



European Football: taxation and broadcasting rights

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Abstract:

Modern sport and football, in particular, might be acknowledged as one of the issues with more social impact, incurring in an enormous stream of revenues throughout the global leagues and individual clubs. The main European leagues and institutions have come on leaps and bounds in recent decades with regard to broadcastings, sponsorship and public affairs, generating a relatively unheard of “football-business” concept.

The article shall argue why the three main leagues (“La Liga”, Premier League and Bundesliga) side by side European football institutions manage to maintain such high revenues during these difficult times. The analysis will focus primarily on all aspects of broadcasting rights and taxation in order to discover which league shall ultimately be the best in European football in the future.

The reader will be able to identify the common triggering elements in sport law issues and their consequences by means of recognising several of the principle leagues regulations by which all the clubs are bound. The broadcasting rights might be deemed by some as the principle source of income in European football, even taking into account the unequal treatment among the clubs involved in the three Leagues analyzed as well as the revenue related to the main intercontinental competitions.

The three major European leagues have each been run differently in the past years, revealing prompt variations in the near future as to competition levels thereof and revealing how the policies withheld in such leagues have an extraordinary impact on the overall quality of such institutions.

Furthermore, the reader shall see the rates applied to the clubs in fiscal affairs depending on the clubs and countries one assesses; assuming clearly an element within the overall “purchasing power” and wealth of the European clubs.

EUROPE:

The main governing body in football structure throughout Europe is called the "Union des Associations Européennes de Football" (hereinafter UEFA). UEFA manages several football events across the continent; with the UEFA Champions League and Euro-cup being the most notable and well-known.

Both events may be considered as two of the most profitable and widespread competitions not only in football, but in sports on a worldwide level. The income generated from the Champions League (as an annual event) and Euro-cup increases revenue, year on year, as shown by the last two UEFA annual reports. This indicates UEFA income sources, with the TV broadcasting rights the most significant source.¹

UEFA's annual reports set forth the broadcasting rights elements and their continuous role in the football industry. Due to its economical influence, a dispute between UEFA and the European Commission (hereinafter EC) arose with regard to how UEFA dealt with their TV contracts. It emerged that specifically UEFA's policy on TV rights did not abide by the European Union economic policies, since UEFA did not comply with a fair and precise process on their agreements contracted with TV companies.

UEFA policy clashed specifically with art. 101 of the Treaty on the Functioning of the European Union (hereinafter TFEU), about free market and abuse of dominant position within the European Union. The dispute was resolved by several EC statements whereby EC urged UEFA to supersede its former TV rights policy.

In order to shed light on this particular confrontation, it is essential to clarify UEFA status which is embodied within its statutes. There, UEFA is referred to as an association under the Swiss Law². From the perspective of the EC "White Paper on Sport"³ UEFA is considered to be an association carrying out an economic activity. Since also national federations involved in UEFA are undertakings, one can conclude that UEFA is to be named an undertaking of undertakings.

UEFA Statutes and European Law establish UEFA duties and rights regarding economic activities. The UEFA provisions, reports and statements encourage us to assert that UEFA undoubtedly monitors economic activity⁴. This enables to establish how a clash could arise between UEFA as a "undertaking of undertakings" and the European institutions which accused UEFA of counter-acting a free market and non-

¹ Pg. 8 2009/10 UEFA annual report:

http://www.uefa.com/MultimediaFiles/Download/uefaorg/General/01/61/07/93/1610793_DOWNLOAD.pdf (accessed lastly on the 22nd of February 2013)

As well as pg. 12 2010/2011 UEFA annual report:

http://www.uefa.com/MultimediaFiles/Download/EuroExperience/uefaorg/Finance/01/77/26/17/1772617_DOWNLOAD.pdf (accessed lastly on the 22nd February 2013)

² Pg. 6, Art. 1 UEFA Statutes "General Provisions"
http://www.uefa.com/MultimediaFiles/Download/EuroExperience/uefaorg/WhatUEFAis/01/80/54/03/1805403_DOWNLOAD.pdf (accessed lastly on the 22nd of February 2013)

³ This paper provides information related to institutional legislation in an European level and with regard to the sport industry http://ec.europa.eu/sport/white-paper/swd-annex-i-sport-and-eu-competition-rules_en.htm (accessed lastly on the 22nd of February 2013)

⁴ Pg. 19, Art. 42 UEFA Statutes: "Revenue, payment of Levies and deductions from Match Receipts"
http://www.uefa.com/MultimediaFiles/Download/EuroExperience/uefaorg/WhatUEFAis/01/80/54/03/1805403_DOWNLOAD.pdf (accessed lastly on the 22nd of February 2013)

complying to the provisions relating to abuse of dominant position, in which UEFA was involved.

As a matter of fact, the European Commission forced UEFA to set up its contracts on TV rights in a revised manner, resulting in a renewed European policy based on a “Solidarity contribution” concept⁵, including a compulsory process marked by European law. In addition, UEFA adjusted the provisions as to the European competition law which incorporated an exemption for football activities and agreements by means of “legal remedies”⁶ proposed by European authorities.

