FINANCIAL DOPING: A THREAT TO FAIR COMPETITION IN FOOTBAL?

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Abstract

Success and money have been inter-linked with one another in football because of the rising level of talent and competitiveness in the football leagues of the world. The question of whether money guarantees success or whether success guarantees money is one that football club owners believe to be the former. These has led to the 'injection' of wealth into clubs by wealthy owners to buy-out the talent and dominate the league both on and off the field. Manchester City Football club and Paris Saint- Germain Football club are testament to this statement. The UEFA thus, recognized the importance of financial regulation of football clubs in order to maintain the competition in the leagues and implemented the 'Financial Fair Play regulations'(FFPR). However, financial doping or spending by third-party investors has nullified the purpose of the UEFA's FFPR by circumventing the "break-even" norm of the FFPR. Therefore, in spite of the club incurring huge losses, their debts are being covered by third-party investors and they appear to be financially stable. Ultimately, the clubs gain monopoly power in the league and the competitiveness and excitability of the game is all together lost. Through this paper, the legality of UEFA's FFPR's will be analyzed in accordance to the principles of competition law. Furthermore, the affectivity of the FFPR will be analyzed in light of the growing problem of financial doping by various football clubs like Manchester City, Chelsea FC and Paris Saint- Germain. The aim of the paper is to highlight the in effectively the FFPRs and to arrive at possible solutions to combat financial doping.

Keywords – doping, competition, break-even, financial regulation, legality.

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1. Introduction

Competition in professional sports is what makes it so entertaining and gripping, whether as a participant or as a spectator. A sport by its very nature is competitive[2] and only a few will succeed while others will necessarily fail. Success in sport includes a multitude of benefits such as fame, good reputation, financial reward, and glory. The desire for such a reward is what makes sport so competitive. However, the desire to succeed may drive participants to cheat or find unfair means to gain success. The will to cheat emanates from the very nature of human beings and according to Thomas Hobbes, man is naturally cruel and selfish[3]. Hence, this greed for success has to be controlled or regulated in some way or the other to ensure fair competition in sport, where each participant is given an equal opportunity to succeed. A fair competition in sport would be synonymous with the term 'equity' and not 'equality'. Equity would ensure that every person is given all the resources to over-come certain individual barriers or limitations to reach a certain thresh-hold or level playing field[4]. Equality on the other hand would ignore the individual limitations or barriers and treat everyone the same as if they all were identical. Hence, to ensure a fair competition in sport, a level playing field can be achieved through the principles of equity. In order to do so, not only the rules must be fair but the organizational structure governing the sport must also be fair.Fairness in sport does not refer to the moral behaviour of the participants but rather to the structurally given conditions that govern the sport[5]. This paper will cover the issues dealt with maintaining fair competition in football by the governing bodies.

Football (otherwise known as soccer in the U.S) is one of the most viewed and played sport in the world, largely due to the competitiveness of the sport. In almost every nook and corner of the world, there is a football match either being played, televised or spoken about on the radio. The unpredictability and competitiveness of the sport is one of the main reasons as to why people are drawn towards it. The level of competition in the English Premier League (Highest level of professional football league in England) is one of the main reasons it is the

[2]ADAM LEWIS & JONATHAN TAYLOR, SPORT: LAW AND PRACTICE 284 (3rd ed., Bloomsbury professional 2013).
[3]Dan Niedringhaus, *Human nature*, HAUSWORLD, (July 26, 2018) https://hausworld.wordpress.com/2012/09/11/human-nature/
[4]Angus Maguire, *Equality, Equity and the role of fairness in inclusive sport*, ISD (July 26, 2018) http://inclusivesportdesign.com/tutorials/equality-equity-and-the-role-of-fairness-in-inclusive-sport/
[5]Barsch, Katharina. "The Path of European Football. A Level Playing Field for Only 90 Minutes." *Historical Social Research / HistorischeSozialforschung* 40, no. 4 (154) (2015): 221-54. http://www.jstor.org/stable/24583255.

