

**TWO TIERS OF REPRESENTATION AND POLICY: THE EU AND THE  
FUTURE OF FOOTBALL**

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### **Abstract**

This paper considers the representation of football in the European Union in terms of conflicting associative state and company state models. The EU has a stated preference for dialogue with associations representing civil society, but is often susceptible to influence exerted by individual firms and big business generally. The EU's involvement in football stems from its regulatory state form, the requirements of competition policy which apply to football as a multi-billion euro business and its search for means of establishing its legitimacy among European citizens. The paper analyses the development of the G-14 organisation that claims to represent Europe's top clubs and compares with Uefa which emphasises principles of solidarity. There has been a battle for influence between the organization which at the moment stands as a score draw with extra time to be played with the final result uncertain. Uefa has made effective political use of the EU's Independent Review of Football. In some respects G-14 has done less well than some other big business groups, reflecting popular interest in football. The topic raises more general issues about the response of the EU to globalisation.

In Grant (1993) I attempted to set out a framework for an ideal typical analysis of predominant forms of business-government interaction in different polities. The basic question that was posed was ‘are government-business relations mediated or unmediated. In other words, is the preferred form of business-government contact direct between firms and government, or does it take place through an intermediary?’ (Grant, 1993: 13). Countries in which direct contact was preferred, such as the United States, were characterised as company states. Where intermediation was primarily through a system of business associations, as in Germany, they were characterised as associative states. A third category, the party state, is not relevant to this discussion.

In practice, of course, both company and associative forms of contact will occur. Both forms of representation will co-exist with each other. However, the relative weight that is given to more big firm oriented or more coordinated forms of representation is not just a question of process; it also has implications for values and outcomes. Big firms, or organisations confined to them, will tend to emphasise commercial values, ensuring that profitability can be maximised, for example by structuring the market in the way that suits their interests. Associations which have to consider the interests of a range of producers of different size may tend to have a more solidaristic outlook and to be more interested in the availability of public goods.

The co-existence of two tiers of representation alongside one another may give an appearance of democracy and transparency that is not wholly justified. ‘The EU political system is a wonderful place for corporate lobby groups to do business: decisions with far-reaching effects are made behind closed doors and in secretive committees, invisible to and far removed from those affected by the resulting deals.’ (Balanyá, Doherty, Hoedman, Ma’anit and Wesselius, 2000: 4). Access may in principle be available to all, but some have more privileged access than others:

Clearly, multinational firms and their organizations are among the better organized and best funded in Brussels ... The large firms also enjoy privileged access to many national and European policy-makers. For example, former Commission President Jacques Delors often flew on corporate jets – as the guest of chief executive officers of many European companies – on his visits to member states to promote the SEM programme. (Green Cowles, 1997: 134).

These comments might seem to offer an unfair judgement on a European Commission that is publicly committed to dialogue with organised civil society:

The Commission wants to consult interested parties on the widest possible basis and ensure that every interested party, irrespective of size or financial backing, should be given the opportunity of being heard by the Commission.

([http://europa.eu.int/comm/civil\\_society/apgen\\_en.htm](http://europa.eu.int/comm/civil_society/apgen_en.htm), accessed 18 April 2006)

However, the significant phrase here is ‘*the opportunity of being heard.*’ Every conceivable interest is allowed to participate in elaborate consultative exercises on the formation of policy. They may be heard, but will they be listened to? The literature on EU lobbying tends to be either topographical (charting the various organisations or their role) or case study based, looking at a particular organisation or

a particular policy (or both). Thus, Pedler and Van Schendelen (1993) is divided into 'company cases', 'trade association cases' and 'issue group cases'. (For another example, see Pedler, 2002). The implicit or explicit (Greenwood 2002) agenda is often about effectiveness in representational activity, i.e., how to do it, how it was done and how not to do it. The case study approach distracts our attention from broader issues about power and how it is distributed.

Why should the EU have a bias in favour of big business? For all the emphasis on its social and environmental policies, the EU is essentially an *economic* organisation organised around a single market and currency. Among its central objectives are ensuring that the European economy continues to grow as a mechanism for reducing unemployment which remains unacceptably high in many parts of the EU. It also wants to maintain the competitiveness of European industry and strengthen its research base to ensure that it can compete with both the United States and rising economic powers such as India and China. But such a strategy requires the active co-operation of business if it is to be successful.

This is not to argue that business is dominant, although it has won some important battles, e.g., the establishment of the single market, blocking a carbon tax and diluting the REACH reform of chemicals legislation. If one wants an example for football, then the framework for the Premiership's media contract was eventually agreed with the Commission that was far less threatening to its earning potential than earlier proposals, a conclusion reached after top level negotiations between the responsible Commissioner, who was reportedly 'leant on' by Gordon Brown and Jack Straw, and Premiership chief executive Richard Scudamore.

