confusing 'delegation' with the principle of 'subsidiarity'. In order for the regulation to be fully effective, it would need to be implemented universally and applied to domestic as well as European club competitions. Given that UEFA comprises and represents the 52 national associations of European football, and the proposal had almost unanimous support, it could be argued that the organisation has the democratic legitimacy to take such a decision.

*iii. Summary: subsidiarity and re-evaluating the boundaries of regulation*

The growth in importance of the European context requires that there is a re-evaluation of the breakdown of regulatory responsibility. The principle of 'subsidiarity' must be carefully applied. It cannot simply mean 'devolution' to the organisations on which regulation will most likely impact. The national and international structures of football are based on interdependence rather than organisational autonomy and a rule or regulation that most readily appears to impact on one stakeholder can also affect other stakeholders. Subsidiarity must therefore mean that decisions are taken in the most appropriate location in relation to organisational objectives and overall concern with the good governance of the game. That may mean that there are times when more centralised European decision-making is required. UEFA's policy of re-empowering the national associations is important, and the introduction of UEFA Club Licensing, and the 'homegrown' players rule – and the recommendation that these new measures be applied to domestic competitions – recognises that centralised measures are required. However, the need to create a greater equalisation and standardisation of regulation, and the need to promote greater competitive equality through European initiatives means that greater authority should be afforded to the European body. This would not necessarily involve taking power away from the national associations, but could provide national associations with the policies and the means by which to regain the initiative from leagues and clubs. It would, however, allow UEFA to better utilise its knowledge of the wider European game, to address pan-European issues.

Through the regulation of clubs, UEFA can further legitimise its own position as a governing organisation, and should UEFA Club Licensing and the 'homegrown' rules have the desired impact, it would enhance organisational credibility. More generally, re-evaluation of the boundaries of regulatory responsibility between the national associations, the confederations, and FIFA would be beneficial. FIFA could also usefully delegate certain responsibilities to the confederations, as a means to more effectively achieve its own policy goals. In this sense, and not withstanding the organisational and personal differences between UEFA and FIFA, the development of a more positive relationship between the two organisations, as discussed earlier, may lay the foundation for this. Empowering the confederations may result in the transfer of certain responsibilities from the global body, but will ultimately strengthen the model of governance, with the national associations as the key organisations, which ultimately will be to FIFA's benefit. The two organisations have much in common in terms of fundamental objectives, such as the global development of the game, unity of governance, and the maintained control of the national associations. That the two organisations have spent time battling each other rather than the more serious challenges posed by other stakeholders constitutes a missed opportunity for developing collective strength. Organisational jealousies and turf war between organisations that ought to be allies serve only to lessen the effectiveness each organisation. Indeed, representatives of FIFA continue to see UEFA as a potential threat rather than a potential ally, and vice versa. The complexity of the environment in which UEFA operates means that the empowerment of UEFA by FIFA would enhance its ability to deal with the serious challenges it faces.

## **Conclusion: Good governance and control in a network environment**

Global political and economic transformations in the 1980s and 1990s have been embraced by an increasingly commercial segment of the football industry. These developments in the political economy have been accompanied by a number of specific developments within football, notably the changing objectives of clubs, the growth of the elite clubs as 'brands', and technological advances in broadcasting. The elite leagues and clubs, intent on exploiting and maximising their economic potential, have increasingly sought greater commercial freedom from the regulatory authorities. This has involved a re-evaluation of the commitment to 'solidarity' to the various levels of the pyramid.

The imposition of regulatory constraints aimed at controlling the industry, at both a national and European level, pose particular problems in a multi-national environment characterised by the contrasting approaches to sport, regulation, and the broader political-economy. The tight regulatory control, and more equitable distribution of income and playing resources, characteristic of North American sport is enabled by a lack of wider international competition, and by the hermetic structures of sporting competition. Safe in the knowledge that poor performance does not lead directly to exclusion from the financial rewards, clubs are more inclined to share the spoils in the quest for more balanced sporting competition. In contrast, the open structures of European football in which the top clubs compete in two separate and distinct environments, and involving movement between leagues, act as a significant disincentive to redistribution as clubs look to consolidate their increasingly lucrative positions. Interestingly, it has been variously argued that European football should look to adopt different aspects of the North American model, whether that is exemption from competition law and a greater commitment to redistribution, or alternatively by introducing a hermetic element to European football. There has, however, been little articulation about what such a restructuring should look like, and also little reference to the cultural, historic and normative differences between the two broad models. In reality, it is unlikely that either will occur in the near future. The two systems of sporting organisation are culturally and structurally distinct and the adoption of individual elements of each system to form some kind of hybrid is problematic.