“Solidarity contribution” guarantees funds to the younger and humbler leagues and clubs, with the aim of maintaining a fair competition at the European level. The contributions are focussed on improving clubs who do not take part in European competitions and may not benefit directly from UEFA’s revenues. Even so, the solidarity contribution is distributed in an uneven manner, based upon the clubs successes in the European competition. As stated in the UEFA annual report 2010/11⁷: “UEFA offers financial assistance to associations, leagues and clubs for their activities under certain conditions”.

This UEFA principle is part of further principles, enforcing a splitting of the UEFA revenues related to the following areas: annual payments to clubs and leagues, solidarity payments to clubs participating in UEFA competitions, depending on their success, and payments to associations which are collected from former pre-defined projects.

The solidarity contribution gives rise to a justifiable exemption within the general terms in the European free market policy through the “legal remedies”. They allow to target a real competition in football side by side with a legitimate TV rights policy aim. Thus, on the one hand, the specificity of sport and football and, on the other hand, the rights recognised for some undertakings in Europe as, at the same time, the “Sherman Act”⁸ imposes in the US, can be considered.

The EC determined the necessity of those restrictions on the joint-selling of TV rights, transferred into the legal remedies, thereby switching into a renewal of the TV rights selling and buying policy, which resulted in the next main principles⁹:

Through the “legal remedies”, the EC “circumvents” the free market policy, demonstrating exclusive and particular grounds based on the nature of football and the competition. The decision ended with a joint-selling of TV rights policy, even though it could be deemed, in principle, as a restriction of the competition law.

The EC concluded that the joint-selling of TV rights should bring a more effective and suitable manner for European competitions and local leagues, so that, for instance, UEFA competitions could be sold in one package and well in advance, before the seasons and knock-out matches begin. This would mean “allowing the

⁵ The solidarity principle is laid down in the 2001 UEFA Rules of the Game: “concept of solidarity is key to the development of sport” as detected on the White Paper on Sport http://ec.europa.eu/sport/white-paper/swd-the-organisation-of-sport_en.htm (accessed lastly on the 22nd of February 2013)

⁶ The legal remedies are referred as to the correct way to circumvent a free market activity due to football issues(A/N)

⁷ UEFA annual report 2010/2011, section h, Solidarity payments http://www.uefa.com/MultimediaFiles/Download/EuroExperience/uefaorg/Finance/01/77/26/17/1772617_DOWNLOAD.pdf (accessed lastly on the 22nd February 2013)

⁸ “Sherman Act Antitrust Act” Section § 1 <http://usgovinfo.about.com/blsherman.htm> (accessed lastly on the 22nd February 2013)

⁹ http://ec.europa.eu/sport/white-paper/swd-annex-i-sport-and-eu-competition-rules_en.htm (accessed lastly on the 22nd February 2013)

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programming to be planned in advance, permitting the different countries to re-sell the rights commercially"¹⁰, in summary, introducing new concepts within a free market, policy based on the "legal remedies" mentioned above.

However, one might ask how could these legal remedies be legislated as an exception whilst respecting European competition law? The European Commission presented several mandatory steps preceding the TV rights selling which UEFA must enforce, maintaining an unbiased policy and impeding any preferences given to any particular undertaking. The new policy general terms are as follows:

- A bidding process, whereby the TV companies may tender their offers to UEFA.
- A limitation on vertical contracts between UEFA or any other leagues and TV broadcasters of three annual football seasons. The vertical contracts must be reasonably purchased and sold responsibly,
- Besides an exception for those rights that are not sold by the collective entity in a certain time, granting the clubs to sell them in a "parallel exploitation".

The previous provisions introduced a guideline to be followed by the European countries, imposing new "football industry elements" on TV rights, solved by several awards which shall be shown thereafter as part of a particular analysis of "La Liga", "Premier League" and "Bundesliga".

Apart from TV rights, taxation represents a crucial issue for the recent football related revenue, since, logically, the more taxes an undertaking is forced to pay, the lesser is left at its disposal for expenses and future investments. Hence, even though the essential competition resides between the different European leagues, it is important to remember that UEFA is bound by levies, taxes and norms from Lausanne (Switzerland), where UEFA's headquarters are based, more specifically the canton of Vaud¹¹ is the place where UEFA abide by taxation obligations. Here, the tax percentage spans from 20.75% to 23.6% of the company profit.¹²

SPAIN:

Spanish Football League (hereinafter SFL)¹³ acts in a unique way compared to the other leagues analyzed in this report with regard to TV rights. SFL's TV rights are negotiated individually and independently, thus, each individual football entity may agree its own contracts with TV undertakings, disregarding SFL's position since it does not retain a monopolistic status above the clubs as in the case in England and Germany.

