



Premier League Response

Balance of Competences Review in the field of Sport

The Premier League organises the top division of English football, with the 20 Clubs at any one time in the League being the Shareholders and actively taking part in the decision making process. The competition comprises 380 games in a season, and attracts in excess of 360,000 fans in our stadia each match weekend. Media audiences for the competition are also buoyant both in the UK and internationally, with the Premier League being broadcast in 212 territories, including all 28 EU Member States.

As an organisation, the Premier League has had regular dealings with the European Union institutions throughout its 20 year history, as rules such as the free movement of workers, EU competition law and the IPR framework have a huge impact on the Premier League's business and sporting models. In order to promote our interests in Brussels, we established a permanent EU representation office in 2010.

From the Premier League's perspective, we believe that the current balance of competences in the field of sport is the correct one to support the continued success of the Premier League and other UK sports organisations in the international arena.

We believe the general principles of subsidiarity and autonomy within the law apply to sport organisations. However, when EU law applies, for example where the economic nature of our competitions is concerned, we feel that the level of oversight currently maintained is appropriate.

1. Sport Questions

1.1 To what extent should the EU be exercising its supporting competence for sport to add value at a European level?

The Premier League believes that the European Union has played a positive role since the adoption of the Lisbon Treaty, and indeed before, in promoting the social and educational functions of sports, especially through the financing of transnational projects. This is where there is clear added value for an EU intervention.

The Premier League considers that this should be the European Commission's first priority both in terms of policy and of co-financing for the implementation of the Sport Competence under the Treaty on the functioning of the European Union (Lisbon Treaty). This is indeed the first and foremost objective of Article 165: *"The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function"*. This is also the least contentious area, where the EU will be able to *"carry out actions to support, coordinate or supplement the actions of the Member States"* as defined in Article 6 of the Lisbon Treaty.

In that respect, the Premier League is ready to make its experience and expertise available to the EU institutions as we have a strong record of working with statutory bodies, the voluntary sector and commercial partners to promote health, education, equal opportunities and social inclusion.



1.2 What value have you seen from the 2011-14 EU Work Plan on Sport, and what should be the EU priorities for sport in the future?

The implementation of the EU Work Plan on Sport has led to a positive outcome. Indeed, we consider that setting up expert groups on education and training, on fight against doping, on sustainable financing of sport and match fixing helped to improve the dialogue between the EU institutions, the Member States representatives and sport organisations.

As sport is and remains very nationally defined and structured, it is very important that these working groups remain open to national organisations and are not restricted to European or international sport bodies only. It is also very important that the conclusions of these expert groups remain as focused and to the point as possible in order for the Council of the EU to be able to adopt effective enforceable recommendations.

The Premier League has been invited to take part in the expert group dealing with governance, transfers and betting issues but we feel that we have not been very much involved in the others. We do understand that it would be impossible to invite all national sport organisations to all meetings but the coordination between the representatives of the UK government and the UK sports before and after the meetings could be improved.

In terms of priorities in the field of sport, as mentioned above, we do think that the EU should focus its policy and financing efforts on the educational and social added value of sport. However, as the investment in sport at every level – from the grassroots to elite competition – is dependent on securing the proper returns due to the creators of sporting content, we also consider that the EU should help to ensure the right conditions for business success to encourage investment and promote high standards.

Not only is this important to the sports themselves, but also to the wider economy, with sport making an increasing contribution to UK and European GDP. According to a 2012 European Commission study, the share of sport-related value added is 2.98% of EU Gross Value Added (€ 294.36 bn) and the share of sport-related employment amounts to 3.51% of total EU employment (7,378,671 persons)¹.

Ensuring economic success – most important factor in achieving high standards and sustainability – means making sure that the people investing time, energy and money in organising high quality sporting competitions are able to secure returns, including enforcing their rights against free riders. UK sports need a solid copyright framework at national, EU and international level in order to fight the infringing websites which run unauthorised and parasitical activities on the back of sporting events². UK sports also need a much more balanced relationship with the betting industry, which at the moment does not contribute at all to the financing of sports development or integrity.

