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Executive
Exchange Network

THE STRATEGIC VALUE OF CORPORATE SOCIAL RESPONSIBILITY

LEARNING FROM THE FA PREMIER LEAGUE

CONFERENCE PAPER

Sixth round table conference

September 23rd 2003



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Amsterdam, December 2003

By Arjen van Ballegoyen

The Executive Exchange Network

The Executive Exchange Network brings together a small group of high-ranking government officials, captains of industry and civil entrepreneurs for debates on the future of the public domain. The Network intends to combine knowledge and experience on civil entrepreneurship, public management and corporate citizenship to look for new strategic models and concepts. Therefore the Network wants to know: what are the lessons learned abroad in managing the public domain? To this purpose facts, developments and trends are gathered, compared and discussed. International experts are consulted and foreign programs, policies and practices are assessed for their possible use in the Netherlands.

Vormgeving en drukwerk

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INTRODUCTION

The world of football is in disarray: failing clubs, Commission inquiries, broadcasting fee deals breaking down, threats by fans directed at politicians and evidently no end in sight. What has happened in the world of football to cause such problems and, more importantly, what can be done to remedy it?

One of the instrument that can have an impact on the way we think about the role of football in society is the introduction of Corporate Social Responsibility (CSR) programs by the football clubs and their umbrella organisations. Application of CSR could have significant impact on the current problems of the sports as it helps to shape the relation of football clubs to their community.

At the sixth meeting of the Executive Exchange Network, held in September 2003, the central theme was the corporate social responsibility and football and the lessons that could be learned from the experiences in the United Kingdom. Katheryn Robinson, Head of Corporate and Community Affairs, presented her views on the CSR activities undertaken by the Football Association Premier League (FAPL). Keith White, teacher at the educational facilities of Liverpool presented a detailed overview of the activities under the Playing for Success program.

This paper is an account of the presentation and discussion that took place at the conference and a summary of the state of affairs. We shall briefly outline the underlying causes of the current problems in the sport of football and analyse the implications of employing a strategy of corporate social responsibility in as an example of public-private partnership within the context of liberalisation and market regulation.



THE ORGANISATIONAL FRAMEWORK OF FOOTBALL



The nature of football has changed. Not so much the nature of the game itself or the popularity of the sports as millions of fans world-wide tune in to the watch the final of the Champions League final or the World Cup final. What has changed is the organisational framework of the football clubs as well as the manner in which the clubs relate and interact with society at large.

In the beginning, football was nothing more than a game. The immediate organisational requirements for the game were limited to getting a group of players together to form a team and to arrange a meeting with a competing team. Essentially, the nature of the football starts out as being a non-profit private activity. As organisation of the game increased, football clubs were founded by enthusiasts, representing a professional leap of the sports. The nature of football, however, remained the same, namely a social, non-profit activity. Local governments often promoted and financially supported football as a community activity, taking pride in the success of their football team in matches with neighbouring communities.

During the past few decades, however, the competitive character of the sport itself, combined with societal changes towards a more open and liberal economy and the emergence of mass media (in particular TV), have caused the nature of football to change. In current society, football is increasingly moving from a non-profit to a for-profit motive. This process has already been completed for the top national leagues and is trickling down to lower leagues.

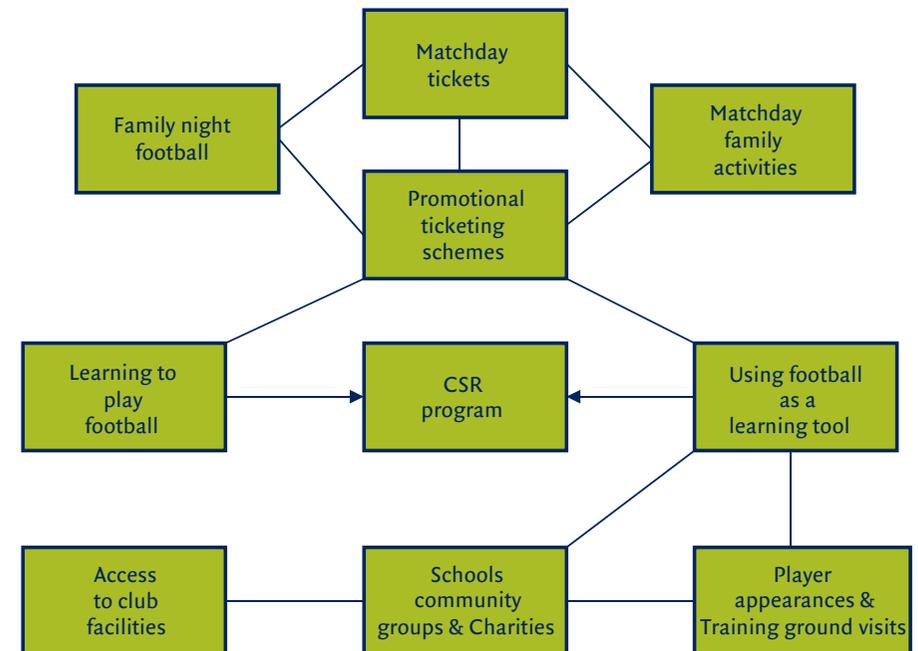
Interestingly enough, the for-profit motive is in many cases inspired by nothing more than the desire to survive as a club or to maintain a particular ranking befitting the club history. Profits are not necessarily siphoned off to the shareholders but are often reinvested in the club. The need to reinvest is caused by the premium that can be captured when successful in the league, which translates into increased ticket sales, merchandise income, prize money,

