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## Sports governing bodies vs. antitrust 0 - 4? Sport and competition economics comments on the recent judgements of the European Court of Justice

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## **Sports Governing Bodies vs. Antitrust 0 – 4?**

### **Sport and Competition Economics Comments on the Recent Judgements of the European Court of Justice**

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# Sports Governing Bodies vs. Antitrust 0 – 4 ?

## Sport and Competition Economics Comments on the Recent Judgements of the European Court of Justice

*Oliver Budzinski\**

**Abstract:** Commercial sports belong to the biggest entertainment industries in the world and, at the same time, are regularly raising antitrust concerns. This is partly due to the omnipresence of powerful market-internal regulators. These sport governing bodies set, implement, and enforce the rules and additionally engage in commercial activities. In a series of four judgments within less than a year, the European Court of Justice found (potential) antitrust violations in cases of deterring market entry, distorting competition, and exploiting players. This contribution adds economic comments to the predominantly legal literature on these judgements. It concludes that despite important steps in the right direction, more antitrust enforcement is necessary to protect competition in this unique entertainment industry vis-à-vis the presence of market-internal, private regulators. Next to limiting their scope (where the court provided progress), also the incentives for anticompetitive conduct must be addressed.

**Keywords:** sport markets, sport governance, competition policy, antitrust, sports associations, institutions, market-internal regulators, European Court of Justice, competition economics, sports economics

**JEL-Codes:** K21, L40, L50, L83, Z20

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## I. Introduction

The good that commercial sports sell to the audience (either directly live in the arena or indirectly via streaming and television broadcasts) is entertainment. However, compared to both other entertainment markets and traditional textbook markets, sports markets are characterized by a special feature: the necessary existence of a market-internal regulator, typically in the guise of a sports association, who sets, implements, and enforces the rules of the game.<sup>1</sup> Furthermore, however, these sport governing bodies (“SGBs”) – which are private entities acting within the respective market (and must not be confused with public regulators and authorities) – also act according to their own commercial incentives and interests. Since they enjoy considerable market power, SGBs, in their dual role of market-internal regulators and players within the supply chain of sports entertainment, have come under antitrust scrutiny. While so far authorities have given SGBs considerable leeway in how they use their powers, a series of recent antitrust-related judgments by the European Court of Justice (“ECJ”) has put much stricter limits and obligations to it.

The market power of SGBs in so-called competition-organizing services offers scope for anticompetitive abuse because of the existence of respective incentives and scope:

- Incentives: the dual role of the market-internal regulator provides incentives for conducting, inter alia, foreclosure, exploitative, raising-rivals’ costs, and self-preferencing strategies.
- Scope: who controls the regulator? While this depends on the exact organizational structure, which varies considerably across sports disciplines, European football<sup>2</sup> is characterized by a pyramid model of (grassroots) clubs creating regional/local associations which then step-by-step create higher associations, establishing a system of lower-level officials “controlling” higher-level officials. This system generates serious principal-agent problems and a notorious lack of control of the highest SGBs

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<sup>1</sup> The nature of this comment prevents me from citing the huge amount of sports economics literature that establishes this and the following insights. Instead, please consult with extensive references O. Budzinski & A. Feddersen, Should Organizing Premier-Level European Football Be a Monopoly? And Who Should Run It? – An Economists’ Perspective, in: J. Kornbeck (ed.), *EU Sports Antitrust Law and Governance: The Next Frontier?* Cheltenham: Elgar 2023, 85-101 as well as O. Budzinski & S. Szymanski, Are Restrictions of Competition by Sports Associations Horizontal or Vertical in Nature? *Journal of Competition Law & Economics* 11(2), 2015, 409-429. Beyond this, sports markets do share several economic features with other entertainment markets like, for instance, superstar, attention, and platform effects. See, inter alia, S. Gaenssle & O. Budzinski, The Economics of Influencers and Social Media Stardom, in: U. Rohn, M. B. von Rimscha & T. Raats (eds.), *De Gruyter Handbook of Media Economics*, Berlin: De Gruyter 2024, 349-368.