¹ http://ec.europa.eu/sport/news/20121119-study-contrib-sport-economic-growth_en.htm

² By way of example, the website which is the subject of the Premier League's blocking application, based on section 97A of the Copyright, Designs and Patents Act, is purely funded by advertising revenue. The Premier League has estimated this to generate up to £12m a year.



2. General Questions

2.1 *What evidence is there that EU action in the areas of Culture, Tourism and/or Sport benefits or disadvantages the UK?*

We believe that on balance EU action is currently of benefits to UK sports. One obvious example of the value of EU rules is as regards the freedom of movement for sportspeople. It is clear that the removal of nationality restrictions and the ability to recruit the best players from across Europe has helped the Premier League becoming the world's leading football league, and one of the world's most successful sporting competitions. The ability to invest in the highest quality talent, and to showcase this to our fans in the UK and around the world has made the Premier League what it is today; one of Britain's greatest exports.

Regarding sports betting, the latest EU initiatives have also been positive. The European Parliament has recognised in three successive reports (the latest one drafted by the Conservative MEP Ashley Fox in 2013) that betting is a form of commercial exploitation of sports competitions and requires a financial return to the organisers. Beyond these Parliamentary Reports, the European Commission in its Green Paper on Online Gambling of 2011 consulted on the desirability of such models. We would call on the UK Government to take note of this momentum, and push ahead with such a scheme at national level.

EU competition policy, in relation to how it addresses the sale of broadcast rights to our competitions, has also played an important role in the success of the Premier League. The European Commission has struck the right balance to enable our matches to be sold in a competitive way to different broadcasters in the UK and in different member states in a form that benefits consumers. The value of our rights continues to increase, domestically and abroad, and the level of reinvestment in the grassroots, in our communities, and in the development of elite stadia is boosted accordingly.

It is very important that the European Commission respects the current market for sports broadcasting rights and does not seek to impose pan European licensing, which has a raft of negative unintended consequences, in name of the digital single market. There should be recognition that strong competition exists in the field of sports broadcasting and that sport has unique national characteristics and interests. A single market would not be appropriate for sports broadcasting as there is no such thing as a digital single demand. Imposing a 'one size fits all' model would in fact negatively impact European consumers of sports content as they would see an elimination of choice, and a reduction in the personalisation of broadcast content which current geographical demarcations allow.

In fact the 'Premier League' case at the CJEU confirmed that territorial exclusivity is still a valid option – only the clauses providing broadcasters with the absolute territorial exclusivity were considered unlawful. The Court of Justice also confirmed that using foreign subscription services in commercial premises was illegal. We would underline the importance of the UK Government maintaining a line which defends one of its major assets, the sporting economy. The current model creates no harm to the British or European viewer, and ensures strong commercial revenues which are re-invested in grassroots sport and community activities across the country, at a time when the public purse is less able to maintain these investments.



2.2 Do you think the EU should do more, or less in relation to Culture, Tourism and Sport, and why?

We feel that the right balance has been achieved in terms of sharing the competences. Sport remains a very national policy and the EU only complements the Member States' activities in that field. Sports have to respect EU law (there is no exemption) but on the other hand no EU harmonisation is possible. It seems like the right way forward.

Without changing the share of competences we think, as mentioned above, that the EU could do more in order to ensure sustainability in sport by supporting the business models which generate the income that secures high standards (see response to question 1.2).

2.3 What are the benefits or disadvantages of directing funding through the EU rather than national arrangements?

It is worth noting that the volume of funding to sports via the European Union is quite small. It does not have a significant impact on national budgets, and indeed represents only a small fragment of the EU's total spending. If anything, we would call for greater funding for sports programmes via the EU which could be directed to project promoting the educational and social values of sport in the transnational context.