sponsor money and broadcasting-license fees. To capture these profits though, one needs to invest in good players, forge a team and hope for the best as even good players can have an off-season. On a competitive market, the salary and transfer fees of players have increased steadily and forms the bulk of cost of running a football club. And when adding less rational arguments to the mix, such as the desire for prestige or the hope that that one star-player you just purchased will solve all of your problems (everything is possible in sports after all!), the potential risk of pursuing success is both real and very costly. But that is the nature of the game.

The difficulty of consolidating past success due to the strong dependence on highly mobile, and increasingly more expensive resources, i.e. the players, gives rise to an interesting dynamic process. Due to the cost of the input for a potential good run in the league and the premium on success in the league, absence of success quickly gives rise to a downward spiral, whereby it becomes increasingly more difficult for a club to afford the inputs it needs to have a good or successful year in the league. This dynamic explains the relative difficulty lower placed clubs have in climbing up the ranks on a more sustained basis; the occasional good year usually results in the team being dismantled as other clubs become interested in buying the key-players.

With such dynamics at work, it comes as no surprise that profitable deals such as license fees for broadcasting rights are very important to clubs as they present a more or less stable source of income, especially when negotiated collectively (i.e. within the bounds of solidarity). This strategic income fluctuates slower and less dramatic with less-than-desired league results as opposed to for example prize money, which fails to materialise completely when the team is not functioning up to par. Especially for the smaller clubs, this source of income can represent a very large portion of their yearly budget.

The sport on a whole has seen increased commercialisation throughout the last decades, and is no longer functioning on a non-profit basis. Especially in cases where clubs have sought listing on the stock market, in order to secure more funds for investment, the profit motive is now explicit, resulting in a definite change in the nature of the game. These changes give rise to numerous problems that the football sector and society that have yet to be completely resolved.



FOOTBALL IN THE UNITED KINGDOM

FOOTBALL ASSOCIATION PREMIER LEAGUE (FAPL)¹

In 1992 the First Division Clubs resigned from the Football league en masse and on the 27th May 1992 the F.A. Premier League was formed as a limited company, which worked out of an office at the then Football Association's headquarters, Lancaster Gate.

The FA Premier League is owned by 20 Shareholders – the member clubs, whose membership in the league is dependent on the performance of their football team in the Barclaycard Premiership. The shareholders meet quarterly. Any shareholder can table a motion to be discussed at the meeting. Each shareholder is entitled to one vote and all rule changes and major commercial contracts require the support of two thirds of the clubs voting at a general meeting. The Football Association is also a special shareholder. They have the right of veto in certain crucial areas, such as the appointment of Chairman and Chief Executive and promotion and relegation, but have no say on other areas of FA Premier League work.

Like every other league in England, the FA Premier League comes under the jurisdiction of the Football Association (the FA) and must submit its rules each year for approval and sanction.

The FA Premier League has as its vision:

- To manage, continually improve and be regarded as the world's best league football competition – on and off the field.
- Increase interest in our competitions, promote accessibility to live games and ensure that media exposure is used to optimum effect.
- Generate increased commercial value, using the resulting revenues to further enhance our competitions and strengthen the long-term future of the FA Premier League and its clubs.



¹ www.premierleague.com, F.A. Premier League.

From the outset of the F.A. Premier League there was a commitment to reduce the league from twenty-two clubs to twenty, reflecting the collective will to the development of excellence in the game at club and international level. This change was made at the end of the 1994-1995 season.