Of course, other values than those of business have to be considered which is why there is a project for a 'social Europe'. European politicians are predominantly

Social or Christian democrat rather than neo-liberal. Environmental groups can appeal to wider public values. The EU attempts to redress the resources balance by providing financial aid to non-governmental organisations. Nevertheless, no one should doubt the central place occupied by business in the European project.

### **What has all this got to do with football?**

Why should the EU be interested in football at all? There are many within the 'world of football' that see its interventions as unwarranted and unwelcome interference. As one Premiership chairman put it:

The European Commission continues to involve itself in the affairs of the FA Premier League in a very public and high profile manner. .... It cannot be right that the Commission should seek to challenge our right to enter into genuine commercial agreements for the sale of our broadcast rights because they do not like the outcome. We must use every means at our disposal to protect the game in this country from such outside interference. (Murray, 2005: 5).

This view represents a widespread one that football should largely left to regulate itself which is what has effectively happened in the member states. Football represents an example of a well embedded policy community that maintains substantial defences against 'outsiders'. Equivalent regulatory failures in other spheres of life have attracted government intervention, but football has been able to maintain its autonomy. (Moran, 2005). It is therefore understandable that there are those in football who want to replicate what they see as a satisfactory arrangement on the national level at the EU level. Minimalists thus 'seek the strongest possible protection from EU while maintaining the greatest possible distance from the EU.' (Parrish, 2003: 250). This might seem to be an attractive strategy, particularly when it can be linked with broader anti-EU narratives in countries such as Britain. The

difficulty it encounters is the changing nature of a football. Football has become more of a business, but it has also be incorporated into agendas promoting health and social inclusion and this tension between the economic and the social cannot always be glossed over by public relations initiatives.

In any case, as far as the European Commission is concerned, football as a multi-billion euro business activity cannot be exempted from the competition rules designed to deal with abuses of a dominant position or the formation of cartels. 'In economic terms, between 3-4% of the European Union's annual GDP is generated through sports and sports in general have an average annual growth rate of 4%.' (European Parliament, 2006: 8). Notwithstanding the popularity of, for example, cycling and rugby in some member states, football is the leading sport in terms of economic impact. State aid issues may also arise because public authorities may get involved in financing football, particularly helping to fund the building of stadiums. Thus, one motive to get involved is simply the discharge of the duties given to the Commission under the treaties. This perspective is consistent with what Parrish (2003: 250) identifies as a single market advocacy coalition that 'has observed the commercialization of sport and sees much sporting activity as economically based and as such subject to the laws of the Single Market.'

Because the EU lacks the fiscal powers available to other political entities, and much of what it does have to spend is devoted to the Common Agricultural Policy (CAP), the EU has developed as a 'regulatory state'. (Majone, 1996). Thus, 'Embedded within the EU's constitutional and normative structure is a predisposition for the promulgation and enforcement of rules.' (Parrish, 2003: 246). At a very general level, the EU is tempted to regulate sport because that is what the EU does. One version of the socio-cultural advocacy coalition identified by Parrish is those who

support a fully fledged sports policy embodied in a treaty provision. (Parrish, 2003: 250). In the interim, the resort may be to soft law as exemplified by the Nice Declaration on Sport (Parrish, 2003).

The application of competition policy rules and the regulatory imperative, stimulated to some extent by spillovers, are important explanations of the EU's involvement in football. However, there is one other important consideration and that relates to the legitimacy of the European Union. The difficulty arises from the contrasting bases of legitimacy represented by a European demos on the one hand and a sharing of the rights of states through treaty agreement on the other (Gamble, 2006). One has a complex polity that is more than an international organisation and less than a state and which lacks an adequate descriptive language that is communicable to the ordinary European citizen.

Hence, the EU has always been interested in projects that relate to the lives and concerns of European citizens, hopefully conferring an output legitimacy that in time will become more deeply rooted. A good example is environmental policy. Europeans are concerned (or say they are concerned) about the state of the environment; many environmental problems are trans-boundary in character; and the EU can strike a moral stance on the world stage on issues such as climate change that differentiates itself from the United States. So if the EU can deliver cleaner rivers and air, and more biodiversity, it may seem less remote, bureaucratic and technocratic to Europeans.

Could not football perform a similar function? It appeals to the rich and to the poor, to the old and the young and to many different ethnic groups in Europe's diverse society. Its only deficiency from the viewpoint of social inclusion is that the composition of support still has a gender bias. What better way to demonstrate the

relevance of the EU than to take measures that are seen as fan friendly? However, one problem is that football is organised on a national basis with competition taking place in national leagues and cups and between teams representing countries, often reinforcing popular stereotypes that member states have of each other. The one exception is the Champions League (and, on a smaller scale, the Uefa Cup). This pits clubs from across Europe against each other, thus potentially creating a European framework of reference. From time to time, the project of a 'super Champions League' or European league is mooted. It is perhaps no accident that the G-14 grouping of top European clubs was formed after Media Partners, an Italian media company, offered to form a breakaway European league in the 1999-2000 season. Recently, the idea of such a league was mooted again, provoking fierce denials of any involvement by G-14. No Commission official has ever expressed a view in favour of a breakaway league, but would it help to create a European sporting space as part of a larger European public space, erode national identities, give citizens a more European frame of reference and hence promote an integrationist project? However, a league without promotion and relegation and traditional local rivalries might not appeal to fans and could be a commercial failure. Threats of a breakaway are largely a negotiating ploy by bigger clubs acting individually or are talked up by media interests.