It has been argued here that UEFA, as the confederation responsible for the development of European football, must grapple with two separate but inter-related issues. Firstly, it must address the burgeoning competitive disparities within domestic leagues, and between national markets that distort European competition. The developments affecting competition have also helped foster the growth of the biggest clubs in the largest markets. The revenues generated by mass pay-TV markets enables clubs within those markets to pay the highest wages in a predominantly open labour market, thus compromising the ability of clubs in smaller domestic leagues including traditionally strong footballing nations such as Holland and Portugal, to compete effectively in European competition. These developments have transformed the nature of European football. As the elite clubs continue to dominate domestic football, the desire for more guarantees in European competition is likely to grow. The reality is that the financial importance of European football to the elite clubs has grown, fostered and consolidated through the development of the Champions League. The view, argued by Hecht, that European club football continues to be underexploited from a commercial (and sporting) perspective, through the continued emphasis placed on the domestic game, is likely to entail a re-evaluation of the relationship between domestic and European club competition. The national associations and UEFA will need to re-evaluate established relationships.

Secondly, the consolidation of financial and sporting success of the largest clubs, facilitated by the declining commitment to redistribution and the expansion of European club competition, has also facilitated a growth in political influence. The growth in the market power of the clubs has also facilitated a re-evaluation of the existing international structures of governance. The latent threat of breakaway competition of the elite clubs has placed pressure on UEFA to integrate the clubs into the decision-making structure. Whilst it has been argued that the pressures on UEFA may be less onerous than commonly assumed, the structure of European competition and the decision-making procedures within UEFA will continue to be areas of contest in the coming years.

The growth of UEFA has posed new problems for the organisation. Whilst the number of potential winners of UEFA's competitions has declined, the membership of UEFA has grown. As such UEFA has had to deal with the responsibility of integrating more nations and clubs into competitions that generate the vast majority of revenue from a small minority of markets. UEFA's responsibilities have therefore grown in an era in which its level of authority has decreased. That UEFA exists to serve the national associations creates a very particular problem – how can one define the national interest in terms of 52 different nations of many and varied sizes and at different stages in their development? Whilst balancing a variety of interests has always been the task of the governing bodies, the transformations of the European football industry mean that a more fundamental re-evaluation of UEFA's objectives may be required. Presently, UEFA has the statutory obligation to serve the member national associations in an increasingly transnational environment. UEFA and the national associations therefore confront the ongoing dilemma of needing to protect the distinct national heritage of European football, and at the same time resolve the problems caused by that same multinational structure. The impetus to defend the national interest constrains UEFA's opportunities in the search for solutions. Whilst the individual national associations will always look to defend their particular interests, an international organisation should also be obliged to assess and address the wider picture.

In that context, consideration should be given to re-evaluating the objectives of UEFA involving some discussion about what constitutes a 'European' interest. It seems incongruent that a European organisation is statutorily obliged to protect the national interest. That is not to say the UEFA should not be composed of national associations. On the contrary; all the major international political organisations have nations as the basic membership cell. But in such organisations, there exists a double layer of interest – both the national interest and the wider international interest, and the objectives of such organisations reflect the need to expand beyond the national interest. The European Commission, for example, whilst composed of representatives from each of the member states of the EU, is obliged to consider the European interest whilst respecting the principles of subsidiarity and proportionality. International organisations and their members – nation states – must grapple with the contrasting impulse to defend the national interest, and the simultaneous need to consider international dimensions that impinge on the national interest. UEFA needs to develop and drive European initiatives that take account of a transnational picture.

The transformation of the Champions League illustrates how European football has grown in importance, *vis á vis* domestic competition, irrespective of UEFA's obligation to serve the interests of national associations. The concept of subsidiarity utilised by UEFA needs to be more clearly articulated, and reflect the need for decisions to be taken at the most *appropriate* level as well as the benefits of delegation to the *local* level. National considerations often serve to block initiatives that might be in the European interest, out of the fear that they will impact negatively on local interests. By re-evaluating the relationship between the national associations and UEFA, these obstacles can potentially be addressed. On wider strategic issues, for example, there is a case for issues to be addressed more regularly at a European level. The disparities between nations in terms of regulatory requirements, revenues, and television markets have had the affect of distorting both domestic and European game. Such differentiations cannot solely be addressed by the national associations on a member-by-member basis. The multitude of national interests and the local concerns of the national associations mean that such disparities need to be addressed strategically by an empowered European organisation that can make decisions which transcend local difficulties as well as by attempts to re-empower the national associations.