Individual agreements are reached via process of decentralized bargaining, thus empowering the wealthiest and most prestigious clubs, enabling them to receive a higher income due to their negotiation advantages and power. From a football competition point of view, the Spanish football league is gradually

¹⁰ White Paper on Sport, Annex I, 3.1.3.1 "Decision making practise" http://ec.europa.eu/sport/white-paper/swd-annex-i-sport-and-eu-competition-rules_en.htm (accessed lastly on the 25th February 2013)

¹¹ Pg. 8 UEFA Financial Report 2010/2011, section "Taxes" http://www.uefa.com/MultimediaFiles/Download/EuroExperience/uefaorg/Finance/01/77/26/17/1772617_DOWNLOAD.pdf (accessed lastly on the 22nd February 2013)

¹² <http://www.vaud.ch/en/our-services/companies/starting-up-developing/taxation-tax-incentives/> (accessed lastly on the 22nd February 2013)

¹³ Spanish Football League is originally denominated as to "Liga de Fútbol Profesional"(A/N)

discrediting itself by means of an existence of two dominant players -Real Madrid and Barcelona- without any rival strong enough to face them neither on a competitive level nor on economic terms.

From a legal perspective, I shall focus on the main laws comprising TV rights in Spain as follows:

- Broadcasting competitions and sport events Act 21/1997, 3 July safeguards the restriction or distortion of the competition among the broadcasters in its article 7¹⁴. In addition to this Act, the Spanish Competition Act agrees upon zero tolerance of any abuse of a dominant position which could impede an equal treatment in a free-market.¹⁵ Hence, relying upon the aforementioned, the Spanish law adjusts and abides the general principles filed in UEFA and EC provisions.

- General Audiovisual Communication Law 7/2010 31st March, which lays down the specific audiovisual obligations and provisions; binding all TV operators to the European general principles. Nonetheless, a loophole could be detected regarding the European and Spanish legislation, given that the Spanish legislation stipulates four years for the TV operators and clubs as maximum contract duration¹⁶ instead of the three year period laid down by the EU provisions¹⁷.

- Therefore, the only two uncertain principles differentiating the Spanish and European legislation would be to the period extended on TV agreements -four and three years respectively-, and the solidarity principle inasmuch as a contradiction may not be observed in case of individual selling rights from the clubs among the national and supranational legislations. In such terms, the EU White Paper on Sport recognizes a possible solution fair individual selling of TV rights as long as it comes to a stringent position in the solidarity contribution, laid down in UEFA 2001 Rules of the Game¹⁸ and Declaration of the Nice European Council¹⁹. Even though the provisions enacted by the Spanish legislation could disregard European Law, they should not be deemed unlawful, since they do not distort or restrict the competition between undertakings.

¹⁴ Originally called: "Ley 21/1997, de 3 de julio, reguladora de las Emisiones y Retransmisiones de Competiciones y Acontecimientos Deportivos": <http://www.boe.es/buscar/doc.php?id=BOE-A-1997-14849> (accessed lastly on the 25th February 2013)

¹⁵ Art. 1. Ley de Defensa de la Competencia(Spanish Competition Act) http://www.cncompetencia.es/Inicio/GestionDocumental/tabid/76/Default.aspx?EntryId=18425&Command=Core_Download&Method=attachment (accessed lastly on the 22nd February 2013)
Original version: http://noticias.juridicas.com/base_datos/Privado/115-2007.t1.html#a1 (accessed lastly on the 22nd February 2013)

¹⁶ Art.21.1 General Audiovisual Communication Law (originally called: "Ley general de la Comunicación Audiovisual"), Original Version: <http://www.boe.es/boe/dias/2010/04/01/pdfs/BOE-A-2010-5292.pdf> (accessed lastly on the 22nd February 2013)

¹⁷ Pg.13 White Paper on Sport: Moreover, "the duration of rights contracts should not exceed three years and unsold rights would fall back for individual exploitation by the clubs." http://ec.europa.eu/sport/white-paper/swd-the-organisation-of-sport_en.htm (accessed lastly on the 22nd February 2013)

¹⁸ 2001 "Rules of the Game" UEFA: "concept of solidarity is key to the development of sport" http://ec.europa.eu/sport/white-paper/swd-the-organisation-of-sport_en.htm (accessed lastly on the 22nd of February 2013)

¹⁹ Declaration of Nice European Council 2000, Annex VI art. 2: "2. The European Council hopes in particular that the cohesion and ties of solidarity binding the practice of sports at every level, fair competition and both the moral and material interests and the physical integrity of those involved in the practice of sport, especially minors, may be preserved." http://www.europarl.europa.eu/summits/nice2_en.htm (accessed lastly on the 22nd February 2013)

Bearing all this in mind, the broadcasting policy might not be the only one discrediting Spanish football, while the taxation policy and clubs bankruptcy are preceded by various circumstances such as the increasing levels of debt contracted by the Spanish clubs.

An analysis of the Spanish taxation system must be accompanied by an explanation on the clubs structure. The most well known issues between UEFA and the Spanish Football Federation Statutes show the need of a proper consolidation within the clubs' policies on taxation and solvency. In spite of several legal provisions submitted by the SFL²⁰ in order to restrict insolvent clubs from taking part in the competitions, Spanish clubs still register annually decreasing payments to the National Treasure. We are increasingly seeing football clubs debts huger than decades ago.²¹ The clubs may even be relegated in the case of overdue payments to the Treasure or their workers,²² as exemplified in 1995, when "Sevilla FC" and "Real Club Celta de Vigo" were *in extremis* saved from joining the second B Spanish division after a failure to submit a bank guarantee.