#### **G-14: the voice of football as a business**

G-14 represents eighteen of the largest football clubs in Europe (although not Chelsea). It unabashedly proclaims a commercial and club oriented, as distinct from an associative view of football, and wants to increase the influence of the big clubs in the game. It is concerned that within Uefa, while the five big federations may stand up for their clubs, they will be outvoted by the forty-seven smaller federations, given

that each association has one vote. Its view is that ‘football clubs have become “football companies”, whose daily activity also relies on abilities outside of sport.’ (<http://www.g14com/G14ourmission/actions2.asp>, accessed 18 April 2006). It is clear that ‘G-14 clubs are businesses and operate in the same competitive market environment as any other business.’ (*European Voice*, 4-10 December 2003: 25). There is no claim for autonomy for football from political forces. ‘G-14 welcomes EU involvement in issues impacting on football as a business.’ (*European Voice*, 4-10 December 2003: 25). Transparent and consistent regulatory frameworks are seen as a means of boosting legal certainty for clubs and hence business confidence.

Banks (2002: 13) has argued that ‘G14’s influence has been overstated’. His argument rests on the limited size of the organisation’s membership and the difficulty it has in reaching consensus on important issues. G-14 started with an informal grouping of eight clubs that had won at least five European titles. However, as it was converted to a formal status, these standards had to be relaxed, as G-14’s general manager, Thomas Kurth admitted:

It was decided that it was not possible to leave out Manchester United because, even though they hadn’t won as many titles, they were No 1 in terms of business and fan base. It was also decided that France ought to be represented and, since Marseilles had just won the European Cup, they joined. But then Paris Saint-Germain joined too, since, after all, they’re from the capital of France and, at the time, they were owned by Canal Plus, which is a big media player. At that point Bayern insisted that Borussia Dortmund come in, because Germany needed to have as many members as France. And then Real Madrid brought in their friends from FC Porto, and Ajax their friends from PSV Eindhoven and so on .. (Quoted in Marcotti, 2004: 20).

In the face of some resistance from Barcelona and Marseilles who were underperforming in their national leagues and didn't want the status conferred on them by G-14 membership to be undermined (Banks, 2002: 131) four new clubs were admitted in 2002: Arsenal, Bayer Leverkusen, Olympique Lyonnais and Spain's Valencia. Bayer Leverkusen has never won a league title and Lyons only won their first French title in 2002. Meanwhile, AS Roma, Benfica and Chelsea were left out, although Kurth's argument was that the first two of these clubs 'were blackballed for having outstanding debts to other G14 members'. (Quoted in Marcotti, 2004: 20).

The argument in relation to Chelsea seemed to be that they are a new star in the firmament that 'need to prove as solid as they pretend to be.' (Marcotti, 2004: 20-21). New members need unanimous agreement and it has been suggested that Arsenal is one of the clubs that have blackballed them in the past. One factor may be that the Chelsea chief executive, Peter Kenyon, is chairman of the European Club Forum, a body set up Uefa in 2002 to try to tempt the powerful clubs back into its camp. Interestingly, Uefa claims that membership of this forum is 'based on objective, democratic, sporting, transparent, non-elitist criteria.' However, its composition does not seem that different from G-14 as it is based on 'those clubs participating most frequently in the European club competitions'. (Uefa, 2005: 23). The difference is that all 52 member federations are represented.

In 2004 there was speculation that Celtic and Rangers might be invited to join G-14, but one question that arose was whether further expansion would dilute rather than strengthen G-14. Moreover, 'It does appear as if the G14's priority was ensuring that each of Europe's five biggest leagues would have three (and only three) representatives.' (Marcotti, 2004: 20). (The balance of the membership is made up by two Dutch and one Portuguese clubs). The persistence of a national frame of

reference is also reflected in the composition of the management committee in 2006 which had one representative from each of four major countries (England, Germany, Italy, Spain), plus one from Portugal. In 2007 the committee was expanded by one member which permitted French representation. Unlike an organisation say, of, volume European motor manufacturers who usually produce in more than one EU member state it is not clear who should be a member and who should be excluded. Nevertheless, it does represent ‘about 50 per cent of the market in European player transfers.’ (*Financial Times*, 16 May 2002). G-14 has also tried to broaden its base of support by establishing an annual international club conference that includes senior club executives from outside the grouping.