LICENSE REVENUE

Television has played a major role in the history of the F.A. Premier League. The money from TV deals has been vital in helping to create excellence both on and off the field. At the time pay television was a relatively untested proposition in the UK market, as was charging fans to watch live televised football. The combination of Sky's marketing strategy, the quality of the F.A. Premier League football and the public's appetite for the game has seen the value of the F.A. Premier League's broadcast rights soar and delivered huge benefits to the game. The first Sky television agreement was worth £191 million over five seasons. The Premier League's current £1.1 billion deal with Sky runs over the course of three seasons from August 2001.

The FAPL has been very effective in negotiating deals concerning the broadcasting rights of FAPL matches. The FAPL negotiates on a collective basis for all of its members and it favours selling the package of rights to one buyer.

CORPORATE SOCIAL RESPONSIBILITY

The F.A. Premier League, in partnership with the Clubs, is formulating a comprehensive corporate social responsibility programme, using the motivational, educational and community based attributes intrinsic to football to work with society's young and disadvantaged. The F.A. Premier League is

CORPORATE SOCIAL RESPONSIBILITY EFFORTS SUPPORTED BY THE FAPL

Football in the Community

The F.A. Premier League is a partner in the nationally based Football in the Community scheme, along with the PFA, The Football League and The FA. Football in the Community projects were first established at professional football Clubs in 1998. Goals include:

- To promote closer links between professional football clubs and the local community.
- To encourage more people to become interested in and support their local club.
- Where appropriate, club projects are encourage to provide temporary and/or gainful employment and training for unemployed people.

Playing for Success

Playing for Success is a national education initiative that is a result of a unique partnership between the F.A. Premier League and the Department for Education and Skills. The scheme, which focuses upon addressing the needs of under-achieving young people, mainly in years six to nine, places a strong emphasis on improving pupils' attitudes and motivation to learn.

Pupils attend Study Support Centres after school, which in many cases are based at Barclaycard Premiership grounds. Structured after-school, weekend and holiday tuition is provided with a strong focus on literacy, numeracy, and independent learning skills. Each Centre is staffed by an experienced teacher and supported by University and College students or others acting as mentors and classroom assistants. Within the Playing for Success scheme a pupil may be more interested in studying statistics by analysing football results and learning how to work out averages, than he or she would in a normal classroom environment.

The Prince's Trust

The F.A. Premier League plays a positive role in the personal development of thousands of young people through The Prince's Trust: Football programme. 12-week structured courses incorporate activities that help 16 to 25 year olds to develop the skills, confidence and motivation to find work while gaining nationally recognised qualifications. The involvement of F.A. Premier League clubs assists with recruitment, encourages young people in their progress and strengthens links with the local community.

The Football Foundation

The Football Foundation was launched in July 2000 by the football authorities and the Government to deliver a multi-million pound investment to the grassroots of the game. This initiative represents a unique partnership of the F.A. Premier League, the Football Association, the Government and Sport England. The Foundation uses its funds to support schemes that promote social welfare and education for those of all ages and abilities. This season alone over £45 million will go into grassroots football facilities, while £7.5million will be directed to community and education projects.

committed to enabling all young people, regardless of sex, race, religion or disability to have access to a new generation of football facilities, and to using the popularity of football to improve educational and training standards for young people. The FAPL works closely with Government and other agencies in order to play a major role in social inclusion and raising educational standards.

The FAPL finances the CSR programs by taking a cut from the license fees required for the broadcasting rights, the total percentage equalling 5% of the revenue. The money for CSR activities is taken from the revenues before they

are transferred to the individual clubs. This approach provides a stable and sustainable method for financing the CSR program and enables the FAPL to lead in the negotiations with its members on how and where to allocate the CSR funds.

CURRENT ISSUES

Although the organisation of football in the United Kingdom is characterised by strong actors and a drive towards better governance, the system is fragile in terms of its financial stability. Football clubs, from the Premier League right the way down, have become so reliant on television money for their financing that any failure of any contract will have profound consequences for the financial future of the clubs.² In 2002 contractual difficulties with ITV Digital over broadcasting rights endangered the continued existence of more than 30 football clubs due to their heavy reliance on this money for their solvency.

The European Commission is currently reviewing the FAPL practice of negotiating a single deal over broadcasting rights with a single buyer. This practice seems in contradiction of European Competition law, even though the British Competition Authority approved of the practice. The FAPL is very efficient in negotiating the best deal possible due to the strong bargaining position of the FAPL and by artificially reducing competition. If the European Commission decides to take action in this matter, it could very well lead to a reduction in the total revenues garnered from the broadcasting right deals. This will negatively impact the available funds for the CSR programs.

We shall review the issue of competition law and CSR in chapter 5.