most viewed league in the world and the league has over taken the so-called "big five"[6] leagues of Europe in terms of revenue, broadcasting rights and sponsorship deals.[7] This therefore results in a great amount of money associated with the sport. Success in football would involve a great deal of financial reward to the players and the football club as well as the leagues. The desire for such economic benefits is why financial regulation of football clubs is necessary. The UEFA's 'Financial Fair Play Regulations' are one such form of financial regulation of football clubs wishing to play in Europe. It directly seeks to promote fair competition by ensuring that clubs do not spend beyond their means (break-even requirement). These regulations have however been cleverly avoided by football clubs and is one of the main reasons why player transfer fees are sky-rocketing year by year. The reason for this is that owners treat their football clubs very much alike to a firm. Instead of being profit-maxi misers, they are win-maximisers[8]. On-field success would therefore replicate into financial success. As success generates a greater income, football clubs are taking greater risks by spending beyond their income. As the risks involved increase, the price of failure also increases and may lead to the bankruptcy of the club. To avoid such a situation and ensure success, both on the field and financially, football clubs with rich owners like in the cases of Manchester City (owned by Sheikh Mansour Bin Zayed Al Nahyan) and Paris Saint-Germain (owned by Nasser bin Ghanim Al-Khelaïfi) tend to buy-out the competition by spending large amounts on talented players. In the case of Manchester City, ever since Sheikh Mansour took ownership of the club in 2008, the club which was an average performer in the league have now become serious contenders of the English Premier league and have now won the league thrice. Furthermore, they have sealed their position in the coveted UEFA Champions league as well. In the case of Paris Saint-Germain, the lack of competition is evident by the fact that they have won almost everything in the French league except the coveted UEFA champions league. This is all credit to the massive spending by the club on player transfers. Essentially, the smaller clubs (financially) can't compete with the talent of the bigger clubs. There is a clear disparity in the league and it reduces the viewership of the sport due to the lack of competition. This is what has been regarded as 'financial doping'[9] and is a major threat to the UEFA's 'Financial Fair Play regulations' (FFPR).

[6]The English Premier League, The Spanish league (La Liga), The German Bundesliga, The Italian league (Serie A), The French League (Ligue 1).
[7]Statista, *Premier league: Statistics and Facts*, THE STATISTICS PORTAL, (July 26, 2018), https://www.statista.com/topics/1773/premier-league/
[8]*Supra* note 4.
[9]*Supra* note 1.

2. Whether the FFPR's are in accordance to the principles of competition law?

The UEFA's FFPR's were introduced as a regulatory measure to ensure the self-sustainability of a football club. A football club functions very much like a company and is treated by its owners more as a business entity rather than a sporting body. Just as a company aims to earn maximum profits through its business activities, a football club uses its players as its raw materials to win games and convert on-field success into financial success. However, as every single club is competing with one another for the same goal, a club may tend to spend more than what they earn and buy talented players to gain a competitive advantage on the field. The clubs are able to fund this excess expenditure to a certain extent by depending on the following[10]:

a. Equity investment by shareholders in the club is used to meet the business needs
b. Voluntary donations by various interested parties
c. Amounts generated through trading like ticket sale revenue, sponsorship revenue, merchandise revenue and sale of players
d. Loans from financial institutions
e. Wealthy club owners may also inject money into the club to finance the trading expenditure of the club (a concept dubbed as "financial doping"[11]).

The necessity of regulation arises due to the fact that the clubs are unable to discharge their liabilities and go into insolvency. Various top clubs like Parma, Leeds United, Portsmouth, Malaga FC have succumbed to the risk of spending beyond their means in the hopes of future success but have failed and stumbled down the league into bankruptcy.[12]In order to prevent the frequent insolvencies of football clubs, the UEFA's FFPR's were introduced to ensure the long-term financial stability of the club. This is maintained through a two-fold system of club licensing and club monitoring.[13] The former serves as a system to regulate those clubs that seek to take part in Europe (UEFA Champions league & Europa league). After gaining the license, the latter system under the FFPR's aims to ensure the long-term stability of the football club by mandating for a club to "break-even"[14] and direct investments in the club

[10]*Supra* note 1.
[11]Jack Pitt Brooke, *Arsene Wenger hits out against FFP as Arsenal managers patience runs thin*, INDEPENDENT, https://www.independent.co.uk/sport/football/premier-league/arsenal-latest-arsene-wenger-scrap-ffp-patience-runs-thin-a7935291.html (last visited on August 31st, 2018).
[12]Simon Lazarus, *Top 15 clubs that went bankrupt*, THESPORTSTER, https://www.thesportster.com/soccer/top-15-clubs-that-went-bankrupt/ (last visited on September 1st, 2018).
[13]*Supra* note 1.
[14]Daniel Geey, *The UEFA Financial Fair play rules: a difficult balancing act*, ESLJ., June 2011, at 9(1).