G-14 has a curious voting structure that awards votes on the basis of success in European club competitions. Winning the Champions League and its predecessor competition gets you two votes, while winning the UEFA Cup or the former Cup Winners’ Cup gets you one. Fifty per cent of the subscription is decided on the basis of the number of votes. However, in practice decision-making is by consensus. Given the essentially highly competitive nature of football at that level which involves not only competition in matches but also competition for players, it might seem that achieving consensus is quite difficult. Of course, successful associations have formed in other highly competitive European sectors such as fast food (the European Modern Restaurants Association), although it has been argued that success in that case depended on having only nine members and no staff. (Lécureuil and Ward, 2002).

G-14 recognises that ‘Given its character and the mix of identities generated by the international origin of its member clubs, G-14 has to face a significant challenge to represent, promote and safeguard the interests of its members through a consensual

approach.’ (<http://www.g14.com/G14ourmission/actions.asp>, accessed 20 April 2006). G-14 presents a somewhat Delphic statement of areas of difficulty which are divided into club strategies and national contexts. Clubs may have ‘conflicting priorities ... in terms of global strategy, timing or even competitions.’

(<http://www.g14.com/G14ourmission/actions.asp>, accessed 20 April 2006). In other words, to what extent are clubs interested in the Asian market? What structure for the Champions League would suit them best? They may also vary ‘in terms of domestic resources, impact, development perspective and level of competition.’ (<http://www.g14.com/G14ourmission/actions.asp>, accessed 20 April 2006).

One might have thought that these differences would have been avoided by the control of membership. However, if one compares the clubs with the Deloitte ‘rich list’ of clubs ranked by income, nine of the top ten are G-14 members (the exception being Chelsea). However, there are seven G-14 members that don’t appear in the top twenty (two Dutch clubs, two German clubs, two French clubs and one from Portugal). A truly élite grouping might be confined to England, Italy and Spain (which account for all the top ten apart from Bayern Munich), but such an arrangement would have less legitimacy at an EU level (even though as it is only seven member states are represented).

It is claimed that ‘The consensual voice is therefore the result of a strict and objective analysis and balance, designed to arrive at jointly-agreed positions.’ (<http://www.g14.com/G14ourmission/actions.asp>, accessed 20 April 2006). When it came to discussing the size of the Champions League, ‘After hours of deliberation G-14 could only agree on a compromise: to keep things as they were.’ (Banks, 2002: 134). The fast food outlets attribute the effectiveness of their association to focusing on no more than two or three issues at a time. (Lécureuil and Ward, 2002: 128).

However, G-14 has not exactly spread itself widely in terms of issues handled. Where it has been smart is in terms of spotting ways of using EU processes for its own benefit. It has made use of the European social dialogue to holding wide-ranging talks with Fifpro, the players' representative organisation. (*Financial Times*, 8 December 2005). Nevertheless, the question remains, is G-14 rather like the European Round Table, the organisation of leading European companies, whose own account of the influence it exerted was often accepted unchallenged? (Greenwood, 2003: 256-8).

### **Uefa: the voice of solidarity**

Solidarity is a central value in Uefa's analysis of itself. The term is mentioned thirty-one times in their *Vision Europe* document, but although there is an appendix defining a variety of terms such as 'stakeholders', solidarity itself is not defined. It is a term that has been appropriated by various organisations of the left and is generally associated with social democratic values. In practical terms, this means spreading money between clubs to help preserve competition. What is clear is that Uefa thinks that this fundamental principle of operation is under attack. It sees a trend that has placed 'the various solidarity mechanisms under attack and, in some countries, virtually disappearing altogether.' (Uefa, 2005: 20).

Part of the blame is placed on the extent to which business values have entered football. It is noted that in many countries professional clubs 'have changed from the non-profit making association form to a limited company ... but not always with good results for football.' (Uefa, 2005: 18). In Uefa's view, 'Money is never an end in itself'. (Uefa, 2005: 11). Uefa is very much of the view that football should be a self-regulating political community and that in an ideal world it would be able 'to avoid any form of external political intervention.' (Uefa, 2005: 9). It goes on to list

a whole series of interventions by the EU and refers to a growing jurisprudence on matters relating to sport.

Recently defeated Uefa president Lennart Johnsson has admitted that Uefa made some mistakes in its handling of relations with the EU which perhaps reflects a more general lack of political sophistication in much of the world of football (see Grant, 2007):

I have to admit that we were caught out with the EU. We didn't realise how large a part it would come to play, and we underestimated the weight it can put behind its decisions. We didn't think the Bosman case would amount to much, so we were caught cold and have since rued our lack of foresight ... We also had to accept the reality of free movement of labour, money and services so we've looked for ways of coming to terms with the implications – such as our policy on home-produced players.' (Johansson, 2007: 93).

So is Uefa 'an organization no longer up to date with reality' as Thomas Kurth, himself a former Uefa official 'before seeing the light'? (*European Voice*, 4-10 December 200: 10). Can one claim that 'Fifa or Uefa are anachronisms that, now that football is a business, have no rational place in the legal and economic framework'? (Marcotti, 2006: 21). A quick reply would be that football is a business like no other because it needs to maintain competition in order to provide entertainment value. Uefa is also the organisation that is active in relation to social issues such as anti-racism. It might be seen as the body which embodies the notion of football as a social and community activity which provides activity and enjoyment for significant numbers of people without any thought of a profit motive.