<sup>2</sup> Throughout this paper, “football” refers to the European-style football, sometimes also nick-named “soccer”.

like the Union of European Football Associations (“UEFA”). Thus, UEFA and its officials enjoy considerable scope to follow their own interests over the interests of the market participants (premier-level but indirectly also grassroots clubs) or other football stakeholders (like fans).

This comment summarizes the main events (section II) and comments from an economic perspective (both the special economics of sports and general competition economics) on the implications for sports entertainment markets (section III).

## II. Four Judgements pro Competition and anti SGB?

Between December 2023 and October 2024, the European Court of Justice published four decisions on cases related to the behavior of sports governing bodies: the *International Skating Union-case* (“ISU”), the *European Super League-case* (“ESL”), the *Royal Antwerp-case* (“homegrown-players rule”), and the *Diarra-case* (“transfer system”).<sup>3</sup> All four cases have in common that they centered around antitrust limits to the power and behavior of SGBs, here the ISU, the Fédération Internationale de Football Association (“FIFA”), the UEFA, and national European football SGBs. And in all four cases, the ECJ ruled that the conduct of the SGB either violated the competition laws of the European Union or had the potential to do so (and referred back to national courts for final decisions).

In a nutshell, the four cases can be divided into two categories:<sup>4</sup> while *ISU* and *ESL* deal with monopoly privileges of SGBs against third-party competition organizers, *Antwerp* and *Diarra*

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<sup>3</sup> ECJ 2023-12-21, C-124/21 – *ISU*; ECJ 2023-12-21, C-333/21 – *ESL*; ECJ 2023-12-21, ECLI:EU:C:2023:1010 – *Royal Antwerp*; ECJ 2024-10-04, ECLI:EU:C:2024:824 – *Diarra*.

<sup>4</sup> Note that this is an economist’s comment from an economics perspective, which takes some liberalization to simplify the legal aspects and rephrase them in an economic context. For legal analyses see, inter alia, G. Monti, EU Competition Law after the Grand Chamber’s December 2023 Sports Trilogy: European Super League, International Skating Union and Royal Antwerp FC, *Revista de Derecho Comunitario Europeo* 77(1), 2023, 11-43; S. Weatherill, The Impact of the Rulings of 21 December 2023 on the Structure of EU Sports Law, *The International Sports Law Journal* 23(3), 2024, 409–415; J. L. Dupont, Sport Governance and EU Law: The Times They Are (Finally !) A-Changin’, *Sports Law, Policy & Diplomacy Journal* 2(1), 2024, 1-17; A. Villanueva, Accounting for the Specificities of Sport in EU Law: Old and new Directions in the 21 December 2023 Judgments, *The International Sports Law Journal* 23(3), 2024, 422-430.; L. Kunag & Z. Zhao, Antitrust Restriction on Football Governance: the Case of European Super League, *European Competition Journal* 21(1), 2025, 1-24; I. Bantekas & P. J. Mercado Jaén, Addressing the Unfettered Authority of Sport Governing Bodies through EU Competition Law: The Effect of International Skating Union and European Super League, *Cambridge Yearbook of European Legal Studies* 26(1), 2024, 48-62; S. Van den Bogaert & B. Van Rompuy, The New Testament for Sports and EU Competition Law in European Super League, ISU, and Royal Antwerp, *Common Market Law Review* 62(2), 2025, 577-622; F. Marty, Vers une approche générale des obligations concurrentielles des contrôleurs d'accès. Quels enseignements tirer de l'arrêt International Skating Union? *Revue Lamy de la Concurrence* 2025, halshs-04963855.

focus on the (anti-)competitive effects of sport-organizing rules implemented and enforced by SGBs.

## II.1 Monopoly Privilege versus Third-party Competition Organizers

Sports industries are special in the regard that they require some market-internal governance to organize championships and leagues – and single top competitions provide net benefits to consumers and fans. However, the resulting monopoly-like structure – one SGB organizing one premier championship in a given geographic area – inherently generates market power, which can be anticompetitively abused horizontally, *i.e.*, against rival competitions and organizations. The ESL wanted to establish a premier-level European club football competition as a direct competitor to UEFA's Champions League. In its contemporary statutes, UEFA (a private organization incorporated under Swiss law) self-privileged by (i) granting itself exclusive rights to sanction and authorise premier-level football competitions in Europe, (ii) employing this self-awarded right to exclusively allow its own competitions and deter third-party competitions, and (iii) sanctioning with penalties all organisers and participants of non-authorized competitions (thus, exclusively tying all participants to the UEFA-ecosystem).<sup>5</sup> Moreover, UEFA awards itself the exclusive right to market all European football competitions, thus, establishing a relevant commercial interest and a dual role conflict of interest. Similarly, ISU sanctioned participants of competitions organized by third parties outside the ISU-governed ecosystem.

