

**Expert Group on  
Sustainable Financing of Sport**

**Strengthening financial  
solidarity mechanisms  
within sport**

**December 2012**

## **Summary**

The Expert Group on Sustainable Financing of Sport (XG FIN) received the mandate from the Council to review solidarity mechanisms within sport in Europe. A solidarity mechanism in sport is the name given to the redistribution of funds from one section of sport to another; for example from professional sport to grassroots sport or from one sport to a second sport.

At its first meeting the group decided, based inter alia on the recent EU study on the funding of grassroots sport in Europe, to look into the main public and private funding streams that affect such mechanisms. In doing so the XG aimed at identifying the opportunities the sport movement has to raise funds and utilise public and private investment, as well as any barriers which prevent it from doing so. This work should encourage the sport movement to implement solidarity mechanisms which already exist in Europe, some of which are highlighted in this paper.

In order that sport organisations can make the best of their assets and that barriers to sport at grassroots level are removed, the group's main recommendations are:

- 1. (Commission) Provide guidance on the application of EU State Aid law to sport following on from the 2011 Communication on sport. This must take account of the sector's needs and the specificity of sport.**
- 2. (Commission and Member States) Ensure that reviews of the VAT system take account of the specific nature of sport as enshrined in article 165 TFEU and provide guidance on the VAT regime for the non-profit sector following dialogue with relevant stakeholders, including from the side of sport, given the 2011 Communication on the future of VAT.**
- 3. (Commission and Member States) Improve the long-term sustainability of grassroots sport by highlighting the value of sport as a tool for local and regional development, urban regeneration, rural development, employability, job creation and labour market integration, thereby contributing to the economic and social development of Europe's regions, as well as by ensuring that EU funding (including Structural Funds) can be used to support sport or sport-related projects (e.g. develop facilities, improve skills of workers).**
- 4. (Commission and Member States) Improve the long-term sustainability of sport's finances by implementing reform measures to ensure the protection of sports commercial property rights and encouraging a return to grassroots sports through solidarity mechanisms within sport.**

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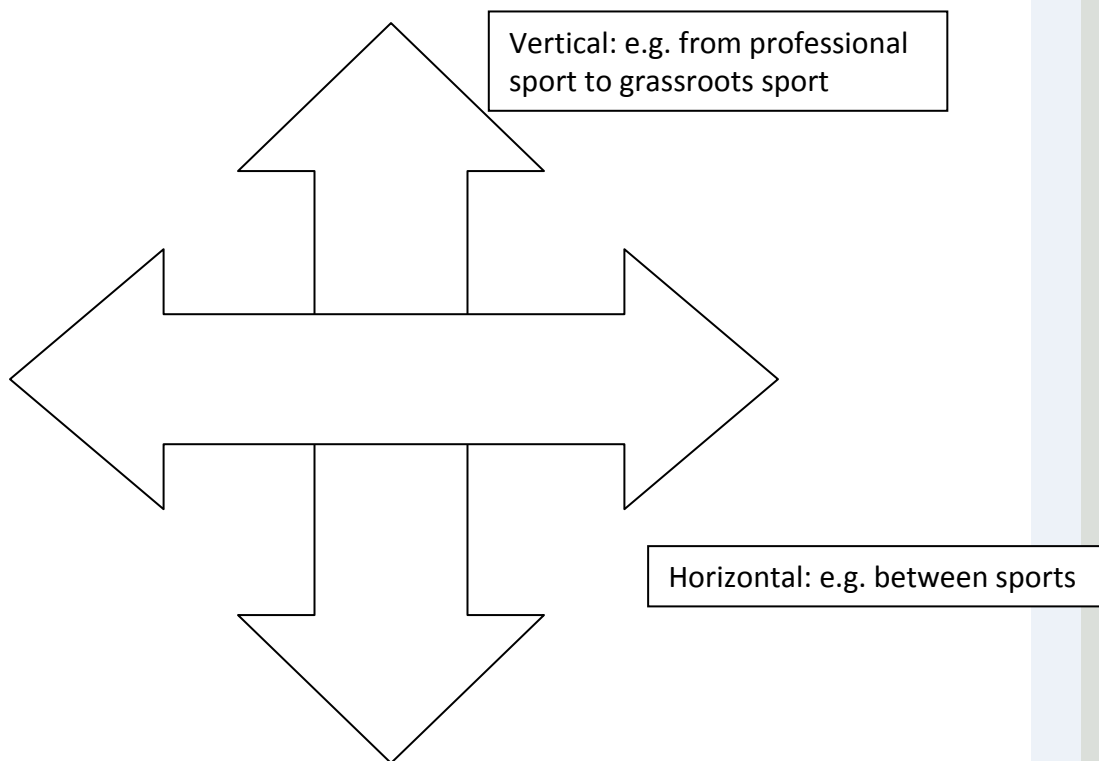
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# 1. INTRODUCTION

The EU Work Plan for Sport identifies the economic aspects of sport, in particular sustainable financing of grassroots sport, as a priority theme for EU level cooperation in sport. Annex I of the Work Plan specifies the action based on this priority, which is to **“Recommend ways to strengthen financial solidarity mechanisms within sport”**. The Expert Group “Sustainable Financing of Sport” (XG FIN) has been tasked to **propose recommendations for consideration by end-2012**.

## A) WHAT IS A SOLIDARITY MECHANISM

A solidarity mechanism in sport is the name given to the redistribution of funds from one section of sport to another; for example from professional sport to grassroots sport or from one sport to a second sport. When this distribution is between different sports it is referred to as horizontal, whereas if the distribution is between different levels of the same sport it is referred to as vertical. This document will also consider reverse solidarity mechanisms where grassroots sport help to fund elite sport.



### EXAMPLE OF VERTICAL MECHANISMS: Redistribution of European federations: UEFA, football

A clear European example of the advantage to grassroots sport from exclusivity and collective selling is UEFA’s European Championships. Here, the specific beneficiaries are often the smaller European countries and grassroots sport. 60% of the media rights from the tournament are redistributed to the national federations, with that money specifically ring-fenced for grassroots projects<sup>1</sup>. As this split is an equitable split, the smaller European countries would be proportionally hurt much more if the value of the rights diminished.

For example, in 2007 Portugal launched the project “Mini-sport pitches”. This created sport facilities for football, basketball, handball and volleyball, particularly in deprived areas. The project was funded by UEFA’s HatTrick assistance programme with a total investment of €2.6m from UEFA and the Portuguese Government.

The first stage of the programme from 2007 to 2008 resulted in the installation of 101 mini-pitches in 19 districts throughout Portugal from a total of 500 applications received. The second phase, between 2009 and 2011, then led to 101 more mini-pitches across 20 regions of the country.

## **B) AUTONOMY OF THE SPORT MOVEMENT**

There are many examples of solidarity mechanisms throughout sport. While the XG FIN recommends that best practices are used, it is important to protect the autonomy of sport and respect the specific nature of sport in line with Article 165 of the Treaty on the Functioning of the European Union (TFEU).