Nevertheless, Uefa itself recognises that ‘There has been a shift in power from national associations to leagues to big clubs.’ (Uefa, 2005: 22). Can Uefa adapt quickly enough to these changes? Uefa states:

One member one vote is a founding principle of UEFA, whilst the reality must also effectively reflect the range of membership and the weight and contribution of the different stakeholders. (Uefa, 2005: 12).

There is clearly an inherent contradiction here that is not easily resolved. If one looks at the fourteen members of the Uefa Executive Committee, it has a wide geographical spread of membership (only Sweden has two members because one of them is the chief executive) and includes such football powers as Cyprus, Iceland and Malta.

The members are what in England would be called the ‘blazer brigade’, people who have made their careers as football administrators, even though there are two former players on the executive. For example, Geoffrey Thompson, the chair of the FA, is a lawyer who played football as a youngster but then became a referee and an administrator. People like these are attacked by Thomas Kurth who argues ‘that football’s wealth-creators should have a fairer deal from bureaucrats whom he claims are free riders, milking the game without risking their own money.’ (*European Voice*, 4-10 December 2003: 23).

The structure and operations of the European Club Forum hardly meet UEFA’s claim that it ‘has fully recognised the growing influence of clubs within football’s ever-changing environment.’ (<http://www.uefa.com/news/newsId=392504>, accessed 21 April 2006). With at least 102 club members, the structure is highly unwieldy. It is also essentially a consultative forum rather than a decision-making body where Uefa can present its views on current issues. Thus, at its meeting in February 2006, ‘Representatives from European clubs of various sizes met with senior UEFA

officials for two days of talks and presentations on matters of mutual interest for European football's governing body and the clubs on this continent.'

(<http://www.uefa.com/news/newsId=392504>, accessed 21 April 2006). It should be noted that other European associations have faced the challenge of devising a structure that represents both large firms and associations and have managed to come up with arrangements that work, e.g., CEFIC, the European Chemical Industry Council.

For all its claims to be a proactive organisation, it could be argued that Uefa was slow to respond to the changing economic structure of football. It was also slow to respond to the changing political environment with G-14 based in Brussels better able to develop contacts with EU decision-makers and better able to respond quickly to changing events because of its leaner organisational structure. Uefa now does have two people based in Brussels who it claims 'are in daily contact with the EU.' (Johnsson, 2007: 93).

What is evident is that the battle for power between Uefa and G-14 is intensifying. At the Uefa congress in March 2006, national football associations unanimously passed a resolution that formalised their opposition to G-14, vowing to defend the sport's interests following recent challenges from what were described as 'a self-appointed group of clubs.' (*Financial Times*, 21 March 2006). It was proposed that clubs participating in the Champions League and the Uefa Cup should be asked to declare their support for the sport's administrators or face exclusion. That is a real sanction, but it could also be counter productive as it could hasten the formation of a breakaway league.

When Arsenal's David Dein was elected chair of G-14's Management Committee in October 2006 he stated that: 'I hope that as chairman of G-14, I will be able to

build bridges with UEFA and FIFA. I want to bring about change harmoniously and constructively.’ (<http://www.g14.com/news/news.php?newsid=17>, accessed 5 February 2007). The election of Michel Platini as president of Uefa was a set back to these attempts at bridge building. Platini has stated that he ‘detests’ G-14. (*The Times*, 27 January 2007). In part to win support from smaller federations, he proposed cutting back the maximum number of Champions League places per country from four to three, a move which would adversely affect G-14 members. For their part, G-14 was pressing for the restoration of two group stages in the Champions League competition. The tensions between G-14 and Uefa remain such that a constructive dialogue is unlikely.

### **A score draw?**

Who is winning the battle for influence? As suggested earlier, the EU’s emphasis on civil society and the contribution that European level organisations are supposed to make to the integration process under a neo-functionalist perspective, might one lead to suppose that the institutions would favour a dialogue with Uefa. On the other hand, a company state perspective suggests that the EU in practice, particularly at commissioner level, favours dialogue with big hitters who exercise real power, which would favour G-14. It was also noted that one must not accept uncritically organisations’ accounts of their own influence.