The combination of the self-awarded monopoly privilege of organizing European football competitions with the self-awarded commercial role of marketing these competitions (thus, collecting the considerable revenues) generates a strong incentive for UEFA to foreclose the market for football competitions against third parties and self-prefer its own, highly profitable competitions. Unsurprisingly, UEFA denied the ESL-proposal within no time after its announcement and with no more reasoning than a thin press release.<sup>6</sup>

By contrast, the ECJ emphasized the severely anticompetitive character of self-granting such privileges. As the objective of mandatory prior authorization requirements for third-party competition organizers is to restrict competition in nature, they cannot automatically be justified

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<sup>5</sup> UEFA Statutes, Art. 49-51, [UEFA Statutes \(February 2018 edition\)](#). On the post-judgment updated statutes see section III.1.

<sup>6</sup> See for more details O. Budzinski, (Sports) Economics Upside Down? – A Comment on the Advocate General Opinion in European Super League versus UEFA/FIFA, *Concurrences* 20(1), 2023, 8-16.

by the special characteristics of sports and the important role of the market-internal regulator. Instead, the ECJ ruled that prior authorization requires transparent, precise, objective, and non-discriminatory rules and procedures. Otherwise, they constitute an abuse of market power by object. Furthermore, any sanctioning of participants of third-party competitions fundamentally represents an abuse of market power *by object*, which represents the severest case of anticompetitive conduct in this context. For it to be exceptionally allowed, it requires proof for (i) allocative and dynamic efficiencies, (ii) consumer benefits, (iii) the unavailability of any less-restrictive alternative, and (iv) preservation of competition in the main markets.<sup>7</sup>

Altogether, the judgment establishes that it is possible that a SGB grants itself rights for prior authorization of third-party competitions. However, the related rules and procedures must follow high standards of neutrality. Any sanctioning of players, clubs, or other participants of third-party competitions will usually be anticompetitive.

## II.2 Anti-competitive Effects of Sport-organizing Rules

The other two cases refer to rules set, implemented, and enforced by UEFA that serve to organize football competitions and thus belong to the necessary role of the SGB. However, these rules can still affect and distort the (horizontal) competition among the market participants or vertically exploit either certain market participants (upstream) or customers (downstream).

The Antwerp-case is about UEFA rules governing the composition of rosters of players registered by a club for certain European competitions. They demand a certain number of so-called homegrown players to be part of the registered players. The goal is to promote investment in young players and new talent. On the one hand, this may harm competition if it leads to rich clubs buying the best young homegrown players – however, not to let them play but to merely fulfill the rosters regulation (and let them sit on the reserve bank or tribune, instead). These players are not available for the next best clubs, for whom they might have been an increase in available talent, so that the competitiveness of these next-best clubs suffer and competitive balance within the championship declines (first theory of harm). On the other hand, the definition of “home-grown” may add distortions: UEFA defines “home-grown” as having

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<sup>7</sup> The conditions for an exemption mirror the conditions for an exemption from the cartel prohibition as laid out in Art. 101 (3) TFEU.

played for clubs *within the same country* in defined youth tournaments.<sup>8</sup> Now, since countries in Europe are of vastly different size, Royal Antwerp argues that clubs from smaller countries – like Belgium – are disadvantaged compared to clubs from bigger countries – like the UK or Germany – due to different sizes of the talent pool that may count towards the regulation. This distorts competition among the clubs in European competitions (second theory of harm).