By extending its strategic role, UEFA could lead the debate about the relationship between domestic and international club football and more proactively drive the agenda, promoting greater competitiveness in both domestic and international competition. The homegrown player proposal may be one such development. Similarly, UEFA Licensing is an initial means of addressing such issues, constituting as it does a common set of regulatory criteria applicable to clubs across Europe. The key factor in its success will be enforceability. Similarly, the improving relationship between the UEFA and the institutions of the European Union, and the traditionally strong relationship the

national associations have with member states, means that the EU may be seen in the future as a potential ally, rather than a threat to authority and autonomy of governing bodies, should the EU wish to build a common sports policy in the future.

The important aspect of any re-evaluation of the structures of European football is to pay due consideration to the European model of sport. Whilst the North American model benefits from greater redistribution and levels of competitive balance, the closed structure of competition and franchising is antithetical to the culture and traditions of European sport based as it is on open competition, the rooting of clubs within their communities, international club competition, and solidarity between the various levels of the game, and the national organisation of sporting governance. By prioritising these various facets, an organisation like UEFA can aim to drive contemporary solutions. In that context, it may be that national league competitions have reached the stage where the promotion of competitive balance may be more readily achieved through the redrawing of geographical boundaries of competition than the politically hazardous route of enforcing greater redistribution of income within leagues. In this sense, it is important to draw the distinction between structures of competition and structures of governance. If cross-border leagues were to develop, for example, they would need to be regulated and controlled not just by the clubs, but also develop relationships with the relevant national associations with regard to a number of issues, including the distributions of revenue from the league to the national associations (for grassroots development for example) and sporting issues such as discipline, doping, and refereeing. As such the regulatory role of the national associations would have to be renegotiated, in the sense that leagues would no longer take place exclusively within their domain. The national associations would, however, continue to play a vital role in the wider governance of the game.

The position of the national associations, and UEFA and FIFA, within the competitive environment of European football is increasingly complex. The multiplicity of stakeholders and the heightened level of communication between them outside of the jurisdiction of UEFA inevitably compromise the level of control that the organisation can exert. The centrality of the governing bodies has changed with the emergence of a complex and increasingly dense stakeholder network, in which the legitimate roles of the governing bodies are less clearly defined. The growth of the elite clubs – in the context of the ‘fifty year spell’ referred to by Hecht – in terms of finance, support, and political weight, has impacted on the autonomy of the governing bodies. In line with Rowley’s theory of stakeholder networks, and Henry’s identification of ‘systemic’ governance, UEFA increasingly demonstrates the characteristics of a ‘compromiser’ as opposed to a ‘commander’. This is reflected in ongoing efforts to incorporate stakeholders into the consultative structures of UEFA, as a means to negate the desire to seek solutions elsewhere. However, despite the declining enthusiasm for solidarity between the big clubs, the governing structure of international football, and the central role of the national associations, continental confederations, and FIFA, continues to afford these organisations an integral role in the policy process, despite the relative growth in influence of the largest European leagues and clubs. It is premature to write off the future of the national associations and their international manifestations in the face of the commercial and regulatory challenge posed by the elite game. As Gordon Taylor argues: ‘There is a lot more that has gone into UEFA and FIFA. They are more than a limpet on the cliff; it’s not so easily washed off with a bit of a wave of G14. It’ll take more than that’ (personal interview, 31<sup>st</sup> January 2005).

Furthermore, the national associations remain the organisations that can best balance the various and frequently conflicting interests within the European game. The national associations have a vital role to play in governance as coalitions of the many participating stakeholders. The national associations themselves need to evaluate how they successfully integrate the various interests into their own structures. Of course, the national associations will always have an interest in defending national team football, particularly in an era in which such competitions provide the associations with a substantial proportion of their income. Whilst this is entirely justifiable, given that such funds contribute to the replenishment of the grassroots, the national associations should take care that they continue to exercise their authority equitably in the breakdown of competition.