The autonomy of sport is not specifically mentioned in the Treaty, but in 2000 the Council adopted the Nice Declaration which clarified the concept of autonomy of sport as follows:

“The European Council stresses its support for the independence of sport 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”.

The Commission further clarified the concept of "the autonomy of sport" in its 2007 White Paper on Sport.

As it is for sports bodies to organise themselves in a way that ensures their objectives are met, the imposition of solidarity mechanisms to ensure that funds within a sport organisation flow in a particular direction is difficult to do. Where governments can define or influence the action to be taken by sports bodies is when bodies are in receipt of public money to fulfil specific public policy objectives. Here sports bodies agree to use funding in a particular way and target specific outcomes such as grassroots sport, equality, health or youth participation.

## **C) FUNCTION OF THE GROUP**

While respecting the autonomy of sport, the XG FIN believes that solidarity mechanisms should be encouraged and best practice replicated; however the implementation of solidarity mechanisms should be driven by the sector. In order for these solidarity mechanisms to be effective, it is up to European and national policy makers to ensure that legislative frameworks are in place allowing the sport movement implementing such solidarity mechanisms.

The XG FIN is therefore reviewing the financing streams of sport as set out in the Study on the funding of grassroots sport in the EU

### **EXAMPLE OF HORIZONTAL MECHANISMS: Redistribution through multi-sport professional clubs: Portugal**

Large professional clubs in Portugal are multi-disciplined (up to 20 sports). There is no cross-funding from sponsorship or media rights; however other disciplines and grassroots clubs benefit greatly from brand association, in turn making it easier to get sponsorship and contracts.

For example, Sport Lisboa e Benfica has 7 professional disciplines (Handball, Athletics, Basketball, Football, Futsal, Ice Hockey and Volleyball) and 12 amateur or semi-professional disciplines (archery, billiards, canoeing, golf, judo, swimming, fishing, rugby, surf, tennis and triathlon).

(published in 2011), examining what recommendations can be made in policy areas affecting these funding streams in order to ensure the financing of grassroots sport is sustainable and recommending best practice solidarity mechanisms within these areas.

## **D) FUNDING OF SPORT**

In order to make recommendations which will improve policy areas which affect solidarity mechanisms, it is important to consider how grassroots sport is funded. According to the Study on the funding of grassroots sport in the EU there are five key streams which provide funding for grassroots sport. These are:

- Household expenditures and volunteering;
- Public sector subventions coming from the national, regional and local levels;
- Sponsorship, patronage and donations;
- Revenue from levies and charges on state lotteries, betting and gambling operators;
- Revenue from media rights to sport event organisers.

Within these areas it is worth noting the value of the individual funding streams. For the year 2008, the estimated total budget of the sport system (high-level and grassroots combined) in the EU-27 amounted to € 153.8bn (this figure excludes the estimated total for the value of volunteering in the list below), of which:

- households contributions € 101.0bn
- value of volunteering € 28.3bn
- local authorities € 26.0bn
- national government € 10.7bn  
(incl. €2.1bn national lotteries)
- sponsorships & donations € 10.5bn
- media rights € 5bn
- compulsory lottery levies € 0.2bn  
(not distributed by government)

Of these, the funds directed specifically to grassroots sport are:

- households contributions € 40.4bn
- value of volunteering € 25.5bn
- local authorities € 23.4bn
- national governments € 5.3bn
- sponsorship & donations € 1.6bn
- media rights € 0.5bn
- compulsory lottery levies € 0.11bn

In the following chapters, the XG FIN has reviewed these funding streams with respect to their policy drivers and associated solidarity mechanisms.

## **2 FUNDING STREAMS AND SOLIDARITY MECHANISMS**

### **2.1 HOUSEHOLD EXPENDITURE AND VOLUNTEERING**

#### **A) HOUSEHOLD EXPENDITURE**

By far the biggest investment in grassroots sport is from the participants themselves who pay their membership fees and subscriptions to take part in their favourite pastimes. The figures declared in the study do include spending on sports equipment and sportswear, meaning the value to grassroots sport is difficult to gauge accurately. Furthermore, with respect to the concept of this paper, while household investment in sport is very significant, the opportunity for solidarity mechanisms that could be related to household expenditure is limited.

#### **B) REVERSE SOLIDARITY MECHANISMS**

The biggest income for most grassroots clubs are membership fees. These are used to maintain facilities, provide coaching, buy equipment, etc. However, a club must also generate income in order to pay affiliations fees to their representative national governing body. The study does indeed point out this “reverse” solidarity mechanism where the grassroots level is funding the national governing body and elite sport. The XG is of the view that clubs should be net beneficiaries from the affiliation fees they pay, i.e. the services provided by the governing body (e.g. insurance, legal advice, infrastructure support) should have more value than the cost of affiliation.

It is important, therefore, that national governing bodies are well run and respect good governance principles (see Expert Group on Good Governance). The governing body also ought to check that they are providing value for money. For example, in the UK the 2011 Sports Club Survey<sup>1</sup> revealed that 90% of clubs believed their affiliation costs represented good value for associated fees.

#### **C) VOLUNTEERING**

Volunteers are crucial to grassroots sport. Like for household spend, as the impact is often directly at grassroots level, the opportunities for solidarity mechanisms are small. Much can be done to ensure that barriers to volunteering are removed, but this is outside the scope of this document and the XG FIN’s mandate. It should be noted that volunteering in sport covers a wide range of activities. Those helping directly with playing and coaching are obviously required by sport, but grassroots sport also needs committee members, treasurers, legal advisors, administration, campaigners and fund raisers.

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<sup>1</sup> Sport and Recreation Alliance (2011) Sports Club Survey

The XG is of the view that the European Union should promote the value of volunteers and provide opportunities for volunteers to learn and up-skill. The Commission could ensure that volunteer education, coaching and training are included in the EU funding streams. Such funding should not replace national programmes, but instead provide additional resource to national structures.

*Recommendation 1: (Commission) Ensure that volunteer education, coaching and training programmes are included as part of EU funding streams.*

considered further in the corporate social responsibility part of the sponsorship and donations section of this document.

One solidarity mechanism in volunteering which should be considered is using major elite events as a hook to engage with volunteers and

*Recommendation 2: (Member States and Sport Movement) Ensure a legacy is planned for major events which includes offering volunteers the opportunity to continue volunteering at grassroots level. Where possible databases can be shared between event organisers and sport federations.*

then provide further opportunities at a grassroots level. This provides a type of solidarity mechanism where those enthused by sport at big events transfer this enthusiasm to a grassroots level.

*Recommendation 3: (Member States and Sport Movement) Enhance the provision of education and training opportunities for volunteers and opportunities to recognise the skills volunteers acquire as a result of volunteering in sport.*

As seen in the study, volunteers add over €25bn of value to grassroots sport across Europe and both Member States and sport organisations should recognise their value by ensuring that training is available where needed and that they receive the support they need.