towards youth development, stadium infrastructure and training facilities.Such investments would thus generate greater revenue to balance against the expenditure of the club and facilitate a club to "break-even". The "break-even" requirement of the FFPR[15]is one of the key norms that directly restricts a football club from spending beyond their means. It came into force in the year 2013-14 and requires a club to not have any outstanding payments and balance its books, two seasons prior to the year the club wishes to enter the European competition. There are however certain concessions that have been given to football clubs in terms of balancing its' accounts. This has been referred to as the "acceptable deviation" and allows a football club to incur a certain amount of loss (less than €5m), provided that it can cover such losses by the profits earned in the prior two seasons or through equity investments.[16]There is however a limit on the amount of losses that can be covered to "break even". It was initially €45m, but later reduced to €30m in the 2015-2016 season.[17] It is still subject to reductions in the coming seasons. It is important to note that the "acceptable deviation" of the FFPR's does not regulate the situation when such losses are covered by the owners themselves (financial doping) in order to "break even". Therefore, the FFPR's serve as a soft norm in monitoring a football club as it allows a club to ease into the system and not have to actually "break even" until the 2018-2019 season. In this manner, the UEFA aims to ensure the financial stability of the football clubs. The rationale of the UEFA behind the implementation of such a norm is that this would not only preserve the stability of a club but also serve as an indirect mechanism to maintain the fair competition in the league. In order to "break even", a club would not be able to invest huge amounts on transfer of players and therefore, a fair competition in the league would be maintained.

Ever since the controversial, *Meca-Medina* judgment[18], the FFPR's have come under the radar of the EU and UK competition law. The judgment brought even a "sporting rule", irrespective of it having an economic effect, under the scrutiny of competition law principles. The EU and UK competition law principles are more or less identical and can be understood with reference to Article 101(1), 101(3) and 102 of the Treaty on the Functioning of the European Union (Hereinafter referred to as TFEU).

[15]Article 57 of the FFPRs.
[16]*Supra* note 12.
[17]Article 61(2) of the FFPRs.
[18]David Meca-Medina and Igor Majcen v Commission of the European Communities, ECLI:EU:C:2006:492

Article 101(1) of the TFEU prohibits agreements, decisions and concerted practices that restrict competition in a substantial part of the EU.[19] In particular, Article 101 of the TFEU prohibits[20]:

a) Those agreements that fix prices
b) Those agreements that limit or control production, markets or development
c) Those agreements that apply different terms to equivalent trading parties

Article 101(1) of the TFEU is qualified by the terms of Article 101(3) of the TFEU. They serve as reasonable exceptions from the prohibitions of Article 101(1) of the TFEU.The four main exceptions are:

a) Restriction improves production, distribution, technical or economic progress
b) Restriction ensures that the consumers are given a fair share of the benefit
c) Restriction is proportionate to the objectives of competition law
d) Restriction does not grant permission to eliminate competition

Article 102 is a continuation of the principles of competition law and deals with the abuse of position by the undertaking that has gained a monopoly in the market.

On a prima facie analysis of the FFPR's, it is evident that the "break even" requirement stimulates Article 101(1) of the TFEU as it restricts the freedom of the owners of football clubs from spending as they please even if such spending is directed at the growth of the club. However, the UEFA has disputed this ground on the basis of the exceptions under Article 101(3) dealing with proportionality. The UEFA's stand is that the objectives of the FFPR are in consonance with the principles of competition law and prevent the bigger clubs from buying success (spending on top players) and gaining a dominant position in the league.

In order to gain a proper understanding as to whether the FFPR's are in consonance with competition law or not, the FFPR's have to be analysed with regard to the restrictions under Article 101(3) dealing with proportionality. In the first instance, the "break even" requirement of the FFPR's do not actually 'hit the nail' as such in tackling the gap between the bigger clubs and the smaller clubs. Instead, they try to achieve a competitive balance by restricting the investments made by the owner of a football club. Furthermore, they lead to a