² Sports minister Tony Banks. Boom, then bust: up to 30 league clubs face possible bankruptcy. Thursday March 28, 2002, The Guardian.

FOOTBALL IN THE NETHERLANDS



DUTCH FOOTBALL ASSOCIATION (KNVB)³

In comparison to the situation in the UK, where the premier league is organised under the aegis of the FAPL, the Dutch situation has no such dedicated organisation. The premier league is organised by the Royal Dutch Football Association (KNVB), but the individual football clubs are indisputably leading in the decision-making process.

With the introduction of a new license system for club participation in the premier league, the KNVB is trying to enforce greater solvency of football clubs on penalty of exclusion from the league. The system is characterised by a number of evaluation moments of club solvency during the football season, allowing the clubs time to redress the situation if it is found wanting. This new system has the effect of strengthening the regulatory powers of the KNVB vis-à-vis the clubs.

The new license system is an important remedy for the chronic insolvency problems faced by many clubs. The power to revoke a license to play is a serious enough threat for football clubs to start to professionalise financial management. The effects on the negotiations between clubs and player on player salaries could be quite profound as clubs are faced with an enforceable bottom-line posited on the clubs by an outside authority.

CORPORATE SOCIAL RESPONSIBILITY

In view of the different position of the KNVB, it comes as no surprise that the Dutch football leagues do not have a highly organised and collective CSR program as the UK has. Individual clubs can be quite active in their communities, by for example sponsoring hospitals or educational programs, but

CSR is not a central and, more importantly, strategic element of the clubs vision. Clubs also forego on the opportunity to highlight their respective CSR activities, causing the activities to be largely unknown to the broader public.

CURRENT ISSUES

The situation of football in the Netherlands is characterised by a continuous occurrence of football clubs in such severe solvency difficulties that bankruptcy is imminent. The possibility of having to dissolve football clubs in the premier division is a problem that frequently becomes an issue of local politics. This is due to the social significance of football in general and the clubs in particular.

The social relevance of a football club is generally substantial mainly due to its grassroots nature. Being a football supporter of a particular club can play an important part in a person's identity. Moreover, the football club identity might carry over to the city where it is based. An inhabitant of a city might be proud to live there because it is home to their favourite football club (or vice versa). Football serves as an outlet for frustration and aggression and provides entertainment to the city's population. Football can be a ticket out of impoverishment for those talented in playing it and it can do the same for those who bet the results. Football is an ever-stable element of life, causing generations of supporters to stay home on Sunday evening to watch the football matches on TV. The popularity of football as a leisure activity is enormous. As such, many football clubs can count on a solid and committed grassroots support. This grassroots support easily translates to political significance at the local level.

In the Netherlands the social significance is readily recognised, but the public debate centres on whether public funds ought to be made available to pay for

the social significance and benefits that football clubs provide. Large corporations similarly provide a social and economic benefit through the employment and tax revenue they generate, yet no public funds are allocated to support these organisations when they run into trouble. Whether football clubs, in view of the increasing commercialisation and the huge amounts of money circulating in the sports, should still be seen as a special case or should finally be recognised as regular companies is a question that is hotly debated.

Nevertheless, football clubs continue to receive a great amount of financial aid in various forms. A report commissioned by the Dutch Ministry of the Interior qualified the reasons for such support by local governments as generally 'emotional' rather than rationally on the basis of economic soundness.⁴

NATURE AND SIZE OF FINANCIAL RELATIONS BETWEEN GOVERNMENT AND CLUBS⁵

Transaction	Number	Amount (in euro)
Subsidy	69	102,2 mln
Loan	25	47,4 mln
Guarantee	19	27,1 mln
Financial contribution by local government with return contribution	16	78,8 mln
Financial contribution to local government with return contribution	29	50,8 mln
Symbolic contribution to local government with return contribution	20	–
Total	178	306,3 mln

This situation is clearly unsustainable in the long run, both in terms of legitimacy under European law and in term of democratic legitimacy as it involves taxpayers money.

⁴ Report 'De gemeente als twaalfde man' (Local Government as the twelfth man), summary.

⁵ Report 'De gemeente als twaalfde man', summary.

THE DUAL NATURE OF FOOTBALL CLUBS



DUAL NATURE

At the root of the current problems in the football scene lies the dual nature of football clubs. As seen in the first chapter, football clubs have moved from a non-profit motive to a for-profit motive. However, this has not led to a shift by the clubs away from its social grassroots towards becoming full-fledged companies. Football and the clubs in particular, continue to exist as social institutions as well as companies. The linkages between the football club and society are therefore multifaceted and defy the regular profile of companies. In effect, clubs are able to move simultaneously in the public as well as the private arena, being able to mobilise forces in the public arena when the chips are down economically. It also means that the bottom line of football clubs are both fuzzy and perhaps quite impermeable as society consistently bails them out...