*Recommendation 4: (Member States and Sport Movement) Improve structures and opportunities for volunteer management with a focus on supporting volunteers, improving communication, recruitment and retention of volunteers.*

## **Best Practice Example**

### **Major event volunteering: Manchester Commonwealth Games**

Manchester Event Volunteers (formerly The Post Games Volunteer project (PGVP)) was designed to build upon the success of the XVII Commonwealth Games Volunteer Programme by harnessing the commitment and enthusiasm demonstrated by volunteers during the Games.

Those who had participated in the Games were invited to be included onto a new database to be contacted for future events. In addition, a model of delivery was developed based on that of the Pre-Volunteer Programme (PVP) which involved contracting with outreach providers in the North West.

The aim was to target disadvantaged individuals who could benefit from the development of the skills and confidence gained through volunteering and the training associated with it. As a potential route to employment, it attracted funding from the European Social Fund (ESF), the Single Regeneration Budget (SRB), the Neighbourhood Renewal Fund (NRF) and the Learning and Skills Council (LSC).



## 2.2 PUBLIC SECTOR SUBVENTIONS

Sport is funded across EU Member States both centrally and through local authorities and can take different forms (e.g. direct support, tax advantages). Public support measures in the field of sport generally finance either infrastructure or activities or individual sport clubs. In grassroots sport, equal opportunities and open access to sporting activities can only be guaranteed through strong public involvement. The degree to which responsibility is devolved locally naturally differs from country to country. The financing study, for example, shows that Germany invests the least money per capita centrally, but the fourth most locally, while, for instance, Austria is the fourth highest central government investor and one of the lowest local authority investors per capita. The challenges, however, tend to be similar.

*Recommendation 5: (Member States) Recognise that sport is a cross-functional tool to reach public policy goals and relevant government departments should consider sport and physical activity when developing and implementing policies.*

Member States can set requirements for the use of public support by the sport sector so as to ensure that public money is spent properly. Also the European Union provides funding in an effort to meet specific public policy needs (e.g. social inclusion, health).

Member States' support for sport has to comply with EU law and can come under scrutiny, for example, if considered not to be compliant with EU State aid rules or the common VAT system.

*State aid* in the field of sport mainly consists of support for infrastructure and for individual clubs. State aid is "Any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market"<sup>2</sup>. In certain circumstances, however, government interventions are necessary for a well-functioning and equitable economy<sup>3</sup>. The Treaty therefore leaves room for a number of policy objectives with which state economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest"<sup>4</sup> which would effectively allow state aid for certain areas as long as competition is not distorted.

Professional sport ultimately depends on fair competition. State aid may distort competition between clubs or other sport organisations. On the other hand, grassroots sport offers services in the public interest. While purely local or amateur sport activities are often covered by the 'de minimis' rules or the General Block Exemptions<sup>5</sup>, a grey area seems to exist, e.g. when commercial clubs receive aid to develop infrastructure or training schemes which mainly benefit amateur sport or sport for all.

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<sup>2</sup> Article 87 TFEU.

<sup>3</sup> European Commission; Staff Working Document; The EU and sport: Background and Context Accompanying document to the White Paper on Sport.

<sup>4</sup> TFEU article 37 (3c).

<sup>5</sup> The recently adopted State aid package suggests new de minimis ceilings for Services of General Economic interest (SGEI), which are however not applicable to aid measures not defined as SGEI.

This grey area means that certain state aid issues merit some clarification for the field of sport. According to the European Commission this has so far not been possible for sport (as opposed to other sectors), since amount of case-law was so limited that guidance could not be

*Recommendation 6: (Commission) Provide guidance on the application of EU State aid law following from the 2011 Communication on sport. This must take into account the sector's needs and the specificity of sport.*

formulated<sup>6</sup>, but this is beginning to change, and the number of complaints in this field is rising. As this is the case, the Expert Group believes that work should start on formulating clear guidance on State aid in order to ensure that public authorities can invest in confidence at a grassroots level. In particular, the areas of investment that do not have a cross-border dimension and that answer a specific policy need of local sport

(e.g. training and youth development) should be clarified. The distinction between economic and non-economic with respect to grassroots sport should also be considered in this respect. The XG is not of the view that the clarification of these questions should be left in the hands of the Court.

The Commission (DG Competition) is currently (end 2012) considering State aid with regards to professional football clubs, specifically regarding public investment in stadia and tax breaks for professional players. The XG considers important in this case that a distinction is made between the grassroots and the professional game, and that care is taken that rules and regulations aimed at creating a level playing field for professional sport do not have unintended consequences for investment in grassroots sport.

Concerning fiscal support for sport, in the absence of harmonisation, direct taxation remains a competence of the Member States; regarding the field of indirect taxation, the common VAT system is also of relevance. Council Directive 2006/112/EC aims at ensuring that the application of Member State legislation on VAT does not distort competition or hinder the free movement of goods and services. While the fundamental idea behind VAT is to have a broad-based, globally applied consumption tax, the application of reduced rates and exemptions by Member States

*Recommendation 7: (Member States) Consider making use of the possible VAT derogations as provided for in the VAT Directive, incl. the existing options to alleviate the burden of VAT on non-profit making organisations.*

mean that only part of final consumption is being taxed at the standard rate. VAT exemptions are possible for certain activities in the public interest. The Directive provides for both the possibility for Member States to exempt certain activities in the public interest, including certain sport-related services and, where exemption does not apply, the possibility to apply reduced rates in some cases.<sup>7</sup>

<sup>6</sup> View supported in the 2007 White Paper on Sport.

<sup>7</sup> In the field of sport the following exemptions are currently possible (art. 132):

- the supply of certain services closely linked to sport or physical education supplied by non-profit-making organisations to persons taking part in sport or physical education;
- the supply of services and goods by organisations whose activities are exempt under the above provision in connection with fund-raising events organised exclusively for their own benefit provide, inter alia, that the exemption is not likely to cause distortion of competition to the disadvantage of commercial enterprises subject to VAT.

Regarding *reduced VAT rates*, under the current VAT system, MS have the option of applying one or two reduced rates to a restricted list of goods and services. The reduced rate cannot be less than 5% and the list of eligible goods and services must be

The VAT system is currently being reviewed to make it more efficient, robust and flexible. To this end, the Commission has adopted a Communication on the future of VAT in December 2011<sup>8</sup>. The Communication sets out the main features of such a future system and lists priority areas

*Recommendation 8: (Commission) Provide guidance on the VAT regime applicable to the non-profit sector (follow-up to 2011 Communication on the future of VAT), and recognise the validity of the economic and social reasons for exemptions relating to the non-profit sport sector. In particular:*

- Exemptions for sport,
- Reduced rates for sport.
- Identify best practices in the field of tax schemes applying to the sport sector.

for action. The Commission considers that the wide and divergent use of reduced rates and exemptions by Member States is one of the weaknesses of the VAT system and the Communication therefore makes proposals to broaden the tax base and to limit the use of reduced rates and exemptions. The Commission also announced that it would be analysing Member States' use of reduced rates and exemptions when reviewing their fiscal policies in the context of the European semester.

The 2007 White Paper on Sport stated that "given the important societal role of sport and its strong local anchoring, the Commission will defend maintaining the existing possibilities of reduced VAT rates for sport", which is a welcome promise for the sport sector.

