



## **INFORMAL MEETING OF EU SPORT MINISTERS** **Rome, 20-21 October 2014**

### **Presidency discussion paper**

### **FINANCIAL FAIR PLAY**

#### **Introduction**

Fair play can be considered as the ethical standard *par excellence* that must always be respected by those participating in sporting activities as well as the organizers of these events. The ethical principles rooted in the very nature of fair play, are therefore far from optional elements; they are in fact essential in every sporting activity, whether on amateur or professional level, and at every stage of the policies managing the sport sector.

Fair play goes further than mere compliance with the rules of the game, incorporating also concepts such as friendship, respect for others and good sportsmanship. Fair play includes the fight against borderline tricks, cheating, doping, violence (both physical and verbal), gender based harassment and abuse of children and young people, exploitation, discrimination, excessive commercialisation and corruption.<sup>1</sup>

Article 165 of TFEU highlights that the EU shall develop the European dimension of sport by promoting fairness and openness in sporting competitions.

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<sup>1</sup> The European Code of Sports Ethics adopted by the Council of Europe during the 7<sup>th</sup> conference of European Ministers responsible for Sport, held in Rhodes on 13-15 May 1992.

As certain professional sports constitute an economic activity that has been recognised by the Court of Justice in its case law, the Commission has called for a need to ensure competitive fair play between various clubs participating in the same competition. Therefore, the Commission has taken a favourable stance towards clubs licensing systems in order that all the clubs respect the same financial rules.

### **UEFA financial fair play (FFP)**

The principles laid down by the European Code of Sports Ethics have inspired the Union of European Football Associations (UEFA) , from 2009 and onward, to regulate the financial aspects of fair play through the introduction of a new framework in order to better control these features among sports clubs.

In particular, the document entitled *UEFA Club Licensing and Financial Fair Play Regulation* has defined ethical standards for the clubs participating in football competitions at the European level, paying particular attention to economic and financial aspects. The FFP was introduced by UEFA to prevent clubs that qualify for its competitions from spending beyond their means and stamp out what their President Michel Platini called "financial doping" within football. Supporters of FFP rules believe that the big spending of some clubs is ruining the game and feels that the level of debt carried by many clubs is unsustainable.

Financial Fair Play means simply that clubs cannot repeatedly spend more than their generated revenues, and clubs will be obliged to meet all their transfer and employee payment commitments at all times. Teams participating in UEFA club competitions have had their transfer and employee payables monitored since the summer of 2011. The break-even assessment covering the financial years ending 2012 and 2013 will be assessed during 2013-14.

Nine clubs were found to have breached the FFP criteria in the first assessment period, most notably Manchester City and Paris Saint-Germain, and a range of fines and sanctions were imposed. City were fined £49m, £32m of which was suspended, had spending restrictions imposed and could only name a 21-man Championship League squad for 2014-15. They had posted combined losses of £149m for the first two sessions assessed - £97m in 2012 and £51.6m in 2013 - and the UEFA Club Financial Control Body (CFCB) ruled that not enough of their costs could be attributed to a new training complex and youth development investment.

Qatar-owned Paris Saint-Germain received a similar punishment to City. They were deemed to have failed the test when the CFCB decided their back-dated £167m sponsorship contract with the Qatar Tourism Authority, which wiped out their losses, was unfairly valued.

### **The role of the EU**

The Presidency is of the opinion that only a systematic analysis of the EU legal framework will allow a full understanding of the complexity and importance of this phenomenon and its implications for sport.

Given that fairness and openness in sporting competitions is explicitly mentioned in Article 165 TFEU, the role of the European Union in the context of FFP needs to be considered.

In the White Paper on Sport in 2007<sup>2</sup>, the Commission noted that the system of licenses awarded by the UEFA to the football clubs represent the natural framework inside of which to improve their transparency and financial management.

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<sup>2</sup> COM 2007 (391).

The Commission expressed further support for the principles relating to Financial Fair Play in its 2011 Communication “Developing the European Dimension in Sport”<sup>3</sup>, welcoming the adoption of measures to promote the good governance and the financial stability of the sport sector, and in particular football.

Moreover, the joint statement of 21 March 2012 between Commissioner Vice-President Joaquín Almunia and UEFA President Michel Platini confirmed the full compatibility of the Financial Fair Play rules and the control of State aid in professional football with EU Legislation<sup>4</sup>.

### **Intention of the Presidency**

**The Presidency would like to hold an informal discussion among Ministers on this subject. It would in particular like Ministers to reflect on the following questions:**

- 1. Do you share the view that the financial stability of sports clubs and the need for fair competition between them are both essential elements for the long-term sustainability of professional sport?**
- 2. Is UEFA's initiative on the financial regulation of football clubs (Financial Fair Play) the right approach to ensuring such sustainability? Is it model that can also be applied to other sports?**
- 3. Is it necessary to take measures at EU level to guarantee the legal security of initiatives such as Financial Fair Play?**

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<sup>3</sup> COM 2011 (12).

<sup>4</sup> [http://europa.eu/rapid/press-release\\_IP-12-264\\_en.htm](http://europa.eu/rapid/press-release_IP-12-264_en.htm)