SOCIAL AND ECONOMIC BENEFIT

Compounding this issue is that it is impossible to accurately identify and to quantify the benefits a football club provides. Much of the social benefit, such as its entertainment value, educational value and impact on social identity, is accrued by individuals (the supporter, the youth player, the sports journalist) and for them the loss of football means a decrease in their welfare. The only quantification of the benefits entering the public debate is the price to the local government for bailing out the insolvent club. The price tag becomes the approximation of the benefit, especially because local governments subsequently have to find the financial means in their budget to pay for this. It is quite possible that the real total benefit outweighs the cost of the bailout, but there is now empirical way to establish this. As such, it is next to impossible to make a social cost-benefit analysis determining if and how much public funding needs to be allocated to the bailout of a club.

The indirect economic benefits of football are also hard to measure. Having a successful club in town can be an important asset to a city in terms of its image (although these effects are hard to measure and often overestimated⁶). The club can act as an ambassador and if a club is doing well in the European league it can contribute to the influx of tourists as the city gets international attention and press coverage. Football supporters, whether at home or away matches generate income for local bars, restaurants and other establishments. Moreover, supports generate ticket-revenues when attending the matches. Indirectly, governments benefit through tax revenues.

The football clubs provide direct economic benefits. For example, it is the football club that is usually the main tenant of the sports stadium in which they train and play their matches. Without this main tenant it would be much more costly to provide to pay for this public amenity. After all, football clubs rarely move to a different locale and need the access to the stadium almost throughout the entire year. And its ability to attract large crowds to the stadium helps to pay for the stadium in addition to rental fees.

That said, football doesn't have a completely beneficial economic effect. Both in the UK and in the Netherlands, football supporter vandalism and aggression has been a serious problem. In case of high-stake games between rivals, mayors occasionally ban the match for reasons of public safety and order. If such high risk matches are allowed to be played, local governments frequently send the better part of their own police force to prevent riots and smaller municipalities often need to appeal to neighbouring counties to aid them in order to have sufficient numbers of policemen present. The cost of this requirement is enormous and it is sufficient a drain on local public funds to fuel the debate whether this is legitimate.

6 Report 'De gemeente als twaalfde man', summary.

The difficulty of measuring the social and economic impact of football clubs undermines the usage of a cost-benefit rational in determining whether governments ought to invest public funds.

LEGAL CONSTRAINTS

Both in the UK and in the Netherlands, the public authorities directly or indirectly subsidise the football clubs. In the UK this takes the form of allowing the FAPL to negotiate as a single seller selling TV rights exclusively to one party. The fact that the European Commission is reviewing this practice suggests that the approval of the practice might not have been in accordance with European competition law. In the Netherlands, the legal concerns relate to state-aid in the European context and to considerations of equality in terms of taxation practices.

Thus there are two legal obstacles bailouts and preferential treatment by governments:

- 1 European competition law;
- 2 European law on state aid.

Ad 1. Competition law

Difficulties with competition law are currently occurring both in the Netherlands and in the UK. In the UK, for example, the English football league is united in a more powerful organisation than its equivalent in the Netherlands. The FAPL represents the interests of all its members and it negotiates over matters of broadcasting licenses with third parties. By having the FAPL represent the football clubs interests collectively, the bargaining power of the football clubs vis-à-vis television broadcasters is increased significantly.

*“Income from the media cannot be artificially inflated by using anti-competitive practices for maximising revenue for sports. A cartel remains a cartel even if it works on the commercialisation of sport rights. And it remains subject to scrutiny under the Competition Rules. Everything else is bad for the consumer who will pay too high rates for looking at sports. It is bad for competition and the broadcasting markets because it can lead to unhealthy concentration of market power and it is ultimately bad also for sports because any short-term increase in income is based on shaky ground that can collapse any time.”*⁷

What makes this particular case of collective bargaining interesting is the fact that *all* of the clubs are united, i.e. there is absolutely no way around the FAPL. Regardless of their size or appeal, all the clubs participate, creating essentially a ‘single seller’. From the perspective of competition law, this is an unusual situation and a priori suspect. However, we cannot be too hasty to condemn this practice out of hand. A football league is a collectively produced good. Although it is to a certain extent divisible (as the hard limit is obviously two clubs to compete in order to have a match), but with each further division/reduction of the league to fewer parties, the less overall value the product has. And because the league itself is a collective production, so it is natural to bargain for license fees collectively as well. Moreover, the collective bargaining also entails a transfer of wealth from the big successful clubs to the small less-successful clubs, according to the principle of solidarity between clubs that is the foundation of the collectively produced league; after all, without the many smaller clubs there wouldn’t even be a league for the big clubs to play in. Reducing the collective bargaining power during the license fee negotiations also limits the capacity to transfer wealth, thereby weakening the individual smaller clubs and the league as a whole.

