

Background note : The UEFA Champions league

The Champions League is the most prestigious European football club competition. It pits Europe's top football clubs against each other and is organised every year by UEFA, the European Football Organisation.

The Champions League is one of the most watched events on television, representing around 20 pct of all the football rights paid broadcasters in the European Union for 1999/2000 season.

The UEFA Champions League is open to all national league champions as well as some of the second-best teams. Some countries can field in more clubs, however, according to an UEFA's coefficient ranking list. Including the qualifying stages, a total number of 72 football clubs participates in the UEFA Champions League.

The Champions League starts in September with the 32 teams that qualified for the so-called last stage. For the 2003/04 season, a new format for the 32-team group stage (eight groups with four teams each) will be introduced. Following the three qualifying knockout rounds, there will be two different phases, beginning with a league format stage followed by a knockout stage, including the 1/8 finals, the quarter-finals, semi-finals and the final in May. The Champions League matches are played on Tuesdays and Wednesdays.

Why is it the Commission's business how UEFA markets the TV rights to the Champions League?

The Commission initiated its investigation into the joint selling by UEFA of the TV rights because UEFA notified the arrangement to the Commission on 1 February 1999. UEFA was seeking a legal guarantee that the arrangement did not fall in the category of agreements that are prohibited by Article 81(1) of the EU Treaty, or alternatively an exemption from EU competition rules¹.

Why is the Commission dealing with sports?

Competition law is not concerned with pure sporting rules, but only the economic activities connected with sport events. The Court of Justice ruled in 1974 that, as an economic activity, sport was subject to Community legislation.²

The sale of broadcasting rights to sport events is a commercial activity and an extremely valuable one for that matter both for broadcasters, clubs and advertising companies.

¹ Art. 81(3) of the EU treaty allows restrictive agreements or practices which 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.

² Case 36/74, *Walrave v Union Cycliste Internationale*, [1974] ECR 1405.

How did UEFA sell the television rights of the UEFA Champions League under the old joint selling arrangement?

UEFA used to sell the TV rights to a single broadcaster per Member State on an exclusive basis for periods of up to four years. The rights were split into primary and secondary rights.

UEFA imposed minimum broadcasting obligations on the TV companies that won the rights. In big football nations, the broadcaster had to televise a Tuesday match live on either free TV or pay-TV and a Wednesday match live on free TV. In the smaller member associations, the contract broadcaster had to televise a Tuesday match live on free TV, if a club from that country was playing, and on Wednesday. The contract broadcaster had to broadcast highlights on free TV both nights. Once the minimum broadcast obligations were complied with any additional rights could be exploited by free TV or pay-TV.

Why is the Commission concerned about joint selling of TV rights of football?

Joint selling of free-TV and pay-TV rights combined with exclusivity has an important effect on the structure of the TV broadcasting markets since premium football is, in most countries, the driving force not only for the development of pay-TV services but also a 'must-have' content for free-television. Football is also expected to be a driving content for the rollout of new media such as Internet and UMTS services – a potential that does not appear to be exploited currently.

In many countries the national football association sell the TV rights to a whole tournament in one exclusive package to one broadcaster only. Because the winning broadcaster gets all rights, there is fierce competition for the TV rights whose value can only be afforded by large broadcasters. This may increase media concentration and competition between broadcasters. If one broadcaster holds all relevant football TV rights in a Member State, it will become extremely difficult for competing broadcasters to establish themselves in that market. If different packages of rights were sold, several broadcasters would be able to compete for the rights, including smaller, regional or thematic channels.

What is the competition concern?

UEFA and others have admitted that restrictions imposed on the sale of the media rights are intended to increase revenues. They have argued this is acceptable because the money is put into football. However, joint selling is a concern for all competition authorities, both on the EU and at national level, because of the commercial power this confers on the joint sales organisation, and because of the market power also enjoyed by the licensees of the rights, usually the incumbent TV players.

This usually also has a negative impact on consumers as they pay more and get less for their money as they would if there was competition.

Does this mean that the Commission wants to ban joint selling of football rights?

While joint selling arrangements clearly fall within the scope of Article 81(1), the Commission considers that, in certain circumstances, joint selling may be an efficient way to organise the selling of TV rights for international sports events as well as to guarantee the integrity and to protect the nature and the interest of competition.

A single point of sale of media rights is an efficient trading method for the parties involved and joint selling may also be an efficient way to promote a brand such as the Champions League. However, the manner in which the TV rights are sold may not be so restrictive as to outweigh the benefits provided. According to Article 81(3) of the EC Treaty there must be a balance between the restrictions on competition and the benefits derived thereof.

What does the football fan get out of the Commission intervention in respect of the UEFA Champions League?

The Commission is convinced that furthering competition in the broadcasting market – which this settlement is designed to achieve - will lead to better TV coverage and lower subscription fees for the consumers. Moreover, it is likely that there will be a better variety of games on TV providing more local games also to be broadcast.

The Commission's intervention is likely to expand the offer of both live and deferred football on free and pay-TV as well as on the Internet. The fact that joint selling is maintained in respect of the vast majority of the live rights will avoid a situation where fans will have to switch from channel to channel to follow the UEFA Champions League.

What about if a single broadcaster buys the main packages?

Under UEFA's new sales policy the media rights will no longer be offered to a single operator only but split up into a large number of smaller rights' packages. As you can see from the enclosed table, the Gold and Silver packages have not gone to the same broadcaster in any of the big broadcasting markets, which the Commission takes as a good sign of the new joint selling arrangement creating more competition in the market.

How does the current joint selling system slow down the use of new technologies?

In joint selling arrangements, the broadcasters that bid for the exclusive rights are reluctant to give licenses to Internet or UMTS operators, preferring to monopolise the rights.

The settlement will help to remedy this, as UEFA has committed itself to make the rights available also for new media operators. Clubs will also be able to retail new media services. This is likely to contribute to a more rapid rollout of new media services to the benefit of consumers.

Is this good for clubs?

Diversification of income sources is good for clubs as it makes them less dependent on a single source of income. If one contractual partner out of several goes bust it is less serious for the football clubs than when they only have a single contract partner that gets into financial difficulties.

The result of the Commission's action will be a greater disparity between large and small clubs.

We fully accept the need for solidarity (the redistribution of revenue to ensure a more balanced sporting competition).

If the changes we are looking for in the joint selling arrangement alters the balance of income of the clubs significantly, then it is for the clubs themselves to implement the necessary adjustments to their solidarity mechanisms.

The importance of football and the special characteristics of sport

We do not treat sport the same as any other sector. Sporting rules – such as promotion and relegation, appeals procedures and so on – are unaffected. But it would be absurd to close our eyes to the commercial reality underpinning sport today.

We are well aware of the importance and popularity of football in all the Member States. Fans are willing to spend a lot of time and money on football –attending matches, buying merchandising and paying to watch it on television. Sports clubs and associations are commercial organisations as well as sporting ones. They pay taxes on their profits and are listed on stock exchanges. They compete for players and for sponsorship. The sale of their media rights profoundly affects media markets.

The competition rules are there to protect consumers.