The Diarra case deals with the transfer rules in European football. During their contract, players can only transfer to another club if (i) all parties involved (releasing club, engaging club, player) agree upon an early termination, usually connected to a transfer fee, and (ii) the so-called transfer window – special weeks during the year where player changes can be registered – is open.<sup>9</sup> By contrast, unilateral terminations of player contracts are regulatory restricted in order to keep the dynamics of rosters during a championship or league season under control. Only in the limited event of a so-called *just* cause, such as outstanding salaries, unilateral termination is possible without sanctions being applicable. Procedurally, the SGB of the releasing club issues a so-called International Transfer Certificate (“ITC”) to the SGB of the engaging club. If the SGB does not issue the ITC, as in the case of Diarra, because releasing club and player disagree about the “just” character of the unilateral termination, the respective player will be prevented from joining another club in the same or another league. While this case obviously has a dimension of labor law (which is outside the scope of this comment)<sup>10</sup>, there may also be anticompetitive effects regarding an exploitation of players’ rents (who are tied to their club beyond ordinary labor law provisions) and by deterrence of non-playing players to switch to another club.

In these two cases, the ECJ emphasizes the difference between a restriction *by object*, which targets a restriction of competition (see II.1), and a restriction *by effect*, which does not primarily intend to restrict competition, but this may come as a side-effect of pursuing another goal. The distinction is important – and far away from being uncontroversial among legal scholars<sup>11</sup> -

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<sup>8</sup> A definition according to nationality would violate European laws of labour movement. See on the famous Bosman-case J. J. Binder & M. Findlay, The Effects of the Bosman Ruling on National and Club Teams in Europe, *Journal of Sports Economics* 13(2), 2012, 107-129.

<sup>9</sup> This follows the the [Regulations-on-the-Status-and-Transfer-of-Players-March-2023-edition.pdf \(fifa.com\)](#) by FIFA.

<sup>10</sup> See, inter alia, L. O’Leary, ISU, Royal Antwerp, European Superleague & Employment Relations in Sport, *The International Sports Law Journal* 23(3), 2024, 431-435; A. Villanueva, Accounting for the Specificities of Sport in EU Law: Old and new Directions in the 21 December 2023 Judgments, *The International Sports Law Journal* 23(3), 2024, 422-430.

<sup>11</sup> See, inter alia, G. Monti, EU Competition Law after the Grand Chamber’s December 2023 Sports Trilogy: European Super League, International Skating Union and Royal Antwerp FC, *Revista de Derecho Comunitario Europeo* 77(1), 2023, 11-43; B. Zelger, Object Restrictions in Sports after the ECJ’s Decisions in ISU and

because restrictions by effect can be evaluated according to the milder Meca-Medina test<sup>12</sup> whereas restrictions by object always fall under the stricter efficiency test (see II.A). According to the Meca-Medina test, once developed by the ECJ in the context of the legality of anticompetitive effects from antidoping rules issued by SGBs, an SGB-intervention is legal if (i) it follows a legitimate objective, (ii) is inherent to this objective, and (iii) its anticompetitive effects are proportionate to the targeted achievements.

The ECJ argues that interventions of sports-organizing nature may be restrictions by object or restrictions by effect, depending on their specific design. In the cases at hand, the court is not convinced that the specific rules in question are the least restrictive way of achieving the legitimate objective. Thus, setting exactly this rule may well represent an abuse of market power.

### **III. Comments from the Perspective of Sports and Competition Economics**

Generally, from a sports as well as from a competition economics perspective, the stance of the ECJ is overall beneficial and pointing towards the right direction. There are some minor issues, though, and the judgements might not go far enough.

#### **III.1 Monopoly Privilege versus Third-party Competition Organizers**

If we accept that – on balance – a single premier-level championship organized by a single SGB per sports discipline and per geographic territory maximizes fan welfare, then the monopoly-like position of the market-internal regulator (the SGB) is a logical consequence.<sup>13</sup> However, like in the case of natural monopolies, economics does not turn a blind eye on the abuse potential as well as on the negative dynamic efficiency effects and usually favors a strict abuse control plus maybe sector regulation. For the case of sports, this translates into regulating the

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Superleague, *Journal of European Competition Law & Practice*, 15(2), 2024, 90-101; A. Villanueva, Accounting for the Specificities of Sport in EU Law: Old and new Directions in the 21 December 2023 Judgments, *The International Sports Law Journal* 23(3), 2024, 422-430; S. Van den Bogaert & B. Van Rompuy, The New Testament for Sports and EU Competition Law in European Super League, ISU, and Royal Antwerp, *Common Market Law Review* 62(2), 2025, 577-622.