Many of the most important issues are being settled in the courts where G-14 with its resources has something of an advantage. This is why the European Parliament was keen ‘to prevent the future of professional football in Europe from being determined by court decisions’. (European Parliament, 2006: 4). At the time of writing the final outcome of the Oulmers case is not known where Charleroi is being backed by G-14. They were, however, successful in June 2006 in getting the case

moved from the Commercial Court of Charleroi to the European Court of Justice, Fifa having unsuccessfully sought to argue that its rules were not in any way subject to EU law. It should be noted, however, that in its own initiative report on the future of European football, the European Parliament's Culture Committee has argued that 'clubs should release their players for national team duty without entitlement to compensation'. <http://www.euractiv.com/en/sports.meps-urge-eu-action-professional-football/article>, accessed 5 February 2007). This runs counter to one of G-14 three key demands in this area, suggesting that it is better at working through the courts than influencing democratically elected bodies:

- Clubs should be protected from the cost of player injuries
- Clubs should get some reasonable compensation for the contribution they make to international tournaments
- A harmonised international calendar for national team football must be agreed with clubs and federations

Of course, the broader issue is not about the legality of player release clauses, but who is going to exercise regulatory control in European football. A reasonable outcome might be that Uefa would retain its regulatory authority, but there would be a more effective internal structure for representing large clubs and a negotiation on their concerns. However, both sides are taking such an intransigent position that it is difficult to see any compromise being reached. Indeed, Uefa does not even recognise the legitimacy of G-14 as an organisation. Uefa spokesman William Gaillard has stated, 'We have excellent relationships with all clubs. Things are different with the G14 because we do not recognise it as an organisation.'

(<http://news.bbc.co.uk/sport1/hi/football/europe/4854778.stm>, accessed 27 April 2006).

One interesting test of the relative strength of the two organisations was the battle over what should be said about sport in the draft constitutional treaty. What emerged in Article 282 was a mixture of the vague and pious which is perhaps not uncharacteristic of such documents. Reference was made to the ‘specific nature of sport’ and Union action should 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 young sportsmen and sportswomen.’ (*Official Journal of the European Union*, 16 December 2004: C 310/127).

What Uefa had originally hoped for was wording that would have recognised the autonomy of sports governing bodies such as itself. G-14’s view was that this would give the federations too much leeway on the commercial side of the game. G-14 felt relaxed about the wording adopted as it felt that it granted sport independence, but only as far as sporting matters was concerned. Thomas Kurth argued that ‘Football is a sport but it is also an industry.’ This was, of course, in contrast to Uefa’s view that ‘We should not be treated in the same way as a refrigerator or washing-machine business.’ (*European Voice*, 24-30 June 2004: 17). The wording adopted came closer to the G-14’s position, but Uefa saw it just as the beginning of the argument, not the end. Probably the best assessment is that offered by Peter Chapman in *European Voice*. After going into extra time, the match ended in a ‘scrappy score-draw’. (*European Voice*, 24-30 June 2004: 17).

The European Parliament joined the debate in March 2007 with the adoption of an own initiative report drafted by Ivo Belet as rapporteur from the Committee on Culture and Education which supported ‘the sports governing bodies – especially

UEFA – in their efforts to improve self-regulation’.

(<http://www.europarl.europa.eu/news/expert/infopress>,

accessed 16 April 2007). The motion expressed the view that ‘the future of professional football in Europe is threatened by the growing concentration of economic wealth and sporting power, which is, inter alia, due to the growing importance of broadcasting revenues’. (European Parliament, 2006: 3). In a clear swipe at the G-14 position, the accompanying explanatory statement complained ‘The current trend of clubs going to the *stock market* is one step closer to the US model. It can be questioned whether the two goals (winning the game and maximising the shareholders’ profits) can be combined with the traditional open European model.’ (European Parliament, 2006: 9). While the US model does emphasise the concept of a ‘franchise’ which can be bought and sold between one city and another, an approach that arouses particular concern in Europe, American sports do at least attempt to promote greater equality of competition through measures such as salary caps and player drafts. The majority of players in the American Major Soccer League have contracts with the league.

In real life competitions, this might have led to a penalty shoot out. However, that is not an option in this case as G-14 and Uefa agree on the rules of the game itself, but not its commercial and operating context. Three scenarios are possible:

- Escalation, leading to a breakaway league and a major and defining crisis in European football with uncertain outcomes with the stance taken by major media companies being decisive.
- Continuation, with the present conflict continuing but with only piecemeal resolution of the issues.

- Reconciliation, with a negotiation on the issues and changes in the internal structure of Uefa. However, Uefa is reluctant to give any ground and G-14 is arguably not representative of the all the big clubs anyway.

It is difficult to see the EU making any decisive intervention, in part because it is not set up to do so, and in part because of its ambivalent acceptance of both company and associative state structures. In a sense, the EU is content with two tier arrangements as is evident in the case of the CAP. Implicitly, it has a two tier policy. Part of European agriculture should be competitive on the international market with reducing protection and subsidies. However, the more marginal part of European agriculture needs protection and support on grounds of social solidarity because it contributes to such goals as preventing rural depopulation and a range of external public goods such as cherished landscapes. Similarly, big European football clubs should be able to operate in a competitive environment, but steps also need to be taken to ensure that the lower levels of the game are able to contribute to such goals as participation and healthy lifestyles.