[19]*Basic competition law principles – overview*, LexisNexus, https://www.lexisnexis.com/uk/lexispsl/commercial/document/391297/5HJF-G741-F186-61YV-00000-00/Basic_competition_law_principles_overview# (last visited on September 1st, 2018).
[20]*Id.*

restriction in the freedom of movement of players, restriction on the free movement of capital, deflatory effect on the players' salaries as well as their agents, and reduction in squad sizes.[21]Hence, the main objective of the FFPR to maintain the self-sustainability and financial stability of a football club may not always be proportionate to the principles of competition law. This would thus stimulate Article 101(1) of the TFEU and deem the FFPR as anti-competitive. The main reason for this is because the "break even" requirement does not tackle the competitive imbalances that already exist among the leagues. Instead, the FFPR focuses on limiting the expenditure of the football clubs in accordance to their income. This system fails due to the competitive imbalances that already exist inthe various leagues of Europe because of the difference in revenues earned from broadcasting rights and sponsorship deals. This results in some leagues being richer than the others. For example, the French league is not as rich as the English Premier league, which is one of the richest leagues in the world. Similarly, the Scottish Premier league is financially weaker than the Premier League.[22] This natural imbalance is further bolstered by the "break even" requirement by enabling the richer, bigger clubs to retain their dominance because the smaller clubs cannot compete financially with the bigger clubs and at the same time "break even". Therefore, a team from the Scottish Premier league would find it hard to compete with a team from the Premier league at the European level. Such clubs from smaller countries would always be at disadvantage compared to the bigger clubs. This disparity is not only witnessed between various leagues but also among the same league as well. The clubs that have wealthy owners, retain their dominance because the smaller clubs cannot simultaneously "break even" and spend exorbitantly on talented players to match the bigger clubs. Even though the "break even" requirement may have been made to indirectly ensure fair competition among football clubs, it restricts the club from spending beyond their means. This restricts the smaller clubs from even attempting to grow and reach a similar grounding as the bigger clubs. In the case of the Premier League, majority of the wealth is held by a small number of clubs. This is why certain clubs like Manchester United, Manchester City, Arsenal, Chelsea and Liverpool have dominated the league. Therefore, the objective of financial stability does not necessarily align itself with the principles of competition law.

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[21]Ed Thompson, *Legal challenge to UEFA FFP rules by 'Bosman lawyer'*, DISQUS, (July 5, 2018) http://www.financialfairplay.co.uk/latest-news/legal-challenge-to-uefa-ffp-rules-by-bosman-lawyer (last visited on September 1st, 2018).

[22]Jean-Louis Dupont, *Football's Anti-competitive streak*, WALL STREET JOURNAL, (July 6, 2018) https://www.wsj.com/articles/SB10001424127887324077704578357992271428024 (last visited on September 1st, 2018).

The above instances negate the stand of the UEFA that the "break even" requirement ensures the integrity of competitions; promotes good governance; safeguards financial stability of clubs and leagues; and encourages longer term infrastructure investment.[23]A smaller club would not be inclined to invest in long term infrastructure unless they are provided with an opportunity to compete at the same level field as the bigger clubs. The "break even" norms however restrict a smaller club from overspending to compete with the bigger clubs and hence the gap between the bigger clubs and smaller clubs is further increased. This thus falls under the ambit of Article 101(1) of the TFEU. Therefore, the FFPR's are in itself illegal and against the principles of competition law. In spite of this, the FFPR's are still in force and have been supported by the UEFA. Hence, there is a need to tighten the norms to make them competitive in nature.

3. **<u>What are the means by which financial doping can be stopped to ensure a level playing field both on and off the field?</u>**

The UEFA's FFPR's have proved to be ineffective and anti-competitive in nature because of its failure to regulate third-party ownership of a player as well as the injection of wealth by wealthy owners into the club to compensate it's losses and meet the "break even" requirement of the FFPR's.In reality though, the clubs only appear to "break even" as their losses are not covered by their own income but by the injection of wealth by their owners or sponsors. According to the "break even" requirement of the FFPR's, a certain "acceptable deviation" is permitted for every club until the 2018-2019 season. Therefore, a club need not actually have to balance its books but may incur a loss that does not exceed €5m. Furthermore, this loss must either be compensated for by the profits made in the two seasons prior to the year of monitoring or through equity investments. Even though there is a cap set on the maximum amount of loss that can be compensated for[24], clubs are still spending huge amounts on player transfers to strengthen their squads. The main reason for the exorbitant spending by several clubs like Manchester City and Paris Saint-Germain is because such clubs are appearing to "break even" where their actual losses are covered by the money injected by their wealthy owners. The clubs continue to incur expenditures as much as they want therein violating the "break even" requirement of the FFPR's. Therefore, in reality, the clubs are not attaining self-sustainability but depending on their 'fairy-god mother' like

[23]Daniel Geey, *The UEFA Financial Fair play rules: a difficult balancing act*, ESLJ., June 2011, at 9(1).