Such sorts of events side by side demonstrate a further economic shortcoming in Spanish football, supposing an eventual change within the clubs' structure. The new law enacted in 1990 enforced the clubs to renew their legal status, converting into Public Limited Companies (hereinafter PLC), except specific clubs complying with "effective economic management"²³, which referred to only four Spanish clubs at that time: Real Madrid CF, Barcelona FC, Athletic Club de Bilbao and Club Atlético Osasuna.

After the introduction of the aforementioned Act, most Spanish clubs were constituted as PLC's so that eventually the societies remaining within SFL competitions represent the following (as indicated in the article 14 Spanish Sport Act-hereinafter SSA-):

- a. Elementary sports clubs (Clubes deportivos elementales)
- b. Sports associations (Clubes deportivos básicos)
- c. Public Limited Companies (Sociedades Anónimas Deportivas)

A different structure went hand in hand with an amendment regarding taxation within Spanish clubs. As mentioned above, once the SSA was enacted in 1990, most of the clubs switched to PLCs, being subjected to the general regime and thus regulated under the Spanish Corporation Act (hereinafter SCA).

The PLCs are bound by article 129 Royal Decree 4/2004, 5 March (hereinafter RD). The new status acquired is stipulated, after the change imposed by the Spanish Sport Act which highlights the new rights and duties of the clubs as well as the subjection to general taxation imposed by the SCA. As a matter of law, PLCs

²⁰ Pg. 152, Foreword, Book X SFL "General Rulebook of Professional Football League", originally called: "Reglamento general de la Liga de Fútbol Profesional" <http://www.lfp.es/SobreLFP.aspx> (accessed lastly on the 22nd February 2013)

²¹ Pg. 158 and ff, Arts. 16, 17 and 18 SFL Statutes, "General Rulebook of Professional Football League", originally called: "Reglamento general de la Liga de Fútbol Profesional" <http://www.lfp.es/SobreLFP.aspx> (accessed lastly on the 22nd February 2013)

²² Seventh Additional Order "Spanish Sport Act, originally called: Ley del Deporte 10/1990, original version: http://noticias.juridicas.com/base_datos/Admin/110-1990.t13.html#da7 (accessed lastly on the 22nd February 2013)

²³ "Foreword" Spanish Sport Act (originally called: Ley del Deporte 10/1990). Original version <https://www.boe.es/buscar/doc.php?id=BOE-A-1990-25037> (accessed lastly on the 22nd February 2013)

may be subjected to the general regime²⁴, so that they comply with the general rate of 35%²⁵ in the current year.²⁶

The clubs' structure is even more significant if one understands the alteration between the PLC and Sports Associations-such as Real Madrid or FC Barcelona-respecting their taxation, since the latter are subjected to the same RD but, an exemption²⁷ may sometimes be applied. The exemption supposes a different rate at the time of complying with tax obligations for the Sport Associations, forced to pay at 25% widening thus the difference between the societies exempt and those which are not. This constitutes a rise up to 10% in taxation terms, even though they compete at the same level and do not undertake any exempt activities.²⁸

Therefore, such exemption provokes a huge difference in the "purchasing power" among the Spanish clubs, representing a fundamental issue which angers the PLC, since the sport associations are considered to uphold advantages even before the Treasure obligations. For example, Sevilla FC and FC Barcelona Statues, linked by different taxation rates, do not recognize any differences between them. This could lead, somehow, to comprehend a noticeable difference therewith, so that the taxation should rise to the same rate for both clubs to be equal as they already carry out the same activities.

Disregarding Osasuna and Athletic de Bilbao, the most blatant cases fall on Real Madrid and Barcelona FC given that the TV rights advantages as well as a good taxation rate overweigh the role of those clubs which are converting the Spanish League into a minor League. The competition loses its reputation year on year because the rest of the clubs think it is pointless to participate in SFL and struggle for the title. It is even more complicated after looking up the last nine SFL winners, where the title has been shared between Real Madrid and Barcelona, leaving no place for any other contenders.

ENGLAND:

Football Premier League Association (hereinafter: FPLA) is, nowadays, the most-followed league, figuring as the highest competitive league throughout the continent in both football and in economic terms, In fact, Seven Premier League clubs are included within the twenty wealthiest teams across Europe.²⁹

²⁴ Art. 7 RD 4/2004, 5 March about Societies taxation, originally called "Impuesto sobre sociedades", original version: http://noticias.juridicas.com/base_datos/Fiscal/rdleg4-2004.html (accessed lastly on the 22nd February 2013)

²⁵ Art. 28.1 RD 4/2004, 5 March about Societies taxation, originally called "Impuesto sobre sociedades", original version: http://noticias.juridicas.com/base_datos/Fiscal/rdleg4-2004.html (accessed lastly on the 22nd February 2013)

²⁶ The governments may vary the rate year by year, falling on the general budget(A/N)

²⁷ Art. 9.2 RD 4/2004, 5 March "Company taxation" (originally called: Real Decreto 4/2004 de 5 de Marzo sobre Ley del Impuesto de Sociedades) Original version: http://noticias.juridicas.com/base_datos/Fiscal/rdleg4-2004.html (accessed lastly on the 22nd February 2013)