Within this overall context, the XG FIN has identified hereafter forms of public sector support for sport which, ultimately, affect the provision of sport at the grassroots level.

#### **A) FUNDING FOR NATIONAL SPORT FEDERATIONS AND GOVERNING BODIES OF SPORT**

Funding for national sport federations or governing bodies of sport is usually provided for the delivery of projects which meet specific public interest goals and only exceptionally as blanket funding for an entire organisation.

Support for sport organisations from central Government does not only consist of direct funding. Many Member States offer corporation tax exemption for National Governing Bodies of sport and National Sport Federations. A study in 2008<sup>9</sup> showed that 25 Member States provided exemptions for corporation tax for NOCs. There was no information for Bulgaria in the study, and the UK was the one Member State which did not offer this exemption. Meanwhile 14 Member States offer corporate tax exemptions for governing bodies.

*Recommendation 9: (Member States) Consider allowing corporation tax exemptions for not-for-profit sport organisations.*

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strictly interpreted. In the field of *sport*, MS may apply reduced rates concerning the 'admission to sporting events' and the 'use of sporting facilities'.

<sup>8</sup> COM(2011) 851 final.

<sup>9</sup> Hackleton, P. (2008) National Governing Bodies and Taxation, *Deloitte*.

## **B) INFRASTRUCTURE FUNDING**

Public authorities in all Member States directly or indirectly finance sport infrastructure. Under EU State aid law, the construction of an infrastructure with a view of its future commercial exploitation by the State or third party operators, to which it is intrinsically linked, constitutes an economic activity. As a consequence, public support towards sport infrastructure dedicated to or benefiting certain undertakings is likely to involve State aid. However, under certain conditions, financing of infrastructure, which is also open for the general public, can be found compatible with the common market under Article 107(3) TFEU, as it was demonstrated in the Commission Decision of 13 October 2011 concerning support for the sport sector in Hungary through a tax benefit scheme.

The Hungarian scheme aimed to increase participation in sports which required the modernisation of sport infrastructure and the training of young people. It focused on the five most popular team sports in Hungary, namely football, handball, basketball, ice-hockey and water-polo, as they are expected to have the greatest impact on the local population's sport activity. It was deemed that private investors were not able to fill the funding gap necessary.

Therefore the Hungarian project was designed as an aid scheme with the objective of channeling additional funds to the sport sector by incentivizing commercial undertakings through tax benefits to contribute to sport development. The three target areas of the scheme were training youngsters, personnel costs and investments to create or modernize sport infrastructure. It allowed corporate donors to deduct their donation to sport support both from their taxable income and from their tax liability. The tax benefit can be a maximum of 70% of the donor undertaking's yearly corporate tax payment obligation and available in the year of the donation and the following three financial years.

The proposal is a positive solution from a Member State and it is positive to see that the European Commission has agreed that this proposal does not constitute State Aid. Hungary has set up a strong monitoring and control mechanism to ensure the proper implementation of the scheme and will report to the Commission on an annual basis.

With regard to EU funding for sport infrastructure, the European Regional Development (ERDF) has so far financed several sport infrastructure projects (ERDF 2007/2013), despite a lack of reference to sport. Based on Lisbon Treaty provisions, reinforcing and institutionalising this funding opportunities in the framework of the Cohesion Policy under the next multi-annual framework 2014-2020 is crucial, as it has been highlighted in the European Parliament Resolution on the European dimension in sport in February 2012: *"The European Parliament insists that grassroots sports should benefit from the European Regional Development and the European Social Fund, which should allow for investment in sports infrastructure [...]"*<sup>10</sup>

## **C) SUPPORT FOR INDIVIDUAL SPORT CLUBS AND THEIR ACTIVITIES**

Member States do offer direct and indirect support for sport clubs, including at the grassroots level. Again, such form of support, in particular if directed to professional clubs, may raise problems of compatibility with EU State aid rules, since professional clubs are engaged in economic activities. Related decisions over the past years concern subsidies to professional

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<sup>10</sup> [European Parliament, Resolution on the European dimension in sport, 2 February 2012 \(2011/2087\(INI\)\) point 63](#)

sport clubs with state-approved youth training centres (France) and the laws on fiscal and accounting rules for professional sport clubs (Italy) as well as, most recently, the endorsement of UEFA's Financial Fair Play rules. The Commission just recently also started an investigation regarding certain tax agreements for professional football clubs in Spain.

*Recommendation 10: (Member States)  
Maximise non-profit sport organisations' abilities to fundraise by implementing incentives to fundraise and reducing obstacles.*

Regarding grassroots sport clubs, they can, for example, apply for charitable status (or similar), receive discounted business rates, specific licensing requirements or, which is wide-spread practice, benefit from preferential tax treatment.

Given the social importance of sport activities at the grassroots level, VAT exemptions, for instance, are available in some Member States where clubs enjoy the status of not-for-profit organisations fulfilling a community need. In certain Member States, such as Sweden, in practice all civic society activities are carried out by a VAT exempted not-for-profit sector; this includes organised sport clubs.<sup>11</sup> Other countries in the EU have also applied interpretations of the VAT Directive in the belief that not-for-profit organisations play an important role in society and that such derogations were not against the spirit of the Directive. The application of the common VAT framework to sport, local sport structures based on voluntary activity in particular, has continued to be a challenge for sport stakeholders.

In its Communication on the future of VAT, the Commission addresses the VAT treatment of non-profit making organisations and "calls on Member States to make use of the existing options to alleviate the burden of VAT on non-profit making organisations". The Communication also suggests the possibility of guidance on the VAT regime applicable to these organizations. In the paragraph preceding this point, the Commission announces to examine such exemptions to see "whether the economic, social or technical reasons for them are still valid and whether the way they are applied can be improved". The Communication does not exclude any option to broaden the tax base. The Communication furthermore states that non-profit making organisations already benefit from an exemption which covers their activities in the general interest and that the concerns relate to "residual activities" not covered in the exemption. These could, according to the Commission, be covered by the general exemption scheme for small businesses that have a turnover below a certain threshold. The sport movement would argue that the volunteer nature of sport organisations is not comparable to small business models and that a one-size-fits-all approach is not always appropriate.

*Recommendation 11: (Sport movement)  
Provide support for volunteer clubs through financial advice which will help to remove tax burdens and information about funding opportunities at national and European level.*

Most sport clubs in Europe are run or supported by volunteers and many issues they face such as taxation or applying for funding are outside their areas of expertise. It is important, therefore, that the sport

<sup>11</sup> The Swedish VAT Act does not transpose the term taxable person to non-profit sports organisations as it instead refers to commercial activity. When determining whether an activity is commercial reference is made to the provisions of income tax law. Not-for-profit organisations have, under certain circumstances, a limited liability for income tax and are under the VAT Act therefore not deemed to perform any commercial activity, exempting them from VAT.

movement is proactive in supporting its clubs and providing the help and guidance the club structures need.