[24]Article 61(2) of the FFPR's

owners to fund their expenses and cover their losses to satisfy the "break even" requirement. This effectively increases the chances of success for the club and distorts fair competition.It has been dubbed as "financial doping"[25] and is a major reason for the anti-competitive nature of the FFPR's.

The concept of financial doping and its' effect on the fair competition in the league can be understood with respect to the business model of Manchester City FC. Manchester City FC under the ownership of Sheikh Mansour Bin Zayed Al Nahyen[26](billionaire businessman, deputy prime minister of the United Arab Emirates and member of the Abu Dhabi royal family)has epitomized the concept of "financial doping" to achieve success on and off the field. The club has risen out of the shadows and has won the English Premier League thrice in a span of 10 years, since Sheikh Mansour bought the club.[27]It is the perfect example of how the club has used wealth to maximize its chances of success, which in turn has resulted in greater revenues for the club. The main aim of the business model of Manchester City FC, like any other company is to maximize their revenues in terms of their expenditure. The main sources of revenue for a football club are from the sales of match tickets, broadcasting revenue and sponsorship revenue.[28] Among these three, TV broadcasting revenue amounts for the main source of income (around 60.8% of the income)[29] for the club and adds to the financial success of the club. Manchester City FC have shaped their model in such a manner to be able to finance their expenditure on talented players through the revenue earned. They have capitalized on not only having a wealthy owner but have followed a system to maximize their sponsorship and TV broadcasting revenues. Sheikh Mansour has pumped in money into the club in order to finance the purchase of talented players and essentially has formed a formidable team capable of taking on any club in Europe. Apart from this, the Sheikh through the City Football Group (CFG), has started the process of creating sister-clubs all over the world. One such example is the association between New York City FC and Manchester City FC. Similarly, such sister clubs have been formed in various leagues of the world. Through

[25]Jack Pitt Brooke, *Arsene Wenger hits out against FFP as Arsenal managers patience runs thin*, INDEPENDENT, https://www.independent.co.uk/sport/football/premier-league/arsenal-latest-arsene-wenger-scrap-ffp-patience-runs-thin-a7935291.html (last visited on September 2nd, 2018).
[26]*Supra* note 1.
[27] Martin Blackburn, A decade since Man City's Sheikh up, we talk to key figures in the Etihad revolution, The Sun, https://www.thesun.co.uk/sport/football/7149571/man-city-ten-years-on-sheikh-mansour-revolution/ (last visited on September 2nd, 2018).
[28]Manu Jagan, "*English Premier League: A viable business or a bubble waiting to burst?*", SPORTS CAFÉ, (July 8, 2018) https://sportscafe.in/articles/football/2016/may/07/english-premier-league-a-viable-business-or-a-bubble-waiting-to-burst (last visited on September 2nd, 2018).
[29]Deloitte annual review of football finance, 2018.

this system, the brand name of Manchester City is only popularized and hence the club benefits in terms of TV broadcasting revenues. Moreover, lucrative sponsorship deals have been struck, spanning across all the teams but ultimately benefitting Manchester City FC. This business model therefore has enabled Manchester City FC not only to sign talented players from small countries at a cheap price but also direct revenues from all its sister clubs towards it in order to finance its expenditure on talented players. It has thus served as a "hall of mirrors"[30] to direct all revenues back to Manchester City and enabled the club to justify its expenditures. In turn, the club has not really satisfied the "break even" requirement of the FFPR's on its own but has depended on the pumping or injecting of money through third-party owners or wealthy owners.

From the above instance, it is clear as to how a club by depending on investment by wealthy owners has bought its way to success. This not only disrupts the fair competition in the league but is unfair to those clubs that have been adhering to the "break even" requirement of the FFPR, which as discussed earlier, is anti-competitive in nature. Therefore, a club that is not backed by wealthy owners and has been faithfully adhering to the norms of the FFPR, in a league that is naturally fueled by competitive imbalances, is at a major disadvantage compared to a club that doesn't adhere to the FFPR. Hence, if the governing body is to ensure fair competition within the sport through the means of FFPR, combating financial doping should form one of the pillars of a financial regulatory framework.[31]