⁷ Commercialising Sport, Understanding the TV Rights Debate, Barcelona, 2 October 2003, Herbert Ungerer. COMP/C/2/HUrd.

The European Commission has recognised this peculiarity of single seller, i.e. an exception to regular competition law, in view of the Champions league and adopts a similar stance to other competitions.⁸ The FAPL license arrangements are currently under review by the Commission because it is suspected that the level of infringement of regular competition law exceeds what is minimally necessary given the single seller paradigm. Examples of major issues are:

- The *duration* of the agreements;
- The *scope* of the exclusivity;
- Restrictions affecting *neighbouring markets*; and
- *Embargoes and holdbacks* of New Media Rights.

The European Commission aims to determine whether *specific* conditions are needed to ensure that the scheme will not result, in very severe situations, in an excessive foreclosure of competitors by a single buyer in the respective downstream market.

Ad. 2 State aid

During the development of European law, the measures against state aid have seen a change in the focus of their application. Whereas in the seventies the state support for entire sectors of industries were addressed, the focus today is on the less clear cut cases where private organisations, often non-profit, providing a public service with, partially, public funds, are examined for anti-competitive elements.

In the case of the Netherlands European law poses a significant obstacle to bailouts. Whatever the reasons for providing public funds to a private organisation, the action itself is essentially state aid. State aid has been an issue for Europe from the very beginning as it forms a serious impediment to the level playing field that the European Community has been trying to establish since

⁸ Scope and duration of media rights agreements: balancing contractual rights and competition law concerns. Miguel Mendes Pereira. Communications and EC Competition Law. IBC. 8th Annual Conference.

its very inception. The four fundamental economic freedoms, most importantly here, the freedom of services and freedom of goods, require an environment free of barriers or impediments to competition, i.e. a level playing field in order for the freedoms to be effectuated. As an example of the European Commission activities in this field, the Commission has recently launched an inquiry into the way Italian football clubs are funded, with particular focus on an amendment passed by the Italian parliament nicknamed 'Salve Calcio', or Save Soccer amendment, which could be in breach of EU state aid rules.⁹

An important variable for the European Commission in its quest to ban state aid is the nature of an organisation as being either public or private. This trend can be seen in other sectors as well, most notably the health sector where the European principles of a level-playing field are increasingly more declared applicable and are enforced. As discussed, the nature of football is changing. These developments make it difficult for the European Commission to see football only as a non-profit, social sports activity. Public funds can only under the strictest of circumstances be allocated to private organisations, regardless of their profit motives.

One of those exceptions could be the concept of a social enterprise, which is a non-profit, private company that draws financial resources from both the private and the public sector in order to achieve some social objective. European law as of yet does not yet recognise the special status, but the existence of such organisations throughout Europe has caused the European Economic and Social Committee to adopt a favourable stance towards such organisations.¹⁰ Typically such organisations are operating in the healthcare and education sectors, but it is worth examining their role in sports and football in particular as well.

Nonetheless, bail outs and aid by local governments, whatever their form or intention, are still illegal in terms of European law on state aid.

THE STRATEGIC VALUE OF CORPORATE SOCIAL RESPONSIBILITY

Having analysed the various difficulties and issues caused by the changing nature of football and the question how the football clubs deal with this, the answers for these problems are not to be found in a magic bullet. Insolvency of football clubs is due to ever increasing player income, matched by frequent financial mismanagement of the clubs themselves. The new license system of the Dutch Football Association is a step in the right way to address such issues.

However, one instrument that is often overlooked in designing solutions, is the application of Corporate Social Responsibility programs. The approach of the FAPL has been very successful and could serve as a model to football organisations in other countries.

THE EFFECTS OF CSR

So why is CSR such a useful instrument to clubs, league organisations and governments?

One of the problems encountered in the Netherlands, where the debate has centred on the question if the social benefit of football warrants financial help from public coffers, is the question of identifying and defining what that social benefit actually is. In the UK this problem would be much more easy to solve. Although the same underlying difficulty of quantifying welfare losses exists there, their CSR program makes a significant difference. The CSR program enables the football clubs to provide *quantifiable* services to the community, making it more transparent what the social contribution of football actually is. Even though the social contribution through the CSR program is partially different from the general social benefit of football, the CSR program taps into the clubs prestige, appeal and networks the CSR problem. The value of these assets to society, previously unquantified, becomes partially quantified because

⁹ EU kicks off Italy Football Probe, BBC 11-11-03.