#### **D) RECOGNITION AND MAINSTREAMING OF SPORT IN EU FUNDING PROGRAMMES**

*“Union action shall be aimed at developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially the youngest sportsmen and sportswomen”.*<sup>12</sup> Since December 2009, Lisbon Treaty provisions (Articles 6 and 165 TFEU) allow the EU to adopt direct incentive measures in the field of sport.

These could be materialised by an EU funding scheme devoted exclusively to sport, as being proposed by the European Commission in November 2011 with the “Erasmus for all” Programme proposal, for the period 2014-2020, which includes a specific chapter on sport. The European Commission would in this new framework emphasize the added value of sport at EU

*Recommendation 12: (Commission) Ensure that the upcoming EU funding scheme for sport 2014-2020 is devoted mainly to the grassroots level.*

level, *“focusing on the promotion of health-enhancing physical activity, [...] exploiting the potential of sport to foster social inclusion, [...] promoting dual careers through education and training of athletes”*, just to give a few examples.<sup>13</sup>

*Recommendation 13: (Commission) Allow EU funding to be used for projects which invest in grassroots facilities and not just pan-European projects.*

Moreover, recent sport initiatives have focused on pan-European projects, where grassroots sport may benefit more from investment in facilities and local projects. It is worth considering how future investment might see more money reaching grassroots initiatives.

Furthermore, sport can be better included in the various range of EU funding programmes, as underlined by the study published by the European Commission on the funding of grassroots sport in the EU: *“The European Union also has a role to play, particularly given its new competence in the field of sport. The EU can promote the societal function of sport in Europe by*

*Recommendation 14: (Commission) Better include sport in current and future EU funding programmes, in particular in the fields of Public Health, Research and Technological Development, Youth, Citizenship, Education and Environment.*

*making this a cornerstone of the future EU funding programmes for sport. The EU should also mainstream sport initiatives within the whole of its funding programmes (Structural Funds, Progress, Lifelong Learning, Youth, Europe for Citizens, Health, etc.).”*<sup>14</sup> This approach was already included in the 2007 White Paper on Sport, where the European Commission announced “it

<sup>12</sup> [Article 165 TFEU](#).

<sup>13</sup> [European Commission – Communication on «Erasmus for all : : The EU Programme for Education, Training, Youth and Sport”, COM 2011 787 final, November 23, 2011, p. 13](#)

<sup>14</sup> [European Commission, “Study on the funding of grassroots sports in the EU: Within a focus on the internal market aspects concerning legislative frameworks and systems of financing”, Executive Summary; 27 June 2011, p.25/26](#)

*will seek to take sport better into account in relevant financial instruments”, referring explicitly to Public Health, 7<sup>th</sup> Research and Technological Development, Youth in Action, Citizenship, Life Long Learning, Progress, European Social Fund, European Regional Development Fund, Life+ Programmes.<sup>15</sup>*

With the future perspectives of the EU and the overall goals of its strategy Europe 2020, the European Commission considers that sport can play a determinant role with its potential added value “[...] *by improving employability and mobility, notably through actions promoting social inclusion in and through sport, education and training...*”<sup>16</sup>. In addition, these arguments will

*Recommendation 15: (Commission) In view of the next programming period 2014-2020, fully exploit the possibilities of the European Regional Development Fund to support sport infrastructure and sustainable activities in sport and outdoors as a tool for regional and rural development, and the European Social Fund to strengthen the skills and employability of workers in the sport sector (follow-up to 2011 Communication on Sport).*

more than ever be applicable with regards to the future EU Multiannual Financial Framework 2014/2020, as recalled by the European Parliament in February 2012 : “[...] *grassroots sport should benefit from the European Regional Development Fund and the European Social Fund, which should allow for investment in sports infrastructure and urges the Commission and the Member States to provide the Union with a specific budget programme in the field of sport, as is now possible under Article 165 TFEU<sup>17</sup>*”.

In the current funding period of the Structural Funds (2007-2013) sport is not directly eligible due to the fact that sport was not incorporated in the EU Treaty.

However a numerous number of sport related investment projects have been funded by using the provision on tourism investments in the Regional Funds Regulation (ERDF) as a hook (e.g. ski routes, multifunctional arenas, cycling routes). It seems that tourism will be removed out of the upcoming regulation and the incorporation of sport is far from being guaranteed. In this regard the access of sport to Structural Funds funding could be even worse in spite of the fact that legal obstacles have been removed by the inclusion of sport in the “Lisbon Treaty (TFEU)”.

Finally, the recognition and mainstreaming of sport in EU funding programmes would undoubtedly have a positive leverage effect both on public and private financing of sport at local and national levels, as it proves to be the case for other sectors benefiting from EU funding.

<sup>15</sup> [European Commission, White Paper on Sport, 2007 recommendations 3 \(Public Health, 7<sup>th</sup> Research and Technological Development, Youth in Action, Citizenship, Life Long Learning\), 6 \(Life Long Learning\), 12 \(Youth in ACTION\),15 \(Progress, ESF, ERDF\),32 \(Life+\)](#)

<sup>16</sup> [European Commission, “Communication on Sport: Developing the European Dimension in Sport”, COM 2011/12 final, January 18, 2011, p.3](#)

<sup>17</sup> [European Parliament, Resolution on the European dimension in sport, 2 February 2012 \(2011/2087\(INI\)\) point 63](#)

## 2.3 SPONSORSHIP AND DONATIONS

### A) SPONSORSHIP

Large sponsorship deals are naturally associated with individual clubs at elite level. However, while sponsorship at the grassroots level can bring in smaller sums they are often more significant in absolute terms to a local club or facility. For example in the UK, 30% of grassroots clubs receive money from sponsorship, with the average deal amounting to £2500 (€3000). This may seem like a small amount, but the average club surplus in the UK is just £1000 (€1200), meaning that local sponsorship is a life line to grassroots sports.

Governments have a role to play in ensuring that local businesses can sponsor local teams, national governing bodies should encourage solidarity mechanisms within sponsorship and the sponsors themselves should ensure that some of the money they invest in sponsorship filters down to the grassroots either by direct sponsorship or ensuring deals made with sports federations have a grassroots investment element.

In actual fact the value of sponsorship to grassroots is already

*Recommendation 16: (Member States)  
Consider appropriate tax mechanisms exist to allow local businesses to easily sponsor local teams.*

*Recommendation 17: (Sport movement)  
Encourage the redistribution of funds gained from sponsorship of elite teams to the grassroots.*

hugely significant, with €1.6bn of investment according to the Commission's study.

Depending on the methodology, different figures for the value of sponsorship exist in the European Union, however

the value of sponsorship to grassroots sport is always apparent. For example, in Germany it is estimated that recreational sports receive nearly double the sponsorship value than professional sports with €2.1bn being received annually by grassroots sports compared to €1.1bn at professional level. Naturally the grassroots sum is divided by a great deal more clubs- some 90,000- compared to a few recipients at the elite end, but, as in the UK example, funds go along way at the grassroots level.