²⁸ Art. 28.2 e) RD 4/2004, 5 March"Company taxation"(originally called: Real Decreto 4/2004 de 5 de Marzo sobre Ley del Impuesto de Sociedades) Original version: http://noticias.juridicas.com/base_datos/Fiscal/rdleg4-2004.html (accessed lastly on the 22nd February 2013)

²⁹ Deloitte Football Money League 2012/13 http://www.deloitte.com/assets/Dcom-Croatia/Local%20Assets/Documents/2013/hr_football-money-league-2013.pdf (accessed lastly on the 22nd February 2013)

One might ask, why does the FPLA lead the European leagues ranking? One of the many factors might be the centralized TV rights contracts among the clubs forming FPLA, thanks to an agreement conformed by FPLA by which the TV rights might be sold jointly from the FPLA on behalf of the clubs. Indeed, emulating this policy imposed by the EC, breaches the free market conception stipulated in the TFEU.

The EC justified the English case with a particular conclusion, rendered through a report about the joint selling rights in FPLA.³⁰ The report assures a mandatory guideline process for a legal joint selling of TV rights by means of including a compulsory bidding process as a fair step before complying with a joint selling³¹. In this respect, the bidding process might be safeguarded by a commission which mainly determine one competitor among the buyers. Essentially, "The FPLA shall offer for sale, on the basis set out in these Commitments, separate Packages of (i) Live Audio-Visual Rights, (ii) Near-Live Audio-Visual Rights, (iii) Mobile Audio-Visual Rights and (iv) National Radio Rights."³²

The bidding process might sometimes be accompanied by further EC provisions as an extension of the maximum agreements, fixed in three consecutive years in England. The aim is to preserve a free market and abuse of dominant position prevention as set out in the TFUE³³ and the United Kingdom competition Act³⁴. Furthermore, the Premier League Handbook confirms an appropriate share of the TV rights among all clubs, clearing up the Broadcasting Money in UK through a suitable and precise way of dividing the revenue.³⁵

All the TV rights issues are highlighted inside the Handbook, reaffirming the UEFA policy in competition regarding the revenue received by the clubs relying upon their merits in the local League. The aim is so that the better position a club reaches in a league, the higher their revenue might be. On the other hand, the clubs relegated would receive less awards, translating to a reduction in revenue.³⁶

Bearing the above in mind, one might detect a key reason why FPLA has managed to convert itself into the most competitive League, understanding the importance of abiding by the UEFA solidarity principle. This way they introduce a

³⁰ http://ec.europa.eu/competition/antitrust/cases/dec_docs/38173/38173_132_7.pdf (accessed lastly on the 22nd February 2013)

³¹ Pg. 8 point 7 "Bidding-process" Commitment of the FPLA http://ec.europa.eu/competition/antitrust/cases/dec_docs/38173/38173_132_7.pdf (accessed lastly on the 22nd February 2013)

³² Pg. 4 point 2 "Packages of Premier League" Commitment of the FPLA http://ec.europa.eu/competition/antitrust/cases/dec_docs/38173/38173_132_7.pdf (accessed lastly on the 22nd February 2013)

³³ Pg. 5 point 2.4 "Packages of the Premier League" Commitment of the FPLA http://ec.europa.eu/competition/antitrust/cases/dec_docs/38173/38173_132_7.pdf (accessed lastly on the 22nd February 2013)

³⁴ Chapter I art. 2 "Agreements" UK Competition Act <http://www.legislation.gov.uk/ukpga/1998/41/contents?view=plain> (accessed lastly on the 22nd February 2013)

³⁵ Pg. 96 D 16 "The League-Finance" Premier League Handbook 2012/13 <http://www.premierleague.com/content/dam/premierleague/site-content/News/publications/handbooks/premier-league-handbook-2012-2013.pdf> (accessed lastly on the 22nd February 2013)

³⁶ Pg. 98 D 27 "Relegated clubs" Premier League Handbook 2012/13 <http://www.premierleague.com/content/dam/premierleague/site-content/News/publications/handbooks/premier-league-handbook-2012-2013.pdf> (accessed lastly on the 22nd February 2013)

fair process which implies a real competition focussed on competency in football, rather than success determined by levels of economic power.³⁷

Apart from TV rights, the taxation obligations among the clubs pertaining to FPLA shall be assessed, firstly, taking into account that FPLA is considered as to an association where the twenty members act as shareholders. Subsequently, FPLA is composed of various undertakings which may be legally acknowledged as the following:

1. A Private company limited by guarantee;
2. A Private limited company with shares – Limited
3. A Public limited company – PLC

A different composition would not necessarily suppose a barrier in taxation terms, since those three sort of undertakings might comply with the Treasure at the same level as stipulated on the FPLA Rulebook³⁸ and exemplified in the clubs annual reports commented below:

On the one hand, Manchester United(hereinafter MU) is owned by the members of the “Glazer family”³⁹ whom have been acquiring the club, gradually, through the Red Football Joint Venture from 2003⁴⁰ without any opposition. In terms of taxation duties and social status, the club might be named as an undertaking, with a mandatory annual payment to the UK Treasure, rising to 30% of 2003’s profit.⁴¹

On the other hand, Chelsea Football Club(hereinafter Chelsea FC) represents one of the most influential clubs within FPLA, owned by Roman Abramovich,⁴² through a company named “Fordstam Limited”. Chelsea FC occupied the fifth position amongst the wealthiest clubs in Europe⁴³ during the last decade. This is high considering the burden due to its higher debts contracted over the years which shall endanger the club’s future, as well as its taxation rate of 30% of profits in 2007⁴⁴.