### **Independent review of football**

Such a mixture of objectives was apparent in the Independent Review of European Football (subsequently re-named the Independent Review of Sport, although all the content appears to be about football). Among the themes it tackled were how football can play a more significant role in improving social inclusion and healthy lifestyles; club financing and the feasibility of overall salary caps at clubs (an issue that has interested G-14); regulation of agents; ownership of clubs; distribution of revenue within football; and protection against match fixing and corruption. One of the tasks of the review was to examine how the EU can implement the 2000 Declaration on

Sport that was attached to the Treaty of Nice which seeks to specify the nature of sport and the role of its governing bodies.

The review was pushed for by Britain during the UK presidency. A meeting held in Germany in December 2005 involved the sports ministers of the top European football states (UK, France, Germany, Italy and Spain) as well as Uefa and Fifa (but not G-14, a reminder that the possession of legitimate authority as distinct from power does confer some advantages). From a British perspective, the overriding theme was better governance in football on a Europe wide basis. The view taken was that what made the inquiry different was the EU, member state governments and football working towards one goal. However, it was admitted that the inquiry could not force football to take action.

The terms of reference of the independent football review were very favourable to the Uefa perspective. The 'Review asserts that UEFA needs to take a central role in relations between football and the EU.' With a major part of the infrastructure for the review provided by Uefa, something which it is in a better position to do than G-14, 'there is an 'imbalance in the recommendations made and [a] readiness [to accept] UEFA's thesis on the governance structure of European football ... without apparent analysis of alternatives.' (Garcia, 2007: 5). The review sought to construct a 'European sports model' which has an earlier parallel in the 'European model of agriculture'. The European Football Model has been characterised by the European Parliament as the result of democratic traditions 'characterised by open sporting competitions within a pyramidal structure in which many amateur clubs form the basis for the top professional clubs'. (European Parliament, 2006: 3). The review aimed to recommend how the EU institutions and members states can 'improve and support the central role of the football authorities independently to govern all aspects

of the sport'. (<http://www.independentfootballreview.com/terms.html>: 2, accessed 24 April 2006). Uefa's club licensing system is praised as 'an important step in establishing good corporate governance'. (ibid: 1). As well as setting 'an appropriate level of competitive balance' (ibid: 3) as an aim, the review sought 'To identify and analyse relevant examples from other sports that demonstrate the risks of undermining and dismantling the central role of a governing body, e.g., basketball, boxing.' (ibid: 3). Uefa's central value of solidarity was endorsed with an aim 'To find ways for EU institutions, member states and football authorities ... to work together to find ways to ensure solidarity is enhanced.' (ibid: 4).

Uefa enthusiastically pushed the review on its website and particularly welcomed the involvement of supporters whom it no doubt sees as potential allies against G-14. Indeed one of the aims of the review was to examine the feasibility of launching a Europe wide counterpart of the Supporters' Direct movement in England. It would thus seem that in many ways Uefa has influenced the agenda of the Independent Review, although G-14 was one of the bodies that granted a direct meeting with the chairman.

When the report appeared in May it effectively gave Uefa a 1-0 half time lead in its battle to maintain its power over the top clubs. But a lot could happen in the second half and any extra time. The report called for salary caps, tighter control of betting companies and players' agents and better corporate governance as well as pronouncing on the integrity of competitions, the risk of money laundering, ownership of clubs, trafficking of young players and both racism and xenophobia. The report recommended that the FA's requirement should be 'fit and proper' should be extended across Europe. The report also backed Uefa's plans to compel teams to field a minimum of home grown players. The report favoured the exemptions from

competition and state aid law outlined in the Declaration on Sport in the 2000 Nice Treaty to be made clear and codified. It also suggested that EU involvement in football should be made permanent by setting up a sports agency and a partnership with Uefa to govern the game.

There was further bad news for G-14 clubs when it became known in September 2006 that Uefa and European sports ministers were considering limiting how much clubs can spend on players' wages and transfers. The plan would not be a salary cap but would seek to tie a club's expenditure to its wages so they would not be allowed to spend more than they earn on transfer fees and players' wages.

(<http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/sport1/hi/football/europe/5363376.htm>, accessed 25 September 2006).

The whole position was complicated by the fact that Uefa's willingness to work with the EU was contrary to Fifa's view that the EU should keep out of sport. Uefa declared in September 2006 that 'A healthy future for sport in Europe can only be achieved by politics and sport working together' with then chief executive officer of UEFA, Lars-Christer Olsson arguing that the view that governments should not interfere in sport was 'naïve'. Uefa's view is that stronger co-operation could strengthen rather than weaken the autonomy of sport because it could define the boundaries of government intervention. When EU culture commissioner Jan Figel met Fifa on 20 September 2006 they strongly opposed the Independent European Sport Review, arguing that the issues should be dealt with by the sports themselves based on the principle of the autonomy of the sports movement. The atmosphere reportedly became so bad that Commissioner Figel 'acidly remarked that in future the world of sport could look forward to seeing its questions answered at the European Court of Justice.' (<http://www.playthegame.org/News/Up%20To%20Date/> accessed

31 October 2006). Given that the new Uefa president, Michel Platini, is widely seen as the candidate of Fifa president Sepp Blatter, Uefa's stance may change although the politics of the organisation are too complicated to make simple predictions.