<sup>12</sup> ECJ 2006-07-18, ECLI:EU:C:2006:492 – Meca-Medina.

<sup>13</sup> While probably a majority of sports economists would agree to this assessment, it is far from being uncontroversial. See with references O. Budzinski & A. Feddersen, Should Organizing Premier-Level European Football Be a Monopoly? And Who Should Run It? – An Economists' Perspective, in: J. Kornbeck (ed.), *EU Sports Antitrust Law and Governance: The Next Frontier?* Cheltenham: Elgar 2023, 85-101.

regulator. Regarding the choice of competition organizers, the necessary service by the SGB is the selection of the organizer – but there is no need for the SGB to act itself as an organizer. Thus, the ECJ ruling mandating transparent, precise, objective, and non-discriminatory rules and procedures is to be applauded. However, as long as UEFA (or any other SGB) acts in a dual role, realization seems unlikely: whenever the decision is between a third-party organizer and the UEFA itself as an organizer, no neutral procedure and decision can realistically be expected (combination of dual-role incentives with the principal-agent scope; see II.1).

Therefore, possible ways to safeguard a transparent, precise, objective, and non-discriminatory procedure need to go beyond the UEFA promising such a procedure and may consist of

- prior authorization by an independent body of external experts and stakeholders,
- resolution of the dual role by separating regulator from commercial activities (i.e., UEFA only selects organizers among third-parties and does not compete itself in this market stage),
- regular competition for the market, *i.e.*, tender for organizing/marketing specific competitions every x years,
- competition in the market, *i.e.*, parallel premier-level championships, and
- public regulation and public regulatory authorities replacing SGB's, resolving the conflict-of-interest situation.

From an economic perspective, both the first proposal as well as a combination of the second and third proposals can be expected to lead to institutional arrangements under which a true compliance to the judgment can be expected. The fourth proposal is problematic from a sports economics perspective (see above) and the fifth proposal represent a systems change requiring international coordination (at least in European football) and entailing several new problems.

In reaction to the ECJ-judgment, the UEFA has implemented UEFA Authorization Rules, detailing criteria for prior approval assessment.<sup>14</sup> Final decision is made by the UEFA Executive Committee (Art. 8-11). Given the unchanged incentives-and-scope for anticompetitive conduct, little effective change should be expected.

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<sup>14</sup> UEFA Authorisation Rules Governing International Club Competitions, [UEFA Authorisation Rules governing International Club Competitions - Edition 2024 • Viewer • UEFA-Dokumente](#).

### III.2 Anti-competitive Effects of Sport-organizing Rules

While the self-granted monopoly privilege and the deterrence of third-party organizers represent rather blatant anticompetitive conduct, the (sport-) economic assessment of the organizing rules in *Antwerp* and *Diarra* represent much more differentiated cases. Both *Antwerp* and *Diarra* involve potentially legitimate objectives for a restrictive intervention of the competent SGB: the promotion of youth players and homegrown talent as well as the safeguarding of relatively stable rosters of clubs within a competition, respectively. From an economic perspective, however, SGBs simply claiming the pursuit of these objectives is not sufficient. Instead, there should be some supportive empirical evidence:

- Does UEFA consistently and more than negligibly promote youth players and homegrown talent, for instance also through the allocation of revenues and other instruments?
- How does the existence of a winter transfer window and the overlap of transfer windows with season start dates align with the objective of running competitions with stable rosters?

An evidence-based analysis of these and similar questions should be required in order to accept a potentially legitimate objective. The ECJ judgments, especially in *ESL*, contain indication that it is necessary to go beyond pure claims of (public/stakeholder interest) objectives. However, from an economic perspective, these requirements should become more prominent.

If the legitimacy of the objectives can be confirmed for *Antwerp* and *Diarra*, then the question of inherence arises. From a competition economics perspective, this has two dimensions:

- Is the rule suitable to achieve the legitimate objective?
- Is there any alternative rule with milder restrictions of competition which is also suitable to achieve the legitimate objective?