Finally, Manchester City Football Club (hereinafter MC) is owned by Sheikh Mansour who successfully turned the club into the most notorious and wealthy

³⁷ <http://soccerlens.com/files/2012/11/table1.png>(accessed lastly on the 22nd February 2013)

³⁸ Value Added Tax(D 30) pg. 98 Premier League Handbook 2012/13 [http://www.premierleague.com/content/dam/premierleague/site-](http://www.premierleague.com/content/dam/premierleague/site-content/News/publications/handbooks/premier-league-handbook-2012-2013.pdf)(accessed lastly on the 22nd February 2013)
[content/News/publications/handbooks/premier-league-handbook-2012-2013.pdf](http://www.premierleague.com/content/dam/premierleague/site-content/News/publications/handbooks/premier-league-handbook-2012-2013.pdf) (accessed lastly on the 22nd February 2013)

³⁹ <http://www.manutd.com/en/Club/FAQs/Club-Ownership/Question-1.aspx>(accessed lastly on the 22nd February 2013)

⁴⁰ <http://news.bbc.co.uk/2/hi/business/4540939.stm>(accessed lastly on the 22nd February 2013)

⁴¹ MU annual report 2003/04, pg 65
<http://production.investis.com/manutd/findata/reports/annrep04/annrep04.pdf>(accessed lastly on the 22nd February 2013)

⁴² <http://www.bornrich.com/roman-abramovich1.html>(accessed lastly on the 22nd February 2013)

⁴³ Pg. 3 Deloitte Football money league 2013 http://www.deloitte.com/assets/Dcom-Croatia/Local%20Assets/Documents/2013/hr_football-money-league-2013.pdf (accessed lastly on the 22nd February 2013)

⁴⁴ Pg. 12 “Directors’ report and financial statement 30 June 2008”, Chelsea Football Club Limited
<http://www.scribd.com/doc/27118443/Chelsea-Football-Club-Limited>(accessed lastly on the 22nd February 2013)

among the FPLA, whilst managing to contract a high debt⁴⁵. As a curious and essential point for taxation purposes, a reduction in the clubs' taxation in 2008 must be indicated as set out in MC annual report 2008, where the corporation taxes decrease to 28% of the profit of the year.⁴⁶

In fact, the MC annual report shows a recurring tendency in UK where the corporation taxation decreases year by year as confirmed by the latest news. The Chancellor of the Exchequer, George Osborne, announced a significant decrease in the percentage applied to UK corporations⁴⁷, reducing the percentage from 26% to 24% from the previous to the current year. Eventually, this percentage will be as low as 21% in April 2014.⁴⁸

In light of the above, English football clubs are bound by less taxes than other countries. In Spain, the opposite is occurring: the corporation taxes will rise up to 35% in 2013, whilst the taxation rate in UK dropped, based on English government provisions. This gives a higher purchasing power to English companies, including English football clubs.

Despite its success, a fuelled discussion arose, deeming the amount of money paid by the clubs to the UK Treasury as ludicrous, given to their high and profitable revenues.⁴⁹ However, such taxation tendencies shall assure more pressure on the English clubs who continue to climb positions within the top clubs in Europe laying on the previously mentioned solidarity principle on TV rights and a lower due taxes.

GERMANY:

German "Bundesliga" has always intended to be at the forefront of the European football. Historically, the English and Spanish clubs confronted only a few German clubs such as Bayern Munich (hereinafter BM). BM represented almost the sole alternative challenging the traditional English and Spanish entities. Nonetheless, four Teutonic clubs may currently be observed among the twenty most profitable European clubs. BM is the wealthiest club in Germany, with a turnover of € 368,4 millions in the 2011/2012 season, confirming BM's position as fourth most powerful clubs on the continent.⁵⁰

As shown above, German clubs gained power in Europe, given their healthy economic status and low levels of debts.

⁴⁵ <http://www.dailymail.co.uk/sport/football/article-1240961/Manchester-City-owner-Sheik-Mansour-writes-clubs-305m-debts.html> (accessed lastly on the 22nd February 2013)

⁴⁶ Pg. 72 Manchester City annual report 2009/2010 <http://annualreport.mcfc.co.uk/downloads/mcfc-annual-report.pdf> (accessed lastly on the 22nd February 2013)

⁴⁷ Corporation Tax 2010 sets forth the capacity of the Parliament in varying the tax rate <http://www.legislation.gov.uk/ukpga/2010/4/section/3> (accessed lastly on the 22nd February 2013)

⁴⁸ <http://www.guardian.co.uk/uk/2012/mar/21/budget-2012-corporation-tax-22p> (accessed lastly on the 22nd February 2013)

⁴⁹ <http://www.independent.co.uk/sport/football/premier-league/ios-investigation-footballs-tax-shame-8373895.html> (accessed lastly on the 22nd February 2013)