<u>Financial doping may be prohibited through the following means</u>:

a) *Outright ban on the ownership of more than one football club by the same owner* – Such a ban already exists for ownership of football clubs within the same league and is proportional to the objectives of competition law (Article 101(3) of the TFEU). However, due to the lack of effectivity of the ban in maintaining fair competition, this ban must extend to ownership of football clubs across other leagues as well. One of the key methods used by football clubs is to form 'sister clubs' in other football leagues that would eventually cater to the financial requirements of the bigger club. As most of these 'sister clubs' are formed in countries outside Europe or if in Europe, are within the lower divisions and incapable of playing in the UEFA Champions league or the Europa league, they are exempt from the norms of the FFPR. Hence, these clubs are free from the "break

[30]Mura Ahmed, "*Manchester City and the 'Disneyfication' of football*" FT, (July 22, 2018) https://www.ft.com/content/e1961ea2-d6c5-11e7-a303-9060cb1e5f44 (last visited on September 3rd, 2018).
[31]*Supra* note 1.

even" requirement and therefore, can direct their revenue towards the bigger club, which essentially benefits them as well in the long run. As highlighted earlier, the business model of Manchester City FC is based on this idea where a global network of football clubs has been created to benefit Manchester City FC. Albeit, this system is good for the sport in terms of the scouting of fresh talent from small countries but there is a need for regulation of this system as it is being misused by football clubs in a wrongful manner. The owners have been smart in their approach to evade the "break even" norm of the FFPR by investing in sponsorship deals that spread across all the 'sister clubs', which in turn direct finances to the bigger club and help them satisfy the "break even" norms of the FFPR. In simpler terms, the owners inject money indirectly into the smaller 'sister clubs' which later direct their revenue to the bigger club to fund its' expenditure. The bigger club hence incurs an expenditure much beyond its own income but is able to satisfy the norms of the FFPR as their losses are covered by the money injected by their wealthy owners. If they do incur losses, it falls within the "acceptable deviation" norms of the FFPR and therefore, are able to buy out to the talent to dominate the league. An outright ban is preferred over the regulation of the system as it avoids any other loopholes from developing to exploit and buy success. This would not stimulate Article 101(1) of the TFEU as it would be in line with the exceptions provided under Article 101(3) of the TFEU because it is inherent in achieving the objective of a clean competition. Furthermore, to effectively implement such a ban, UEFA's territorial model could be redrawn, for instance, to allow clubs from major cities but small countries to become more competitive.[32] By doing so, 'sister clubs' formed in small countries may fall under the ambit of the UEFA's FFPR's and hence would be unable to divert their revenues towards the bigger club. Lastly, the outright ban on multiple ownership would also counter the problem of the owner of one club having an influence over the players of another club (third party influence) owned by the same owner. In such a dealing, owners may have control over the team management of the other club where certain players may made to play only to increase their trading value. Such third-party influence contracts of football players have already been banned by the 'FIFA Regulations on the status and Transfer of Players'[33] but have been cleverly breached by the means of multiple ownership of football clubs. For example, Manchester City FC and New York city FC are

[32] *Supra* note 21.

[33] FIFA regulations on the status and transfer of players, https://resources.fifa.com/mm/document/affederation/administration/02/70/95/52/regulationsonthestatusandtransferofplayersjune2016_e_neutral.pdf (last visited on September 4th, 2018).

sister clubs under the City Football Group (CFG). The owner of Manchester City FC may have an influence on the players that New York City FC buy and play in the games. Certain players maybe loaned out to such sister clubs only to increase their trading value. If such players are sold, Manchester City FC would benefit, and they could use that income to further purchase talented players. This again would cater to the monopolization of the league by Manchester City FC and therefore, an outright ban on the multiple ownership of football clubs would prevent such anti-competitive activities.

b) *Transition from a capitalistic organization of the league to a socialistic model*–Presently, the football leagues of Europe follow a very capitalistic approach of organization of the league. It is an all for one[34] system where each club is part of the League, but the successes of the club depend on the club itself. The league has only a regulating and monitoring role to play. This system has a tendency for clubs to spend more than what they earn in order to achieve success.Hence, wealthy clubs have depended on rich owners to guarantee their success in a league that has very little to offer to the success of the club. Such a system is prevalent in the English Premier league and is a reason as to why there exists a gap between the wealthy clubs and the smaller clubs. Therefore, it is necessary for the UEFA to re-think its outlook on the management of the league all together. Instead of a capitalistic approach, the UEFA may adopt a socialistic model, which is already in practice in the Major League soccer and the NBA in the US. In such a system, the governing League, owns the registration rights of the players and they also regulate the finances of the team. The League has a major role to play in the successes of each club which effectively would mean the success of the League as well.In light of the increasing levels of competition and financial doping, a socialistic model is ideal to re-establish the balance between the clubs. The League would have the power to ensure that no monopolies are created by regulating the equal distribution of TV broadcasting rights (main source of revenue for football clubs) among all the clubs. Similarly, the League may also set limits on the trading prices of players to ensure that every club has an equal chance to buy a talented player. A feature of a capitalistic model is the rising trading prices of players where small clubs ultimately are unable to compete with the big clubs. This also further instigates a club to take part in financial doping. To tackle the root cause