2.4 Have you noticed any change in EU activity or emphasis since the 2009 Treaty of Lisbon and is this welcome?

There has clearly been an upturn in interest and activity since the adoption of the Lisbon Treaty, and the European Commission's Sports Unit, within DG Education and Culture, is to be commended on the important role it plays in promoting and defending sport within the Commission services, and ensuring the impacts on sport are taken into account on a wide range of policy issues, from IPR and broadcasting, to gambling and competition. The Commission's mandate is of course only a 'supporting' one, but the fact that the Treaty Article 165 gives this power, means that there is a much larger impetus now than in the past and the Sports Unit is treated with greater respect by peers in different DGs.

2.5 What other areas of EU competence or activity impact on your sector and how?

As already mentioned, the Premier League has a strong interest in EU activity in the field of intellectual property rights. The Premier League has seen an increase in the number of websites and services making content available illegally and the number of viewers illegally watching and sharing content³. Many of the websites illegally hosting pirated coverage of Premier League events are funded by advertisement. These are commercial undertakings looking to exploit Premier League content to create profit, without contributing to the development and advancement of grassroots sports or to jobs or to tax revenues. The ever growing phenomena of internet streaming of live sporting events and peer-to-peer file sharing are very real examples of the need for a strong response to new trends in digital piracy which threaten to undermine the value of media rights and consequently investment in sport at every level.

³ During the 2012/13 season, the Premier League has detected approximately 33,000 live streams, an increase of 15% from Season 2011/12. Cease and desist notices have been sent to around 250 sites that embed Premier League content and there are over 400 linking sites that are constantly reviewed.



EU competition policy also has a strong impact on our business model. As previously mentioned, the antitrust rules shape the way we package and sell our media rights domestically and internationally. When it comes to state aid rules, it should be noted that as far as professional football is concerned, there is a wide mixture of national approaches to public financing in Europe. The Premier League and its clubs are structured as companies and our stadia are largely self-financed. On the continent, we often see clubs being offered favourable deals on land from local authorities, tax breaks or debt relief, and other supportive measures. We respect the different approaches that coexist in Europe but we are not in favor of any sport exemption when it comes to the implementation of state aid rules. We consider that it is not up to the tax payer to finance professional football and we would see any relaxation of the notification process as a dangerous precedent.

The EU Audiovisual policy, especially the Audiovisual Media Services (AVMS) Directive, also influences our business model. When it was adopted in 2008, this Directive was the result of a delicately sought balance between the need of competitions and broadcasters to protect their exclusive rights, and the desire of the public to have access to information in the form of short extracts. We now see this balance being challenged in some Member States, and we would call on the UK Government to maintain it as it stands, and to reject any eventual changes.

Finally, the rules relating to free movement of workers have also a strong impact on our business and sporting models as explained above (see point 2.1).

2.6 What international bodies or arrangements are important to your sector beyond the EU?

Beyond the EU, there are two international organisations of particular interest to the Premier League, namely the World Intellectual Property Organisation (WIPO) in Geneva and the Council of Europe (CoE) in Strasbourg.

WIPO is important to us because of the need for a global approach to the challenge of protecting our competitions against digital piracy. At present, the Organisation is in the process of revising its Broadcasting Treaty, which may potentially bring a better protection for our content. This is therefore important to us and to our peers across the UK sports movement.

The CoE has an important role to play in the fight against match fixing in sport. The EU will be a party to negotiations for a Convention to Fight Against Match-Fixing to be prepared by the CoE and its 47 member states. We would call on the UK Government to take an active and constructive role in these negotiations, to ensure a multilateral framework is established which allows for the investigation and prosecution of match-fixing incidences across Europe, and indeed beyond the EU's borders.

Obviously we also deal with UEFA, which organises the continental football competitions and FIFA which is the world football governing body.

2.7 How could the EU co-ordinate its activity in these areas of competence to greater effect?

We are broadly content with how the EU coordinates its positions internally and with these external parties. We would welcome a more systematic consultation and consideration of the sports movement, including national organisations, in all policy areas which impact us. However, we are pleased to say that we think the momentum is in our favour in this and we are more and more solicited.