⁵⁰ pg. 16 Deloitte Money League 2013 http://www.deloitte.com/assets/Dcom-Croatia/Local%20Assets/Documents/2013/hr_football-money-league-2013.pdf (accessed lastly on the 22nd February 2013)

BM exemplifies the solvency and correct football-business criteria given that the football companies restrict themselves to the expenses they may afford. As Karl-Heinz Rummenigge⁵¹ concluded: "We have always had one philosophy and that's not to spend more than we generate".⁵² This confirms the Bundesliga position and the main argument why Bundesliga has become the most successful League from an economic perspective. This is merely by means of contracting less amount of debt than "La Liga" and FPLA. This shall quickly improve the league inasmuch as the economic situation shall be reflected on football terms, climbing up to the top within the Europe clubs. On the other hand, debt examples in Spain and England reveal a big errors made by the clubs, compromising the future of both clubs and leagues in a more general sense.⁵³

The references above both are supposed with comments focussed on the low debts among Bundesliga clubs, in which a precise analysis shall be given, adding the parameters stipulated on TV rights and taxation by Bundesliga :

On the one hand, TV rights new deal in "Bundesliga" increases up to € 2,5 billion, constituting a record deal.⁵⁴ As well as the FPLA, German clubs implemented the European model, agreeing upon the centralized rights which impede an independent and autonomous bargaining on TV rights; thus granting a monopoly to "Bundesliga" itself instead of the individual clubs.⁵⁵

As a matter of fact, Germany's policy on TV rights crossed over with the European free market and the abuse of dominant position, something which European law and German law prohibits⁵⁶. However, the European decision on "Bundesliga" TV rights argued the same previously reaffirmed legal remedies used from the FPLA, either a time restriction regarding contracts-three years maximum either the same measures abide by FPLA with regard to the bidding process and the legal remedies for the unused rights.

"Bundesliga" has a highly profitable amount of revenue in comparison with other leagues analyzed: "the Bundesliga is thought to be taking in more sponsorship money than any other league approximately \$800 million annually."⁵⁷ This shows why attendance at German stadiums is unsurpassable and increases annually, since the sponsors demand sold-out tickets games. The clubs are forced to reduce tickets prices to sell more, hoping to achieve an enviable average

⁵¹ BM Chairman Executive Board(A/N)

⁵² <http://www.iol.co.za/business/business-news/analysis-bayern-munich-s-prudent-finances-reflect-german-approach-1.1299316#.URJoCPJCqSo>(accessed lastly on the 22nd February 2013)

⁵³ The debts contracted by clubs as Manchester City or Chelsea in England or the many meeting of creditors lifted in Spain exemplify a improper-managed leagues(A/N)

⁵⁴ <http://www.spiegel.de/international/german-press-review-of-bundesliga-sky-deutschland-broadcast-tv-rights-a-828301.html>(accessed lastly on the 22nd February 2013)

⁵⁵ Pg. 6 point 22 "Commission Decision 19 January 2005: Joint selling of the media rights to the German Bundesliga" http://ec.europa.eu/competition/antitrust/cases/dec_docs/37214/37214_90_1.pdf(accessed lastly on the 22nd February 2013)

⁵⁶ §1 Gesetz gegen Wettbewerbsbeschränkungen (GWB) (Prohibition of restrictive agreements)Original version: <http://www.gesetze-im-internet.de/gwb/BjNR252110998.html> (accessed lastly on the 22nd February 2013)

⁵⁷ http://espn.go.com/sports/soccer/news/_id/5673975/success-germany-bundesliga(accessed lastly on the 22nd February 2013)

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attendance as high as: "42,101; that is 7,000 spectators more than average FPLA attendance." ⁵⁸

On the other hand, the corporation taxes in Germany represent a further breakthrough respecting SFL for instance, as well as the way of running the clubs and their structure. More specifically, the German clubs may be formed according to these three criteria:

1. Gesellschaft mit beschränkter Haftung (GmbH), private limited liability company
2. Aktiengesellschaft (AG), company limited by shares
3. Combination of AG or GmbH with a Kommanditgesellschaft (KG), limited partnership

The German football approach contains a specificity in comparison with Spanish and English league, regarding the ownership of the clubs. Hence, whilst in "Bundesliga" the shareholders must be the members in a 50+1%⁵⁹ overall club ownership, Spanish and English rules do not include such provisions. This then encourages foreign investors to take over the clubs such as Málaga CF in Spain or MC, MU, Chelsea FC or Queens Park Ranger in FPLA. This can give rise to disastrous consequences for the clubs involved.

As an example for German ownership, BM is owned by Bayern Munich members in an 81.8% of the total of the company, leaving the rest of the company to the ownership of two other undertakings: Audi and Adidas. ⁶⁰

With regard to taxation, football corporations are bound by a general tax according to the applicable undertakings status requiring them to pay an average rate of 15%(25% in 2007) to the Treasure⁶¹, so that the rate usually spans from 29% to 32%, depending on the regional taxation. ⁶² This being so, a final assertion must be filed, given that German taxation intends to cover all the clubs in "Bundesliga" and all the licenses provided in German football affairs, supposing that licensed football "in Germany secures 110,000 jobs and indirectly cause the state to receive €1.5 billion in taxes and duties annually". ⁶³ Thus, the German Treasure receives a secure income from the clubs, instead of the other analyzed countries', Treasures where the deferred payments to the Public authorities from the clubs increase constantly.