For *Antwerp*, it already appears doubtful how the possible registration of home-grown players without letting them actually play really promotes talent development (first dimension). From an economic perspective, both *Antwerp* and *Diarra* fail the second dimension. In *Antwerp*, the definition of “home-grown” as having played in youth classes in the same country seems unnecessarily distortive. Instead of using national borders, which gives a significant advantage to clubs from bigger countries (who may already enjoy a financial advantage due to the better

marketability of their domestic league), other criteria for homegrown may better control for different sizes and acknowledge the (historical and cultural) arbitrariness of political borders: alternatively, home-grown could be understood to refer to (i) a defined geographical area around the club's home, (ii) a defined population agglomeration, or (iii) the club itself. For Royal Antwerp (Flemish Belgium), players with a youth record in Rotterdam (The Netherlands) are probably geographically and culturally more "home-grown" than players from Wallonia in Belgium (and certainly more than a player from Bavaria to a club in Northern Germany). Thus, it would be possible to design a rule with less distortive effects on competition that provides a similar or even superior achievement of the legitimate objective. From an economic point of view, this implies that the current "home-grown players"-rule should not pass the test.

Along similar lines, regarding *Diarra*, it is well possible to imagine less restrictive/distortive transfer systems which safeguard the integrity of a championship by keeping rosters sufficiently stable.<sup>15</sup>

Altogether, from an economic perspective, a combination of sound economics-theoretical reasoning (about causes-consequences-chains and transmission mechanisms from intervention to effect on the legitimate objective as well as on competition) with empirical evidence and analysis should be required as a precondition to grant an exemption for distortive/restrictive interventions by SGBs. In particular, there should be analysis whether regulatory options exist that achieve similar goals with less restrictive and distortive effects. While the recent ECJ judgments can be interpreted to go important steps in this direction, especially regarding an increasing role of empirical evidence, they do not go far enough. Mandating a comparative analysis of alternative regulatory options is an element of the efficiency test à la cartel exemption (Art. 101 (3) TFEU; see II.1). It could easily have been extended into a modified Meca-Medina test.

In general, we need to consider the political economy of market-internal regulators like SGBs, a field that is under-researched both in sports and in competition economics. Understanding the incentives of their officials as well as the vested interest influencing their working raises doubt as to whether we can expect real compliance with court judgements without external checks

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<sup>15</sup> See, inter alia, S. Hoey, T. Peeters & F. Principe, The Transfer System in European Football: A Pro-competitive No-poaching Agreement? *International Journal of Industrial Organization* 75(3), 2021, 102695R; R. Houben, O. Budzinski & M. Wathelet, The Transfer System in Football: Diarra and What's Next, *Football Legal*, June 2024, [www.football-legal.com](http://www.football-legal.com); R. Houben, The Transfer System in Football: A First Case Study of the CJEU's Novel Competition Law Framework (for Sports), 2024, <http://dx.doi.org/10.2139/ssrn.4838909>; S. Szymanski, The End of the Transfer System, *European Competition and Regulatory Law Review* 8(3), 2024, 156-170.

and balances. The way that UEFA has dealt with the judgements so far, unfortunately, supports this concern. Furthermore, considerable incentives to enter into (tacit or explicit) collusive arrangements with the biggest revenue-generating clubs to protect their common interests against outsiders, newcomers, and mavericks further darkens the picture.<sup>16</sup>

#### **IV. Concluding Remarks**

In summary, the four judgements by the ECJ provide an important and relevant development in the application of competition rules to sports markets – and to the conduct of SGBs as powerful market-internal regulators in particular. They represent defeats for UEFA, FIFA, ISU, and co. in the sense that they limit SGBs' scope to abuse their power in anticompetitive ways and put the sports-specific excuses into perspective. Furthermore, the court made clear his willingness to step in and intervene, which is a blow for SGBs who often see themselves acting outside the scope of antitrust laws and regulations. This may also be a wake-up call for competition authorities in Europe and elsewhere who have – more often than not – acted overly cautious when it comes to anticompetitive conduct by SGBs.<sup>17</sup>

However, from an economic perspective, limiting SGBs scope for anticompetitive conduct – which is what the court did – is “only” one of two important steps in the right direction. Additionally, the incentives that SGBs experience to restrict and distort competition need to be addressed as well, namely their dual role of being regulator and commercial player at the same time. This has not been done so far, which is likely to lead to unintended outcomes: SGBs will probably be creative in restoring their anticompetitive arrangements and conduct with new instruments and in new shapes.<sup>18</sup> Only if the incentives for anticompetitive conduct are eroded

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<sup>16</sup> For a related analysis of Formula One motor racing see O. Budzinski & A. Müller, *Is the Revenue Allocation Scheme of Formula One Motor Racing a Case for European Competition Policy?* *Contemporary Economic Policy* 36(1), 2018, 215-233.

