

Commission clears UEFA's new policy regarding the sale of the media rights to the Champions League

The European Commission has taken a final decision exempting the new joint selling arrangements of European soccer organisation UEFA for the media rights to the Champions League. The new policy will allow UEFA to continue selling the rights to its successful Champions League brand while bringing football within the reach of more broadcasters as well as Internet and telephone operators, and permitting clubs to market part of these rights individually. Commenting on the decision, Competition Commissioner Mario Monti said: "The Commission's action will provide a broader and more varied offer of football on television. It will allow clubs to develop the rights for their own fan base and will give an impulse for the emerging new media markets such as UMTS services". "This positive outcome shows that the marketing of football rights can be made compatible with EU competition rules without calling into question their sale by a central body to the benefit of all stakeholders in the game".

The Commission originally objected to the joint selling arrangements, which were notified in 1999, because UEFA sold all Champions League TV rights in one package to a single broadcaster on an exclusive basis for up to four years at a time. The buyers were often free-TV broadcasters that could sub-licence some rights to pay-TV broadcasters. One of the important drawbacks of the original joint selling arrangement was that not all matches were seen live on TV while Internet and phone operators were simply denied access to the rights.

UEFA's joint selling arrangement therefore had the negative effect of restricting competition between broadcasters. By barring access to key sport content it also stifled the development of sport services on the Internet and of the new generation of mobile phones. This was not in the interest of broadcasters, clubs, fans and consumers.

UEFA's new joint selling arrangement

As a result of the Commission's objections, UEFA proposed a new joint selling arrangement, which solves the Commission's concerns, and which is operational starting with the 2003/2004-football season. According to the new system:

- UEFA will continue to market centrally the rights to live TV transmission of the Tuesday and Wednesday night matches. The main rights will be split into two separate rights packages (the Gold and Silver packages) giving the winning broadcasters the right to pick the two best matches.

- UEFA will initially have the exclusive right to sell the remaining live rights of the Champions League¹. However, if it does not manage to sell this so-called Bronze package within a certain cut-off date, the individual clubs will be able to market the matches themselves.
- The new joint selling system also affords opportunities to new media operators as both UEFA and the football clubs will be able to offer Champions League content to Internet and operators seeking to launch or boost the new generation of mobile phone services using the UMTS technology.
- Individual football clubs will also, for the first time, have the right to exploit TV rights on a deferred basis and to use archive content, e.g. for the production of videos, therefore provide their fans with a better and more varied offer.
- UEFA will not sell the rights for a period longer than three years and will do so through a public tender procedure allowing all broadcasters to put in bids.

UEFA's new joint selling system represents an improvement on the preliminary compromise reached with the Commission in July 2002 and which was subject to public consultation (see Official Journal C196 of 17 August 2002). It particularly agreed that football clubs would not be prevented from selling live rights to free-TV broadcasters where there is no reasonable offer from any pay-TV broadcaster.

Background

Joint selling on an exclusive basis restricts competition - be it in the sports or in any other sector - because it has the effect of reducing output and limiting price competition.

The sale of the entire rights on an exclusive basis and for a long period of time has the effect of reinforcing the position of the incumbent television companies as the only ones with the financial strength to win the bids. This, in turn, leads to unsatisfied demand from broadcasters and a lesser ability to make an attractive offer to customers. Sports and films are two key ingredients for television and for pay-TV channels in particular. They are also proving increasingly critical for the development of new technologies.

Therefore the Commission could only exempt the joint marketing of the rights to the Champions League if the arrangements were modified to meet the conditions foreseen in Article 81(3) of the EU Treaty. This provision allows the Commission to exempt restrictive agreements if they contribute to "improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit".

The Commission is also examining joint selling arrangements to national football leagues.

¹ The Champions League is a tournament organised every year between the top European football clubs -- 72 clubs participate from both European Union and non-EU countries. The last stage, which begins in September, comprises the 32 qualifying clubs. The Champions League season ends in May the following year.