Using this control of competition as a means to gain the upper-hand over Europe's increasingly aggressive clubs may, ultimately, prove counter-productive. It has been argued (by Thomas Kurth for example) that the national associations' interest in national team competition at the same time as controlling the boundaries of competition constitutes a conflict of interest. This is not normally the case, as the professional game is ordinarily well-represented within the national associations.

Whilst the Champions League has developed under UEFA's control in the last decade, the elite clubs remain dissatisfied with the consultative procedures practiced by UEFA with regard to the formation of competition. Whilst the committee process within UEFA has been streamlined, and may have improved the efficiency of decision-making within the organisation (although simultaneously concerning executive committee members regarding the nature of their input into the decision-making process), so long as the relevant committees remain consultative there is little chance that clubs or leagues will be satisfied with the process. As Iain Blair argued, simple attempts to re-invigorate the national associations through promoting competence and expertise fail to grasp the political shifts that have taken place. The clubs, through the commitment demonstrated by their supporters, are the economically dominant stakeholders. Whilst the leagues wield considerable power in the domestic milieu, in the European sphere, the clubs hold sway. Nevertheless, the nature of the European football network means that no single actor has the capacity to completely control future developments. Whilst the political leverage of stakeholders will vary, the interlocking structure of global football governance, connecting the professional and amateur games, the grassroots and the elite, and the relationship between the continental confederations and FIFA and the national associations will ensure that compromise solutions and negotiated change to the competition and governance will continue to be characteristic of the industry. Nevertheless, there is capacity within the existing structures for improvement, particularly with regard to the process of decision-making and the points at which stakeholders have the capacity to impact. Each stakeholder, especially given that ultimate decision-making authority rests solely with the national associations, should be able to understand where it can impact on the process and there may be areas where decision-making can be appropriately delegated to stakeholders. Again this entails a more clearly articulated position with regard to the principle of subsidiarity in decision-making. There is little doubt that European football will change and evolve in the future. European competition, and its relationship with the domestic game, will be revised and re-evaluated in the context of the changing market demands for elite football. Yet sole focus on the prospect of a European 'superleague' clouds the range of possibilities that exist in the coming decades. There seems little doubt that the significance of European competition to its participants will grow in the future, but it is certainly not heading inexorably in one clear direction. The challenge for UEFA will be to harness any changes so that they benefit the wider European game. There needs to be a reassessment of UEFA objectives and priorities in the context of a transformed political economy, and a re-evaluation of the historically dominant view that what is good for the national associations is good for the game. The willingness to think beyond traditional geographical boundaries may have a key role to play in developing the level of competitiveness of football at both a European and regional level. Whilst the growth of UEFA places pressure on an industry increasingly dependent on the rewards bestowed in the age of digital technology, the diversity of the cultural fabric of European football, and UEFA's role in protecting interests across the continent, not simply the more lucrative markets, affords the organisation an integrity and legitimacy that it can use to drive forward debate in the most dynamic and high profile of industries.

## **Appendices**

### **Appendix 1:**

#### **The objects of UEFA:**

- a) to deal with all questions relating to European football;
- b) to promote football in Europe in a spirit of peace, understanding and fair play, without any discrimination as to politics, gender, religion or race;
- c) to safeguard the overall interests of the Member Associations;
- d) to respect the interests of Member Associations, and to settle disputes between Member Associations;
- e) to promote unity among Member Associations in matters relating to European and world football;
- f) to ensure that its representatives within FIFA loyally represent the views of UEFA and act in the spirit of European solidarity;
- g) to organise and conduct international football competitions and international tournaments at European level;
- h) to hold course and conferences;
- i) to disseminate information on UEFA activities;
- j) to maintain contact and cooperation with FIFA and the Confederations recognised by FIFA.