<sup>17</sup> For instance, economists have long been criticizing the exceptions for the collective sale of broadcasting rights including the remedies advocated by the competition authorities. See, inter alia, D. Forrest, R. Simmons & S. Szymanski, *Broadcasting, Attendance and the Inefficiency of Cartels*, *Review of Industrial Organization* 24(2), 2004, 243-265; T. Peeters, *Broadcasting Rights and Competitive Balance in European Soccer*, *International Journal of Sport Finance* 6(1), 2011, 23-39; T. Peeters, *Media Revenue Sharing as a Coordination Device in Sports Leagues*, *International Journal of Industrial Organization* 30(2), 2012, 153–163; O. Budzinski, S. Gaenssle & P. Kunz-Kaltenhäuser, P., *How Does Online Streaming Affect Antitrust Remedies to Centralized Marketing? The Case of European Football Broadcasting Rights*, *International Journal of Sport Finance* 14(3), 2019, 147-157.

<sup>18</sup> The one case where regulatory and commercial activities were separated as a remedy enforced by the European Commission – the F1-FIA-case – exactly shows this pattern: a new institutional arrangement based upon a 100-year exclusive contract emerged that restored the anticompetitive character. For illustration, contrast O. Budzinski, *The Institutional Framework for Doing Sports Business: Principles of EU Competition Policy in Sports Markets*, *International Journal of Sport Management and Marketing* 11(1-2), 2012, 44-72 with O.

– especially, the dual role-style conflict of interest – a sustainable and compliant change in behavior can be expected. This requires permanent checks and balances to safeguard an ongoing impact of the beneficial rulings of the judgements.

Unsurprisingly, there is first indication that prominent SGBs intend to continue their business as usual with only mild corrections and modifications. The political economy of market-internal regulators may imply that it is more attractive for SGBs to find and establish collusive arrangements with the mavericks to accommodate them within their ecosystem without system-changing reforms (which would reshuffle established power structures as well). If this strategy works out, the judgements may turn out to be less of a defeat for the SGBs than they seemed to be. Whether this is beneficial for the entertainment quality of commercial sports may be asked with skepticism.

## References

- Bantekas, I. & Mercado Jaén, P. J. (2024), Addressing the Unfettered Authority of Sport Governing Bodies through EU Competition Law: The Effect of International Skating Union and European Super League, *Cambridge Yearbook of European Legal Studies* 26(1), 48-62.
- Binder, J. J. & Findlay, M. (2012), The Effects of the Bosman Ruling on National and Club Teams in Europe, *Journal of Sports Economics* 13(2), 107-129.
- Budzinski, O. (2012), The Institutional Framework for Doing Sports Business: Principles of EU Competition Policy in Sports Markets, *International Journal of Sport Management and Marketing* 11(1-2), 44-72.
- Budzinski, O. (2023), (Sports) Economics Upside Down? – A Comment on the Advocate General Opinion in European Super League versus UEFA/FIFA, *Concurrences* 20(1), 8-16.
- Budzinski, O. (2024), Financial Regulation as an Anticompetitive Institution, in: M. Breuer & D. Forrest (eds.), *The Palgrave Handbook on the Economics of Manipulation in Professional Sports*, 2<sup>nd</sup> Edition, Basingstoke: Palgrave, 135-156.
- Budzinski, O. & Feddersen, A. (2023), Should Organizing Premier-Level European Football Be a Monopoly? And Who Should Run It? – An Economists' Perspective, in: J. Kornbeck

---

Budzinski & A. Müller, Is the Revenue Allocation Scheme of Formula One Motor Racing a Case for European Competition Policy? *Contemporary Economic Policy* 36(1), 2018, 215-233.