[34]*Supra* note 27.

of financial doping, a socialistic organization of the league would be ideal to establish a level playing field for football clubs.

c) *A system of cost-regulation comprising a hybrid salary cap on player salaries sanctioned by a luxury tax* –The major drawback with the UEFA's FFPR is that it has adopted a wrong approach in attempting to establish a level playing field by limiting the expenditure of the club on what it earns. Albeit, this system does establish the self-sustainability of a club to a certain extent, it has however failed in bridging the gap between the smaller and bigger clubs. Furthermore, financial doping has further disrupted the fair competition in the league. Hence, the norms have to be adjusted to a system of a hybrid salary cap.[35] This not only ensures the self-sustainability of a football club but also ensures that even the smaller clubs have an equal chance in acquiring a talented player to compete with the bigger clubs. This hybrid salary cap combines a traditional salary cap system along with a salary cap based on the turn-over of the football club on player related expenditure. For instance, the UEFA may impose a limit on the fixed percentage of turnover a club can spend on player transfer and wages or a fixed limit on the whole. This system benefits both the bigger club as well as the smaller club. The former limit ensures that the big club with a large turnover can spend more on player transfer and wages and strengthen their squad. The latter limit works for the benefit of the smaller club, whose turnovers are not big enough to compete with the bigger clubs. For example, a club may spend up to 60% of turnover on players, or €1m, whichever is the greater. The former benefits the bigger clubs and the latter benefits the smaller clubs. To ensure that the gap between the clubs is further reduced and there is no scope of financial doping, a sanction like a Pigouvian tax (polluter pay tax) may be imposed on those clubs that breach the limits set out. This sanction is known as a "luxury tax"[36] Hence, if they were to spend more than the limit, the clubs would be forced to pay a certain penalty to the League which would cut the clubs revenues altogether, limiting their opportunity to fund the buying of talented players. This penalty may also be distributed by the leagues to the clubs that adhere to the norms so as to restore status quo. This would also serve as a positive incentive for a club to adhere to the norms and ultimately the goal of self-sustainability and fair competition would be achieved.

[35] *Supra* note 1.
[36] *Supra* note 21.

4. Conclusion

This paper is based on the fundamental premise that success and wealth are inter-linked. As money is what rules man, it is not surprising that the influence of money has creeped its way into the world of sport and has firmly established its necessity to achieve success. Even though wealth may not guarantee success in sport, it plays a major role in helping one reach a certain pedestal to achieve success. Ralph Waldo Emerson (A Famous American essayist) once stated that “money often costs too much”. This is especially true with football clubs engaging in “financial doping”. The cost that clubs incur to defeat the purpose of the law and gain more wealth in order to achieve success is astonishing and has corrupted the integrity of sport. Football, which is famous for its simplicity and competitiveness, has been corrupted by the greed of uninterested businessmen in their pursuit of wealth. Talented players are no longer looked at by simply their football skills but by how much they are worth in the transfer market. This is the extent to which money is associated with the sport. The UEFA’s FFPR’s have been largely satisfactory in controlling such a behaviour and therefore it is necessary for the law to come to the same eye-line as the owners of football clubs and consider the football industry as a vast profit-making industry. As highlighted above, the FFPR’s are in itself anti-competitive in nature and therefore, it is necessary that the entire stance on financial regulation of football clubs is changed. The law must endeavor to reclaim the lost integrity and competitiveness of the sport by regulating the use of wealth in the sport and ultimately undermining its importance in the sport all together. It is the mind-set of the people associated with the sport that has to be changed and this can be done through an effective system of financial regulation. Ultimately, when wealth is no longer considered as a necessity for success, financial doping will naturally come to an end. The clubs will be looked as sporting bodies and not business entities exploiting the talents of their players.