### *Best Practice Example*

#### **Redistribution of funds within sponsorship agreements: The Netherlands, football**

A system of financial solidarity exists in football: professional football and the sponsors of The Netherlands' national team provide of €1 million per year to grassroots sport financing: in the Youth Football Master plan. €1 million is dedicated annually to the financing of football infrastructures used by grassroots clubs. In addition, more than 100 projects "There are more than 2 goals in Football" are supported by professional clubs and the professional football divisions of KNVB (the Royal Netherlands Football Association). Another example is the "mini-pitch" project which aims at installing 100 mini-pitches around the country (especially in urban areas) so that children and people of different social background, race, etc. can play football together. KNVB has invested over € 1 million in this project.



One sponsorship sector which has had traditionally close ties to grassroots sports due to the social element of club sport is alcohol sponsorship. While discussions continue with respect to the link between alcohol sponsorship and public policy health goals, it is important to note that this is a particularly significant funding stream for grassroots sport. Here high proportions of sponsorship are again directed at the grassroots with 62% of the €1bn of European alcohol sponsorship projects being directed to community level<sup>18</sup>. It should also be noted that sport and alcohol sponsorship has a fundamentally different relationship to other fields with an impact on public health, such as tobacco sponsorship. For instance, many grassroots clubs rely on income from bars to fund their clubs. At this level sponsorship is not realistically a public health concern and should not be considered in the same vein as the mass marketing seen for professional

*Recommendation 18: (EU and Member States) Consider very carefully the unintended consequences on grassroots sport in their policy approaches in the field of sponsorship.*

sport; however the funds here are vital for grassroots clubs. Member States and the EU should consider very carefully the unintended consequences on grassroots sport in their policy approaches in the field of alcohol sponsorship and also raise awareness of the importance and broad diffusion of sponsorships to recreational sports.

Governments too can encourage private investment in sport by agreeing to joint investment projects. An example is the UK's Sportsmatch programme which has sadly been discontinued. Sportsmatch meant that private investment in a scheme was matched by a government donation. More than 4,800 companies had their sponsorship of grassroots sports projects matched by Sportsmatch with 4,600 sporting projects having been co-funded by these sponsors.

The sponsoring companies ranged from large concerns such as McDonalds, Coca Cola and Nike to many small local businesses. Their investment ranged from £500 to more than £50,000 and

*Recommendation 19: (Commission) Create facility funding projects for grassroots sport which qualify for funding if external funding from business or private sponsors is also found ("match funding").*

the average sponsorship was more than £8,000. Research shows not only that the vast majority of these sponsors would not have invested in grassroots sport without the Sportsmatch incentive (or would have invested far less) but also that the vast majority carry on with their sponsorship programme long after the three year maximum extent of the matching.

Tax regulations can also encourage sponsorship by giving companies incentives to sponsor. For example according to Annex H of the Sixth VAT Directive, corporate sponsorship income could remain outside the scope of VAT where the only benefit which the charity gives the sponsor is the passive use of its name and logo in publicity; and adoption of Article 132 1(f) of Directive 2006/112/EC of 28 November 2006 on the common system of value added tax could provide exemption from VAT when charities act together and recoup expenses. This paper recommends a clarification and a review of VAT for grassroots sport in Europe and this should include sponsorship aspects.

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<sup>18</sup> NOTE: This statistic is for all sponsorship, not just sport sponsorship.

## B) CORPORATE SOCIAL RESPONSIBILITY

Businesses can offer more than just sponsorship to sport organisations. Partnerships also allow members of staff with expertise in particular areas (e.g. law, accounting, etc.) to have time off work in order to volunteer at a national governing body or club. This need not be an ad-hoc partnership and can be coordinated centrally by a national federation. For example, the British Olympic Association has created partnerships for its members with FTSE 100

*Recommendation 20: (Member States) Encourage major companies to form partnerships with sport organisations, voluntary bodies and other entities as part of corporate social responsibility (CSR).*

companies in order to help develop skills at national governing bodies.

## C) PHILANTHROPIC DONATION

Historically the sport movement has not accessed funds through substantial philanthropic giving unlike the arts and charity sectors. By offering tax advantages to businesses, philanthropic donors and

*Recommendation 21: (Member States) Consider introducing tax incentives to increase philanthropic giving and small donations to sport.*

individuals it is possible to increase charitable donation to sport.

Member States should also look

at ways to make giving to grassroots sports through small donations more attractive. By making fundraising simpler and more effective, grassroots clubs are empowered to fundraise themselves and improve their long term sustainability. An example in the UK is the Gift Aid scheme which allows individuals subject to UK income tax to claim a deduction of income tax at the basic rate (20%) when making a donation to charity (and to Community Amateur Sports Clubs as of 2002). This effectively means that for every £1 that is donated to a grassroots clubs, it makes £1.20 by claiming the deduction back from Government. It is important that Member States encourage this long term sustainability and ensure clubs are using the scheme effectively- in effect this is similar to a Sportsmatch scheme except the projects do not need central approval and the matching is 20% instead of up to 100%.

### *Best Practice Example*

#### ***Philanthropic giving through the Australian Sports Foundation***

An initiative by the Australian government has shown that collective mechanism for securing donations to sport can be successful with the Australian Sports Foundation having secured \$100m of new money through philanthropic giving in the last 10 years.

The Australian Sports Foundation (ASF) was established by the Australian Government to assist community organisations raise funds for the development of Australian sport. The ASF is supported by the Australian Sports Commission, but is a company limited by guarantee with an independent Board of Directors.

The ASF assists Australian non-profit, incorporated and other eligible organisations such as the following with sport related projects:

- Sporting clubs
- Sporting organizations
- Schools
- Councils
- Community Groups

## 2.4 LOTTERIES, BETTING AND GAMBLING

Lotteries and levies on betting and gambling are all used by Member States to help fund sport.

According to the grassroots financing study, €2.1bn is invested through the Government through lotteries and levies on lotteries, while €0.11bn is invested directly in sport through statutory levies. From the €75.9bn<sup>19</sup> annual revenues the betting (private and public) sector receives, it records that it gives €3.4bn to sport (elite and grassroots); however, only €200m of this does not come from statutory levies and lotteries<sup>20</sup>.

With respect to the revenue from lotteries, betting and gambling services, differences in national regulatory schemes across countries account for part of the differences between Member States regarding the contribution of these services to the funding of sport.

While historical ties exist between certain national lotteries and certain gambling activities (particularly in horseracing) on the one hand and sport on the other, there is a direct link between betting (using perceived knowledge to inform your wager) and sport as the betting market on sport dwarfs other types of betting. In essence the betting industry uses sport's product to drive its profits.

One recurrent question remains whether the funding of sport activities as a general interest objective with revenues from the organisation of gambling services (such as lotteries, betting services, etc.) could justify restrictions on the fundamental freedoms of the Internal Market. The Court has consistently held that that even though the financing of good causes, such as social works, charitable works, sport or culture can be supported in a significant way by the profits obtained from lotteries or other forms of gambling activity, this does not undermine the economic nature of these services, and

as such does not automatically exclude them from the application of EU law.<sup>21</sup>

*Recommendation 22: (Member States)  
Promote the allocation of funds from lotteries to good causes, including sport.*

<sup>19</sup> European Commission (2011) Green Paper on on-line gambling in the Internal Market

<sup>20</sup> RGA (2010) Sports Betting: Legal, Commercial and Integrity issues. Of €3.4bn, only €200m from sponsorship and investment arrangements.