- (ed.), *EU Sports Antitrust Law and Governance: The Next Frontier?* Cheltenham: Elgar, 85-101.
- Budzinski, O., Gaenssle, S. & Kunz-Kaltenhäuser, P. (2019), How Does Online Streaming Affect Antitrust Remedies to Centralized Marketing? The Case of European Football Broadcasting Rights, *International Journal of Sport Finance* 14(3), 147-157.
- Budzinski, O. & Müller, A. (2018), Is the Revenue Allocation Scheme of Formula One Motor Racing a Case for European Competition Policy? *Contemporary Economic Policy* 36(1), 215-233.
- Budzinski, O. & Szymanski, S. (2015), Are Restrictions of Competition by Sports Associations Horizontal or Vertical in Nature? *Journal of Competition Law & Economics* 11(2), 409-429.
- Dupont, J. L. (2024), Sport Governance and EU Law: The Times They Are (Finally !) A-Changin', *Sports Law, Policy & Diplomacy Journal* 2(1), 1-17.
- Forrest, D., Simmons, R. & Szymanski, S. (2004), Broadcasting, Attendance and the Inefficiency of Cartels. *Review of Industrial Organization* 24(2), 243–265.
- Gaenssle, S. & Budzinski, O. (2024), The Economics of Influencers and Social Media Stardom, in: U. Rohn, M. B. von Rimscha & T. Raats (eds.), *De Gruyter Handbook of Media Economics*, Berlin: De Gruyter, 349-368.
- Hoey, S., Peeters, T. & Principe, F. (2021), The Transfer System in European Football: A Pro-competitive No-poaching Agreement? *International Journal of Industrial Organization* 75(3), 102695.
- Houben, R. (2024), The Transfer System in Football: A First Case Study of the CJEU's Novel Competition Law Framework (for Sports), <http://dx.doi.org/10.2139/ssrn.4838909>.
- Houben, R., Budzinski, O. & Wathelet, M. (2024), The Transfer System in Football: Diarra and What's Next, *Football Legal*, June 2024, [www.football-legal.com](http://www.football-legal.com).
- Kunag, L. & Zhao, Z. (2025), Antitrust Restriction on Football Governance: the Case of European Super League, *European Competition Journal* 21(1), 1-24.
- Marty, F. (2025), Vers une approche générale des obligations concurrentielles des contrôleurs d'accès. Quels enseignements tirer de l'arrêt International Skating Union? *Revue Lamy de la Concurrence* 2025, halshs-04963855.

- Monti, G. (2023), EU Competition Law after the Grand Chamber's December 2023 Sports Trilogy: European Super League, International Skating Union and Royal Antwerp FC, *Revista de Derecho Comunitario Europeo* 77(1), 11-43.
- O'Leary, L. (2024), ISU, Royal Antwerp, European Superleague & Employment Relations in Sport, *The International Sports Law Journal* 23(3), 431-435.
- Peeters, T. (2011), Broadcasting Rights and Competitive Balance in European Soccer. *International Journal of Sport Finance* 6(1), 23-39.
- Peeters, T. (2012), Media Revenue Sharing as a Coordination Device in Sports Leagues. *International Journal of Industrial Organization* 30(2), 153-163.
- Szymanski, S. (2024), The End of the Transfer System, *European Competition and Regulatory Law Review* 8(3), 156-170.
- Van den Bogaert, S. & Van Rompuy, B. (2025), The New Testament for Sports and EU Competition Law in European Super League, ISU, and Royal Antwerp, *Common Market Law Review* 62(2), 577-622.
- Villanueva, A. (2024), Accounting for the Specificities of Sport in EU Law: Old and new Directions in the 21 December 2023 Judgments, *The International Sports Law Journal* 23(3), 422-430.
- Weatherill, S. (2024), The Impact of the Rulings of 21 December 2023 on the Structure of EU Sports Law, *The International Sports Law Journal* 23(3), 409-415.
- Zelger, B. (2024), Object Restrictions in Sports after the ECJ's Decisions in ISU and Superleague, *Journal of European Competition Law & Practice*, 15(2), 90-101.

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