These processes will result in the EU White paper on sports which is scheduled for publication in June 2007 and which was discussed at an informal meeting of sports ministers in November 2006 (where the International Olympic Committee was the only representative body allowed to make a presentation) with a further meeting scheduled for March 2007. G-14 has not been directly involved in those processes. However, the Culture Commissioner has made it clear that 'the White Paper will not be legally binding, but rather a show of political will to indicate the direction to be followed.' (<http://www.euractiv.com/en/sports/sports-football/article-158247?>, accessed 31 October 2006)

The three main actors in this drama face real dilemmas following the publication of the report. The Commission has to consider whether shielding the game from a rigorous application of the EU competition law would be a Faustian pact, surrendering legal means of control over a sector for promises of jam tomorrow. The idea of clubs subscribing to a European code of corporate governance, or at least the notion that it might modify their behaviour, rings hollow when Italy has been at the centre of a major scandal about match fixing. Uefa has to judge whether the prize of better protection from the rigid application of the EU law is worth the price of tougher regulation as envisaged in the report.

The Independent Review and subsequent discussions may not be such a setback for G-14 as first appears to be the case as it would require three EU directives and some dozen other actions by Brussels to implement in full. Each of the directives would have to go through the Commission, Council of Ministers and Parliament and

then be agreed by the Council and Parliament under the co-decision process, allowing plenty of opportunities for a well organised lobby to weaken and amend the proposals. This is at a time when the Barroso Commission has emphasised better regulation which in practice seems to mean less regulation. The report is significant, however, as providing an agenda for the continuing discussion about the future of European football.

### **Conclusions**

In many respects the EU is Janus-faced: it likes the legitimacy benefits that derive from engagement with civil society and it likes the effective decision-making benefits that accrue from liaison with top companies. Similarly, its policy towards football recognises a distinction between the top and recreational levels of the game with the latter having a role in policies of social inclusion, integration and youth development. Just as policies for competitive and marginal agriculture are run in parallel, it could be argued that there are policies for football as a media product aimed at consumers and football as a means of promoting healthy lifestyles aimed at citizens. When the EU had an opportunity to influence the distribution of media rights in the UK, it ended up endorsing an outcome that effectively protected the dominant position of Sky Sports because top clubs were very dependent on the guaranteed revenue stream they could provide. Even so, G-14 has not been very successful in winning the public debate, or even the debate within the political class. This might matter less in a more technical area of policy, but may disadvantage them in relation to a topic that arouses broad interest such as football.

More broadly, the issue that arises here is how the EU can most effectively respond to globalisation processes, given its general objective of maintaining a protected social space in Europe. One consequence of globalisation is arguably the intense

commercialisation of activities that were previously less market oriented. In football we have seen ‘the emergence of new market practices such as the acquisition by investment companies of controlling stakes in football clubs [and] the increasing involvement of private television channels in the definition of key aspects of European as well as national and world football tournaments in exchange for astronomical sums’. (Dimitrakopoulos, 2006: 562). Developments are taking place in the commercial space that the EU is ill suited to control.

How the conflict between G-14 and Uefa will resolve itself is difficult to predict. In part, this is because of the complexity of the power struggle over the governance of European football, involving the leading clubs, Fifa and Uefa, all at loggerheads to some extent with each other and divided internally. In part this is because the process has become judicialised through the involvement of the courts. It is difficult to define exactly which the big clubs are and to organise them in a way that overcomes their competitive instincts. However, they are unlikely to abandon their interests and their agenda and Uefa would have to move further than it has done so far in order to coopt them. In part the problem is one of a clash between different values and world views, those of business and social solidarity. Even if some clubs are underwritten by benefactors and run at a loss, major media companies are certainly driven by profit. The regulators seem more interested in resisting change rather than seeking to control and channel it. The state, whether at a national level or in the form of EU polity, is becoming more involved in the game, but often in a rather ad hoc and incoherent way, although using football to achieve wider objectives of social policy is often pre-eminent. What is striking is that it is very much a conflict between producers and regulators, with member states and the EU rather hesitant and uncertain umpires. The voice of the consumer, the fan, is relatively unheard, although they are

a more difficult group to organise than consumers in general. In terms of prescription one might suggest:

- A more coherent approach by member states and the EU across different areas of policy (competition policy, social policy etc.)
- A recognition that the big business genie is out of the bottle in football, hence some account has to be taken of the views of big clubs: as in other areas of EU policy, one deals both with big companies and with associations
- Uefa needs to adjust to a changing world without sacrificing its central values
- There need to be improved and more systematic arrangements to take account of the views of supporters and also small clubs
- There is scope for more research on the different government goals for football as expressed by different national ministries in each country

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