<sup>21</sup> The Court also stated that even if it is not irrelevant that lotteries and other types of gambling may contribute significantly to the financing of benevolent or public interest activities, that motive cannot in itself be regarded as an objective justification for restrictions on the freedom to provide services. It can constitute only an incidental beneficial consequence and not the justification for the adoption or continuation of restrictive policies.

### Best Practice Example

#### Redistribution of money through National Sport Federations: Finland

The regulatory framework defines the share of the public subvention which is to be allocated to high-level versus grassroots sport. 75% of the central government's funding of sport goes to grassroots sport.

There is no centralised revenue allocation system operated by the sport movement itself. The Finnish Sport Federation administrates and redistributes occasionally revenues allocated by the ministry for special purposes (for example, employing youth in the sport sector). The terms and conditions for the redistribution of the revenue vary on a case by case basis according to the objectives. The decisions are always made in mutual understanding between the ministry and the sport organisation.

## A) NATIONAL LOTTERIES

Typically, National Lottery operators pay levies, taxes or fees to the state budget to contribute to the funding of general interest activities. The state decides how this revenue is spent, sometimes with explicit allocations going specifically to sport (mostly to the sport federations/associations).

The XG expressed concern that ongoing discussions on the compliance of national legislation in this field with EU Internal Market provisions can have an impact on the funding streams from national lotteries into sport. Many national sport structures can only exist due the special status of

*Recommendation 23: (Commission) Maintain its position that the development of gambling frameworks is the prerogative of the Member State and that Member States can utilise national lotteries and industry levies to fund grassroots sport if they so choose.*

sport organisations with respect to revenues guaranteed by state owned or licensed lotteries.

However the Commission's 2012 Communication "Towards a comprehensive European framework for online gambling" it was reiterated that Member States are free to set the objectives of their policy on games of chance and to define protective and regulatory

*Recommendation 24: (Commission) When continuing to develop its approach to online gambling, take account of the sport sector's needs and the specific nature of sport.*

frameworks. While the Commission develops this piece of work it should ensure it takes into account the sport sector.

## B) BETTING

The Study on the funding of grassroots sport in the EU identifies future changes to the European gambling markets as a possible way for the funding of sport. The proliferation of the online gambling market means sports are bet on more and more frequently.

The European Parliament has recently suggested that more should be done to protect sport's intellectual property in this field. The Schaldemose Report on the integrity of online gambling highlighted

### *Best Practice Example*

#### **Redistribution of income from betting rights: France**

Online gambling is now open to private operators in France. Therefore, private gambling operators can operate in France, but private lotteries cannot.

French residents can legally bet online with a private operator but this operator must be established in France.

Online private operators must have an agreement delivered by ARJEL (the independent regulatory authority in charge of online gambling in France)<sup>1</sup>. The criteria are defined by the decree n° 2010-482 of 12 May 2010 which sets the conditions of agreements delivery for online gambling operators.

Online gambling services operators must purchase the exploitation rights of the sport events on which bets are made (Article 63 of the Law).

Exploitation rights of sport events belong to the organiser of the competition. Therefore, the rights must be purchased to the organiser of the sport event.

A 1.8% levy exists on all stakes and goes into the central fund (National centre for sport development) to be distributed to grassroots sport and 1% goes to the sports organisers.

that “the protection of the integrity of sports events and competitions requires cooperation between sports rights owners, online betting operators and public authorities at national as well as EU and international level.” The Parliament’s position further confirmed that “sports bets are a form of commercial exploitation of sporting competitions, and recommends that Member States protect sporting competitions from any unauthorised commercial use, notably by recognition of a sport organisers right, and put in place arrangements to ensure fair financial returns for the benefit of all levels of professional and amateur sport.”

This was reinforced by the Parliament’s 2011 Creutzmann report which “Reaffirms its position that sports bets are a form of commercial use of sporting competitions” and “recommends that sporting competitions should be protected from any unauthorised commercial use, notably by recognising the property rights of sports event organisers, not only in order to secure a fair financial return for the benefit of all levels of professional and amateur sport, but also as a means of strengthening the fight against sports fraud, particularly match-fixing” .

In its 2012 Communication “Towards a comprehensive European framework for online gambling”, the Commission found that it is not appropriate at this stage to propose sector specific legislation, but that there were unanimous calls for policy action at an EU level. The Communication confirms that Member States are free to set the objectives of their policy on games of chance and to define protective and regulatory frameworks. Regarding the protection

of sports organisers’ rights, the Communication suggests that Member States consider sustainable financing of sports integrity measures. There are diverging opinions on the merits of implementation of such a right for betting, not only between Member States, but also within individual Member States. However, the onus is now on the Member States to consider whether pursuing the mechanisms already implemented in countries like France and Australia would be a useful intervention or not.

*Recommendation 25: (Member States)  
Review the economic impact of implementing a sports owner’s right in the country and decide whether it is a feasible way of sustainably financing grassroots sport.*

*Recommendation 26: (Sport movement)  
Promote the inclusion of solidarity mechanisms or collective by sport federations in commercial agreements.*

## 2.5 PROPERTY & MEDIA RIGHTS

The study on the funding of grassroots sport highlighted reinvestment in sport through media rights. The White Paper on Sport also stressed the importance of media rights including the protection of collective selling. However, it is worth considering

*Recommendation 27: (Commission) Ensure that any recommendations to protect sport's commercial property rights following the EU study on IPR are taken forwards.*

*Recommendation 28: (Member States and the Sport Movement) Consider improving national legislation in order to protect sports organiser's rights and sports commercial value and encourage redistribution mechanisms by sport federations.*

expanding the debate to include all of sport's property rights. Collective selling of such property rights either within a sport or across a number of sports can increase the value of sports rights and the redistribution to grassroots. Likewise, if the European Union and Member

States can better protect sports property rights, sport will be able to generate its own funding more easily. To get further information on IPR in sport the Commission has launched a study, as announced in its 2011 Communication on sport.

### 1. PROPERTY RIGHTS

The discussion around sports rights at both a European and national level is very much underdeveloped. Too often the debate is distilled into a discussion about either betting or television. More needs to be done to understand what assets sport organisations have and how they can best be used and protected. For example property rights can include:

- Sponsorship
- Advertising
- Trademarks
- Copyright (including recorded sport, images of events and players, rules books, fixtures, logos and brandings, etc.)
- Branding and event management
- Licensing and franchising
- Selling of television rights
- Selling of internet rights
- Selling of audio rights

### Best Practice Example

#### Joint marketing of rights: Germany

Deutsche Sport-Marketing GmbH (DSM) provides marketing for Olympic sports and provides leadership in grassroots marketing. This joint initiative allows sports to come together and pool resources in order to benefit from relationships with affiliate sponsors such as Audi and Adidas. The DSM's portfolio includes athlete mediation, cooperation with sports federations, as well as consulting services in the field of sports marketing. DSM also covers grassroots marketing to support the 90,000 sports clubs and 27 million members which include programmes such as the "German sports badge" and festivals of sport.