*UEFA Statutes, 2005*



## Appendix 2:

### UEFA Champions League revenue earners – top 50 clubs, 1992/93 to 2004/05:

| <i>Position</i> | <i>Club</i>          | <i>Total (CH)</i> |
|-----------------|----------------------|-------------------|
| 1               | Bayern Munich        | 295m              |
| 2               | Manchester United    | 277m              |
| 3               | Real Madrid          | 273m              |
| 4               | Juventus             | 235m              |
| 5               | AC Milan             | 211m              |
| 6               | Arsenal              | 209m              |
| 7               | Barcelona            | 182m              |
| 8               | Bayer Leverkusen     | 177m              |
| 9               | Olympique Lyonnais   | 155m              |
| 10              | Valencia             | 137m              |
| 11              | Deportivo La Coruña  | 137m              |
| 12              | Borussia Dortmund    | 137 m             |
| 13              | Chelsea FC           | 116m              |
| 14              | Lazio                | 114m              |
| 15              | Porto                | 112m              |
| 16              | Monaco               | 112m              |
| 17              | Liverpool            | 104m              |
| 18              | PSV Eindhoven        | 99m               |
| 19              | Ajax                 | 99m               |
| 20              | Internazionale       | 90m               |
| 21              | Roma                 | 89m               |
| 22              | Galatasaray          | 84m               |
| 23              | Rosenborg            | 77m               |
| 24              | Paris St Germain     | 77m               |
| 25              | Dynamo Kiev          | 74m               |
| 26              | Spartak Moscow       | 71m               |
| 27              | Panathanaikos        | 69m               |
| 28              | Olympiakos           | 62m               |
| 29              | Nantes               | 57m               |
| 30              | Olympique Marseilles | 53m               |
| 31              | Anderlecht           | 51m               |
| 32              | Rangers              | 50m               |
| 33              | Feyenoord            | 45m               |
| 34              | Celtic               | 42m               |
| 35              | Sparta Prague        | 41m               |
| 36              | RC Lens              | 41m               |
| 37              | Auxerre              | 39m               |
| 38              | Leeds United         | 38m               |
| 39              | Bordeaux             | 35m               |
| 40              | Newcastle United     | 34m               |
| 41              | Lokomotiv Moscow     | 32m               |
| 42              | Werder Bremen        | 31m               |
| 43              | VFB Stuttgart        | 28m               |
| 44              | Fenerbahce           | 27m               |
| 45              | Sturm Graz           | 26m               |
| 46              | Fiorentina           | 26m               |
| 47              | Schalke 04           | 25m               |
| 48              | Hertha Berlin        | 24m               |
| 49              | Besiktas             | 23m               |
| 50              | Lille                | 23m               |

### **Appendix 3:**

#### **The objects of G14:**

The Grouping will have the following purpose:

- To promote the cooperation, amicable relations and unity of Member clubs.
- To promote and improve the professional football competition in all its aspects and safeguard the general interests of the Member clubs.
- To aid the exchange of information between Member clubs.
- To promote the interests of the Member clubs and to consider the collective affairs of important for said clubs.
- To promote the cooperation and relations among the FIFA, the UEFA, any other sports Institutions or other professional football clubs, and the Grouping.
- To negotiate the format, administration and operation of the club competitions with the FIFA, the UEFA and other sports Institutions.
- To perform the economic activities necessary for the Grouping.
- Any other purpose similar to those contemplated above.
- The Grouping shall perform all such activities as may be necessary to achieve the above purposes.

*G14 European Football Clubs Grouping  
European Economic Interest Grouping  
Foundation Agreement*

## **Appendix 4:**

### **Club Competitions Committee:**

The Club Competitions Committee is composed of a chairman, two vice-chairmen, ten members, one Executive Committee observer and one co-opted member. One of the vice-chairmen and three of the members are elected by the Board of the European Club Forum, in accordance with its terms of reference. The Director of Professional Football administrates the committee with the Head of Club Competitions.

### **Objectives/duties:**

The objectives and duties of the Club Competitions Committee are:

- exchanging views on the current UEFA club competitions;
- drawing up recommendations for the attention of the CEO in the following areas:
  - possible modifications to the existing competitions,
  - regulations for each season's UEFA club competitions;
- monitoring the preparation and execution of the various phases of the competitions;
- monitoring the preparation and execution of draws and their requirements;
- cooperating with other relevant committees.

### **Schedule:**

The Club Competitions Committee meets five times a year. If working groups are appointed, they will meet according to need. The European Club Forum has been set up to support the Club Competitions Committee in all its tasks.

*www.uefa.com*

## **Appendix 5:**

### **Memorandum of Understanding between UEFA and the leagues:**

#### **Preamble:**

It complies with the wish of the premier Football Leagues of Belgium, England, France, Germany, Greece, Italy, Portugal, Scotland and Spain (hereafter: Leagues) to satisfy the aims set out hereafter and to meet on a regular basis for that purpose and on particular subjects and/or problems of professional football, and to discuss them with each other.

It complies with the wish of the Union of European Football Associations (hereafter: UEFA), as the parent body of European football, to take care of the specific matters of concern to the Leagues and professional football and, within the framework of UEFA Statutes, to pay time and attention directly to these needs.