⁵⁸ Pg. 56 Bundesliga Annual Report 2012 http://static.bundesliga.de/media/native/autosync/dfl_bl_wirtschaftssituation_2012_01-12_gb_72dpi.pdf(accessed lastly on the 22nd February 2013)

⁵⁹ Die Liga – Fußballverband e.V. (Ligaverband) § 8, "Erwerb und Ende der Mitgliedschaft" the aforementioned article contains exceptions as exemplified Wolfsburg, owned 100% by Volkswagen http://www.dfb.de/uploads/media/14_Satzung_Liga_DFL.pdf(accessed lastly on the 22nd February 2013)

⁶⁰ http://www.fcbayern.telekom.de/en/company/company/organe/index.php?fc_b_sid=5a78ba65592f69abb_e0cc99f6d1bf07b (accessed lastly on the 22nd February 2013)

⁶¹ <http://www.cfe-eutax.org/taxation/corporate-income-tax/germany>(accessed lastly on the 22nd February 2013)

⁶² http://www.worldwide-tax.com/germany/germany_tax.asp(accessed lastly on the 22nd February 2013)

"The basic 2012 corporate federal rate of tax in Germany is 15%. A "business tax", 14%-17% in average, payable to the municipality, is added to the tax."

⁶³ Pg. 18 "Bundesliga 2012 annual report" http://static.bundesliga.de/media/native/autosync/dfl_bl_wirtschaftssituation_2012_01-12_gb_72dpi.pdf(accessed lastly on the 22nd February 2013)

CONCLUSION:

After analyzing the three major European leagues overview, the near future can be roughly predicted. The economic crisis and the bankruptcy situation of many clubs shall translate into even higher debts due to deferring payments from the clubs to either the Treasure, the banks or clubs' workers.

The examples are extensive, provoked in large part by the European financial crisis which has already deeply affected football. Noteworthy consequences include UEFA sanctions or local league measures: Malaga CF and Glasgow Rangers exemplify the clubs' situations. Malaga is first one⁶⁴ disqualified for the next European level football competitions because of lack of payments regarding to its workers. Meanwhile the latter has been relegated from the first division to the third division within the Scottish League owing to its bankruptcy situation.⁶⁵

These recent decisions shocked the world of European football and might serve as a forewarning to the rest of the clubs in high-debt and insolvency circumstances. The English and Spanish clubs are dealing with a worse situation than Bundesliga clubs, country in where healthy clubs were considered as fundamental in order to maintain a sustainable League, so that the League impeded to contract high debts rather than permit the clubs to face up unpayable debts.

It must be said that the new corporation taxation in UK could drastically alter the future of European football. Nonetheless the solvency and clear accounts within German clubs should convert the league into the best there is although the sole doubt would centre around the next question: Would Germany achieve the most competitive league given the English and Spanish clubs reputations?

In Spain, the situation points to a devastating league, where the two giants, Real Madrid and Barcelona recently rejected the necessity of a new policy on TV rights. This directly impoverishes the other clubs and the league competition. Whilst the FPLA surpasses SFL given that its competition may be sustainable due to TV rights policy and the lower debts contracted by them in comparison with Spain; the league is condemned to lag behind the other two in the near future.

To conclude, a healthier position for the German league should bring us to the highest quality league, converting this league into the most attractive compare to the others. In short, a higher economic status must be synonymous with better-attended matches and more and more successful TV and sponsorship contracts. Ultimately, the German League should also benefit from the best squads.

Aside from the German authorities' measures over the debts contracted, the present time demonstrates the right decision from the German football authorities at the time of electing a special policy in football clubs' ownership, impeding clubs overtaken by foreign investors. As long as German football ascertains appropriate worldwide development -improving marketing and advertising throughout Europe- it should dictate and lead European football in the near future.

José Manuel Montes López

⁶⁴ <http://www.dw.de/uefa-bans-la-liga-side-malaga-from-european-games/a-16474626>(accessed lastly on the 22nd February 2013) Malaga CF lodged a claim before CAS and the sport arbitration entity need to confirm or reject UEFA decision in the next future(A/N)

⁶⁵ <http://www.telegraph.co.uk/sport/football/teams/rangers/9403180/Rangers-to-be-replaced-by-Dundee-in-Scottish-Premier-League.html>(accessed lastly on the 22nd February 2013)

Acronyms:

Art.	Article
BM	Bayern Munich
Chelsea FC	Chelsea Football Club
EC	European Commission
EU	European Union
FPLA	Football Premier League Association
MC	Manchester City Football Club
MU	Manchester United
PLC	Public Limited Company
RD	Royal Decree
SCA	Spanish Corporation Act
SFL	Spanish Football League
SSA	Spanish Sport Act
TFEU	Treaty on the Functioning of the European Union
TV	Television
UEFA	Union des Associations Européennes de Football
USA	United States of America