- Designs and visual appearance
- Personality rights

## 2. MEDIA RIGHTS

The most commonly considered property right is 'media rights', which therefore warrants special attention. The use of media rights to directly fund grassroots sport is the epitome of a vertical solidarity mechanism. All sports should be encouraged to distribute their media rights into their grassroots. In many respects this is a virtuous circle - reinvesting your media rights in grassroots sports should create better players, a more marketable product and therefore higher value media rights.

Media rights are the most commercially exploitable asset sports organisations have. In order to encourage solidarity mechanisms, the XG is of the view that the European Union and Member States should ensure that sport organisations can sweat their assets as much as possible. The following areas all affect the value of media rights and sport's ability to apply solidarity mechanisms:

### A) COLLECTIVE SELLING

Collective selling allows leagues and national sport federations to sell the media rights to their matches and sports collectively and then redistribute the income between clubs, national governing bodies

and grassroots sport. If clubs or sports negotiate rights independently it can mean no cut is offered to grassroots sport or smaller sports.

*Recommendation 29: (Commission) Help protect sport's ability to self-invest through media rights which should include defending the principles of collective selling for solidarity mechanisms (as outlined in the Commission's White Paper on Sport).*

### B) EXCLUSIVITY

Many sports rights owners sell their rights exclusively to one broadcaster. This means only one broadcaster will be able to show the competition in any particular region (see territoriality). Rights are worth more when sold exclusively.

In 2003 the European Commission issued a competition decision concerning UEFA's selling of media rights which has since served as a template for sports selling media rights. In this decision and others

### **Best Practice Example**

#### **Redistribution of income from media rights: UK, cricket**

In the UK, sports federations sign up to a voluntary code for reinvesting TV rights into grassroots sports. Signatories invest 30% of UK TV broadcasting rights into grassroots programmes. Cricket's "Chance to Shine" programme has seen £25m invested in grassroots cricket over a 5 year period enabling 384,000 children in 2100 schools to benefit from 78,000 coaching hours. As a result 18,000 boys and girls have migrated from schools to clubs.

### **Best Practice Example**

#### **Collective redistribution from media rights: Denmark, joint selling**

Media rights are paid directly to the sport federations. The NOC and the Danish Sport Confederation have negotiated a media right agreement on behalf of about 50 sport disciplines. This does not cover football, handball, badminton and ice hockey which negotiate their own individual media rights.

In football and handball, there are separate solidarity mechanisms organising the redistribution of media rights earned by the professional sport to grassroots football and handball. The share of the media rights revenue estimated to go to grassroots sport is 5%.

(e.g. Premier League<sup>22</sup>, Bundesliga<sup>23</sup>) the Commission has explicitly endorsed the notion of exclusivity, stating that “UEFA’s joint selling arrangement provides the consumer with the benefit of league focused media products from this pan-European football club competition that is sold via a single point of sale and which could not otherwise be produced and distributed equally efficiently”.<sup>24</sup>

In this case there are benefits for the consumer who does not have to subscribe to a host of media suppliers to follow one competition, the media supplier who can increase revenue from advertising, the advertisers who will have a defined target demographic and sport which can improve revenue through exclusivity. All these benefits are set out in more detail in the Commission’s 2003 decision.

While the Commission decision backs exclusivity in the sense of economic efficiency, the benefit to grassroots sport through solidarity mechanisms is another major factor for the sporting world. Estimates from the UK suggest that the exclusivity of media rights can add substantially<sup>25</sup> to a contract and this value correlates to a significant investment in grassroots sport.

### **C) TERRITORIALITY**

Sport is territorial by nature. National matches and competitions are watched more fervently by those from the hosting or participating countries. This can be seen at a glance from the list of designated events which can be safeguarded for free-to-air television<sup>26</sup>. While the lists include major world events like the Olympics, they serve as a demonstration that sport events- from the Giro d’Italia in Italy to the All-Ireland Senior Inter-County Hurling Finals in Ireland- are principally of importance territorially; and likewise their value and appeal differ across Europe.

This can be further illustrated by interrogating the viewing figures of sport events: For example, through regression analysis of viewing figures in 54 countries in the six major football tournaments since 1998, it has been found that broadcasts which involved a match in which the home country played saw an extra 17.9% of the population watching the match.<sup>27</sup>

<sup>22</sup> European Commission (2006) COMMISSION DECISION of 22 March 2006 relating to a proceeding pursuant to Article 81 of the EC Treaty (Case COMP/C-2/38.173 – Joint selling of media rights to the FA Premier League).

<sup>23</sup> European Commission (2003) Joint selling of Bundesliga media rights — first Commission decision pursuant to Article 9 of Regulation 1/2003.

<sup>24</sup> European Commission (2003) COMMISSION DECISION of 23 July 2003 relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement (COMP/C.2-37.398 —Joint selling of the commercial rights of the UEFA Champions League).

<sup>25</sup> CCPR (2009) Estimates from signatories to the code estimate that the value of an exclusive contract is worth 25-40% more. Based on confidential data.

<sup>26</sup> European Commission (2009) Audiovisual Media Directive COM/2009/0185 (2009).

<sup>27</sup> Alavy as quoted in Simon Kuper and Stefan Szymanski (2009) Why England Lose and Other Curious Football Phenomena Explained. Harper Collins.



This territorialism has been recognised by the Commission in its 2003 UEFA decision in which it notes that “media rights to football events like the UEFA Champions League are normally sold on a national basis. This is due to the character of distribution, which is national due to national regulatory regimes, language barriers, and cultural factors. The Commission therefore considers the geographic scope of the upstream markets for the media rights to be national”.<sup>28</sup>

The result is that sport has a very different value depending on the territory in which it is being watched. It is important for both sport and Europe’s citizens that sport is allowed to be sold to media organisations territorially. If this was not the case, only the largest media empires in Europe would win contracts and there is the possibility that smaller territories in which these organisations did not operate would receive less choice.

#### **D) PIRACY**

Sport competitions are becoming increasingly attractive for 'pirates', many sites selling advertising on or subscriptions to illegally transmitted sport. To indicate the scale of the problem for sport, individual football matches can be watched illegally live on-line by over 500,000 per match. Cricket is the most pirated sport with around 1000 unauthorised illegal streams - over 200 of which are subscription sites<sup>29</sup>.

*Recommendation 30: (Commission) Ensure that, when considering online content, sport is integrally considered as a content provider and that the specific nature of sport and its commercial property rights are taken into account when developing new policy.*

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<sup>28</sup> European Commission (2003) Paragraph (88) COMMISSION DECISION of 23 July 2003 relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement (COMP/C.2-37.398 —Joint selling of the commercial rights of the UEFA Champions League)

<sup>29</sup> NetResult (2009) monitored a number of International Cricket Series and Tournaments including Test Series, One Day Internationals and Twenty20s involving teams from Pakistan, England, Australia, India and South Africa. During these nine events, the company located 941 unauthorised streaming of live cricket, 264 dedicated servers and 228 subscription sites.