¹⁰ Economic and Social Committee (12 September 2001), Private not-for-profit social services in the context of services of general interest in Europe.

of their input in the CSR program, which is useful information for football clubs and society.

Another benefit is that CSR projects pool public and private money in order to achieve certain social goals. It is doubtful that without the Corporate Social Responsibility program organised by the FAPL clubs would contribute (as much) money to achieve social goals. By providing resources and financial means to these projects, private money becomes available for social purposes. This can result in either more aggregate funds available or in a corresponding reduction of public funds allocate to these goals, both of these options representing an economic benefit for society.

It is important to realise that the social benefit generated by the CSR program by the football clubs can only materialise as long as the program can utilise the football clubs' resources and its collective appeal. Or, seen from a different perspective, the surplus value (the difference between what the services cost them and the value of the output of the services) of the CSR program to the *government* is captured by the clubs in absence of a competing service provider. Due to the unique nature of the appeal of football it will be difficult to the government to find an alternative, comparable service provider. The larger the surplus value to the government, the greater the loss if service provision would be discontinued. This leads to the important conclusion that if a CSR program tackles major societal problems for which there exists no comparable competitors (and which other sport has the same mass appeal?), the football clubs gain a large amount of leverage over the government in debates concerning their finances or other strategic issues.

CSR has implications as well for the legal obstacles currently encountered in football. CSR provides quantifiable services, which is important from a legal perspective because it can mitigate claims of state aid and legitimise state

behaviour as with CSR the football clubs have become a service provider with rather unique attributes that could warrant a premium on public services they provide. With regards to competition law issues, CSR can be a powerful instrument to convince governments to use their discretionary powers to implicitly approve or condone the less clear-cut cases and to remain stand-offish at aspects of solidarity between football clubs, as in the case of the collective selling of broadcasting licenses.

The legal impact of CSR is not completely clear and the strict application of standard competition and state aid rules seems to lead to problems. In July 2001, the Commission presented a Green Paper '*Promoting a European Framework for Corporate Social Responsibility*'. The aims of this document were, firstly, to launch a debate about the concept of corporate social responsibility (CSR) and, secondly, to identify how to build a partnership for the development of a European framework for the promotion of CSR.¹¹

The Commission has to set up a EU Multi-Stakeholder Forum on CSR (CSR EMS Forum) with the aim of promoting transparency and convergence of CSR practices and Instruments. This Forum is invited to address and to agree by mid-2004 on guiding principles on, amongst others, the following issues:

- the relationship between CSR and competitiveness (business case);
- the contribution of CSR to sustainable development, in particular in developing countries, and to gender mainstreaming;
- SME-specific aspects (tools, coaching/mentoring practices by large enterprises, supply chain aspects);
- effectiveness and credibility of codes of conducts, to be based on internationally agreed principles, in particular the OECD guidelines for multinational enterprises;
- development of commonly agreed guidelines and criteria for CSR measurement, reporting and assurance.

¹¹ Corporate Social Responsibility: A Business Contribution to Sustainable Development. European Commission Brussels, 2nd July 2002, COM(2002) 347 final.

Hopefully these efforts by the European Commission will lead to more clarity about the implications and integration of CSR for European legislation, particularly in the field of competition law.

TRADE-OFFS

Despite the numerous benefits, CSR programs, as other forms of public-private partnerships, do entail compromises to be made by all parties concerned. The aims and goals of public and private parties are never totally congruent. For a company the bottom line of CSR means foregoing on immediate profit in hopes of future profit, safeguarding current assets or opening up others. Though some would see this as a reason to question the intentions of a company opting to start a CSR program, these intentions are nonetheless valid and should not be discounted but acknowledged in designing a CSR program.

The trade-offs made by government are more complicated as it inevitably involves somehow favouring the interests of a particular company in order to achieve benefits for the public good. The trade-off then implies to maximise the latter while minimising the first. In the case of the FAPL program, the British government could have had to make two interrelated trade-offs:

- 1 Partial incorporation of the for-profit football organisations as public service providers in the public domain (which comes at the price of providing leverage over government to the football clubs).
- 2 Tackling the dominant position of the FAPL in negotiating license fees, which reduces the profit margin for the clubs, but thereby also reduces funds available for CSR and for transfer of wealth between the big and small football clubs (thus weakening the foundation of the football league).