It complies with the common wish of the Leagues and UEFA, as expressed during a meeting in Athens on 27th January 1998, to enter into a Memorandum of Understanding, for the purpose of establishing future co-operation in the spirit of the Athens' meeting, where the two sides discussed in a constructive, respectful and open manner.

#### **The essential terms of this co-operation and involvement are recorded as follows:**

1. UEFA, within the framework of its Statutes, shall support the Leagues in their specific subjects and problems related to professional football. For this purpose, UEFA supports the organisation and running of such meetings of the Leagues, which should be held on a rotational basis, with a specific League acting as host. UEFA shall be entitled to be represented at these meetings in the capacity of observer by two of its Executive Committee members and two members of the UEFA secretariat. The preparation of these meetings and the minutes shall be undertaken by the host League, which can call upon the UEFA secretariat for assistance, if required. All financial expenses (travel, hotel accommodation and meals) shall, as a rule, be paid for by each participant, and the infrastructure for the meeting itself shall be paid for by the host League.
2. On or before 1st August 1998, UEFA agrees to establish a permanent Professional Football Committee (hereafter: the Committee) in place of its Committee for Non-Amateur Football.
3. This Committee shall comprise twelve members, which shall be chosen for a period of two years as follows:
  - a. a Chairman appointed by UEFA from within its Executive Committee;
  - b. a Vice-Chairman appointed by UEFA from within its Executive Committee;
  - c. two Vice-Chairmen appointed by the Leagues;
  - d. five ordinary members appointed by UEFA, at least one of whom will be appointed from an association in whose country one of the Leagues operates;
  - e. three ordinary members appointed by the Leagues and;
  - f. each member of the Committee shall be entitled to nominate an alternate.
4. The Committee may decide to create a Bureau, if it so wishes.
5. This Committee shall be administered at UEFA's expense by the UEFA secretariat.

6. The UEFA secretariat shall be responsible for:
  - a. preparing the meeting {together with the Bureau of the Committee} (invitations, agenda, documents, interpreters, infrastructure, etc.);
  - b. taking the minutes of the meetings;
  - c. distributing the minutes to the Committee members, as well as to all UEFA Associations and Leagues affiliated to the Associations;
  - d. co-operation with the Research Office of the Leagues;
  - e. being in charge of an Internet Information System for European Professional Leagues and Clubs.
  
7. The aims and duties of this Committee shall be:
  - a. Friendly co-operation between the Leagues and UEFA within the framework of the UEFA Statutes. The discussions shall be conducted with the guarantee of full transparency to the UEFA Member Associations. All activities shall be undertaken in a democratic manner, and in a spirit of mutual trust;
  - b. To promote and safeguard the interests of Professional Football Leagues within Europe with regard to their specific problems;
  - c. To advise UEFA's Executive Committee on problems relating to Professional Football;
  - d. Direct communication between the Professional Football Leagues and UEFA, with the guarantee that full information is provided to the National Associations and to Professional Football Clubs.
  - e. To ensure the collection and exchange of information between Professional Football Leagues and/or UEFA Member Associations.
  - f. To promote all interests of the Professional Football Leagues.
  - g. To co-operate with any other appropriate UEFA Committee in matters concerned with European Professional football.
  
8. Competence of the Committee:
  - a. operation of a Committee Bureau, if created;
  - b. setting up of working groups;
  - c. consultation with experts and advisers;
  - d. discussion with player's unions;
  - e. taking of decisions within its competence;
  - f. contacting the European Union bodies after consultation with UEFA;
  - g. submission of requests to the UEFA Executive Committee, with subsequent requests for further action being submitted to FIFA.
  
9. The Committee shall, as a rule, meet every two months. At least four members of the Committee may request a Committee meeting.
  
10. English, French and German shall be the official languages of the Committee. Additional languages for the meetings may be organised upon request.
  
11. Until the Committee is fully operational (see point 2), UEFA and the Leagues shall form a temporary Committee for European Professional Football. This temporary Committee shall comprise four members nominated by UEFA and four members nominated by the Leagues. The Chairman of this temporary Committee shall be appointed from among the members nominated by UEFA.

12. This temporary Committee shall have the same aims, duties and competence as the Committee (see points 7 and 8), and meet as soon as this Memorandum has been signed. It shall be supported administratively by the UEFA secretariat.
13. UEFA recognises that other European Leagues which are not mentioned in the Preamble can join this co-operation.
14. If any of the Leagues violates the UEFA Statutes, this Memorandum of Understanding shall no longer apply to that League. Furthermore, UEFA reserves the right in consultation with the Leagues not in violation with the UEFA Statutes, to reconsider the terms of this Memorandum of Understanding.
15. This Memorandum of Understanding shall come immediately into force with the approval of the UEFA Executive Committee and with the approval of the representatives of the Leagues.
16. The approval of the UEFA Executive Committee took place during the meeting of 2 March 1998 in Zurich.
17. The approval of the representatives of the leagues took place during the meeting of 19 March 1998 in Paris.

#### **Terms of Reference of UEFA Professional Football Committee:**

The Professional Football Committee is composed of a chairman, two vice-chairmen and eight members, of which one vice-chairman and four members are appointed by the European Professional Football Leagues (EPFL). The Director of Professional Football administrates the Committee with the Head of Professional Football Services.

In addition to the working methods of the 'General terms of reference for UEFA committees', the following provisions apply:

- As a rule, members must attend meetings in person. However, those members appointed by the EPFL are entitled to nominate substitutes to represent them in exceptional circumstances with the same rights and obligations as the member in question.
- If necessary, the Committee may create subgroups within itself.

#### **Objectives/duties:**

In general terms, the aims and duties of the Professional Football Committee are:

- to foster friendly cooperation between the leagues and UEFA within the framework of the UEFA Statutes. Discussions are conducted with the guarantee of full transparency towards UEFA member associations.
- to promote and safeguard the interests of professional football leagues in Europe with regard to their specific problems;
- to advise the Chief Executive on problems relating to professional football;
- to allow for direct communication between the professional football leagues and UEFA, with the guarantee that full information is provided to the national associations and to professional football clubs;

- to gather and exchange information between professional football leagues and/or UEFA member associations;
- to promote all interests of the professional football leagues;
- to cooperate with any other appropriate UEFA committee in matters connected with European professional football.

In accordance with the UEFA Statutes (article 37, par. 3), the Professional Football Committee's duties involve supporting the Chief Executive in an advisory capacity and informing him of the viewpoints and experiences of the leagues/associations represented.

### **Proposals:**

The members of the Professional Football Committee, in their capacity as representatives of their leagues and clubs, are responsible for presenting solutions and proposals for the attention of the Chief Executive, and may submit suggestions or issue recommendations in the following areas:

a) Establishing decision-making bases for the attention of the Chief Executive:

- contractual relationship between club and player;
- principles of compensation for training/education of players;
- common periods in which a player can be registered to play in national and international club competitions;
- impact of new formats of European club competitions on domestic competitions;
- coordination between UEFA club competitions and domestic competitions;
- code of conduct for European professional football;
- club licensing system;
- international match calendar.

b) Exchange of views on current professional football topics:

- release of players for national teams;
- arbitration in European professional football;
- solidarity system, including ownership of commercial rights.

c) Discussion of and statements by the Professional Football Committee on topics dealt with by other committees which also concern the professional football sector, case by case.

Priorities are to be set in accordance with the urgency and importance of the topics in question. If need be, they must be adapted on the basis of internal and external influences. The chairman sets the priorities in consultation with the Chief Executive.

Articles 8 and 9 replace article 2 (Decision-making authority) of the 'General terms of reference for UEFA committees'.

The Professional Football Committee shall have a quorum of seven, including the chairman or, in his absence, a vice-chairman. A decision shall be made if supported by more than half of the votes cast. In the event of a tie in votes, the chairman shall have the casting vote. Votes shall be open, unless the committee decides otherwise.

In accordance with the UEFA Statutes (article 37, par. 3), the Chief Executive may delegate some of his duties to the committee, thereby transferring decision-making powers:

The Chief Executive delegates to the Professional Football Committee the power to decide on the principles to be observed by the leagues in making use of the UEFA Champions League revenue allocated to them for the training of young players, in accordance with the competition regulations. 10.

Schedule:

The rhythm of meetings will be decided on the basis of the objectives, as well as on the urgency of matters. As a matter of principle, two or three plenary meetings of the Professional Football Committee should take place per year. These meetings should be coordinated with other relevant meetings, such as the meetings of the Grouping of European Union Premier Leagues. At least four members of the committee may request a committee meeting.

*www.uefa.com*



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