The FAPL has been especially successful in focusing on strategic CSR topics that contribute to solving current societal problems where government is unable to intervene successfully. In a case where the government is faced without good alternatives to the FAPL as service providers, it becomes difficult for the government to forego on the opportunity. Moreover, given the many discretionary powers inherent in governing, i.e. where the rules do not prescribe exactly what a decision ought to be, the goodwill that organisations garner through CSR programs could often result in a decision in the favour of the organisation.

There are obviously limits to these trade-offs. Companies are unlikely to sustainably participate in CSR programs unless they accrue some benefit relative to the cost of the program. In turn, governments will have to carefully weigh the direct and indirect, quantifiable and non-quantifiable advantages and disadvantages of the choice to employ CSR programs as a substitute for regular public service provision and government will need to draw the line when the public benefit is no longer served sufficiently relative to the alternatives. Some will even argue that from the government's perspective there should not be any trade-offs at all. Although a purist stance has its appeal, the net effect of such a decision is to forego on the benefits that CSR can bring to people much in need of help, such as underprivileged kids and teenagers in the case of the FAPL.

CHARACTERISTICS OF A SUCCESSFUL STRATEGY

The approach utilised by the FAPL is successful for a number of reasons:

- 1 **Collective effort:** almost all of the clubs participate in the CSR programs, which provide a nation-wide coverage of the programs. Bundling the individual club's networks and resources greatly increases the reach of the

programs and enhances its use as distribution network for public service provision. This is by no means an easy accomplishment: even though the clubs share a collective goal, the league is competitive and some aspects of CSR do not naturally match this competitive element. This requires strong management to keep the clubs united.

- 2 **Centrally administered:** since the program is run through the FAPL and as such financed, three critical elements are brought in effect:
 - a *Financial stability:* the finance mechanism for these programs provides insulation from financial difficulties at club level, because the programs are paid from a cut of the license fees *before* the license fees are allocated to the clubs. This system also reduces the immediate impact of disagreement at club level whether to participate in CSR programs. Such debate is not (and should not) be eliminated, but the argument is to be made at the level of the FAPL and the participating clubs as well, dampening the immediate impact of the debate on the actual CSR programs.
 - b *Uniformity in CSR programming:* central administration results in uniform and well-developed CSR programs, which enhances the transparency of the programs as well as recognition. This aids the communication strategy for the CSR programs.
 - c *Strategic Partner:* having a single organisation representing the clubs on CSR matters is an important step in becoming a viable counterpart to the government, non-profit sector and the business sector.

- 3 **Organisational strategy:** CSR is not just a philanthropic pastime aimed to appeal to the fans. With the FAPL, CSR is of strategic importance closely connected to their organisational vision and goals. This integrated approach to CSR means that CSR is implemented in a way congruent to

the over-all organisational goals and it clearly posits the aim and goals of CSR activities as contributing to the success of the organisation. For the FAPL, CSR is part of a strategy to manage its stakeholders, strengthen its fan-base and to provide leverage in order to reduce external risks to the company. Its modus operandi of identifying high-profile societal problems and designing an approach to tackle these problems in order to maximise its leverage on the government is a clear signal of the strategic nature of its CSR program.

The CSR strategy also supports the human resource side of the sports, further entwining CSR with the core interests of the clubs. CSR programs have the added benefit of binding people to the organisation, because they enjoy the benefits of the program or wish to identify themselves with an organisation that is socially responsible. CSR programs can bring in young players who might later turn out to be talented players. The bond between the youngster (also through the parents) and the club because of participation in the CSR programs can be the foundation for a live-long bond of loyalty and places the club in a preferred position when it comes to the talented youngster's development as a player.

- 4 **Sustainability:** because of the financial mechanism and the integration of CSR in the organisational goals, the entire CSR program is highly sustainable as long as participating clubs support the efforts. Sustainability matters because the effects of the CSR programs are not always immediately visible as is for example the case with providing education to underprivileged children. Moreover, methodology and approaches used in CSR programs need time to be perfected and fine-tuned to optimise the effect the programs have. As the value of the CSR efforts is in the end determined by the effect the programs have had, aspirations to start with CSR require commitment for a number of years depending on the particulars of the program.

- 5 **Branding:** key to the CSR efforts by the FAPL and the clubs is an extensive and well-thought out communication strategy. None of the strategic objectives of CSR can be attained as long as society at large is ignorant of the CSR efforts. The FAPL has been particularly effective at establishing the brand of the Premier League and CSR has been strategically incorporated in that brand.

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