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Sport, the State, and the Market

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1. Introduction

Economic forces are transforming the world of sport. American football teams which were once worth a few thousand dollars are now valued in the hundreds of millions. Football clubs in the English Premier League are being snapped up by foreign interests at prices approaching one billion dollars. Basketball jerseys bearing the names of NBA stars are worn by youth in Europe, and the shirts of English footballers (and French, German, and Italian as well) can be seen in North America's cities. Globalization and market forces are re-shaping the world of professional sport in fundamental ways.

Spectator sport has never been more popular, at least as measured by audience size and ticket prices. Yet the transformation which has brought this about, like any significant change, creates both winners and losers and thus the potential for political action. Foster (2005, p. 68) refers to this as "a crisis in the structure of governance" of sport. Voices among those who see themselves on the losing side of change argue that the state should intervene against these forces, and protect sport from the vagaries of the market. This is particularly true in Europe, where demands for political action are being made to circumvent a set of non-interventionist legal decisions made by the European Court of Justice. These calls come from a variety of sources: socialist writers with an interest in sport (e.g. Whannel, 2008), members of national sporting associations who have seen their ability to manage sport in their country attenuated by market forces, and even the so-called ultra fan groups, who rally to the call of "no to modern football" in several languages (Honigstein, 2008).

Over the past century, of course, governments of democratic countries have increased the scale and scope of intervention across a multitude of social activities and forms of commerce. National governments appear well poised to answer the call to protect sport from the market, both as regulators and producers of sporting competition. But should they?

In a political sense, an expanded role of national government in sport seems almost inevitable, as will be argued later. Moreover, when it comes to sporting competition among national entities, globalization has been quite positive for the state in recent years. The past decade in particular has been remarkably favorable to international sports competition. The 2002 World Cup in Japan and South Korea showcased increasing passion for football in Asia. Germany hosted the 2006 World Cup in a festive atmosphere that followed through on the tournament's slogan, "A

Time to Make Friends." The recent choice of sites for the Summer Olympics illustrates the growth in economic and sporting development beyond America and Old Europe that has accompanied globalization. From Australia in 2000, to Greece in 2004, and now China in 2008, we have a fresh set of countries, all attempting to make the most of their moment in the global spotlight produced by hosting the Olympic Games.

The interest and even camaraderie currently associated with international competition among national teams deserves recognition and applause. But ultimately, neither the success of nation-based competition nor the perceived problems of commercial sport warrant a greater role for the state in organizing and governing sporting competition. In this paper I argue that the current balance of power between the market and the state in governance of sport is appropriate. Moreover, the proper role of the state in governing sport – despite the obvious appeal of nation-based international athletic competition – is modest at best. Due to the demise of the Soviet bloc, most countries throughout Europe and North America now pursue policies towards sport in which the state has a minimal direct interest. That commercial sport is flourishing under these conditions – a sign of spectator desires being spectacularly satisfied – should not be a big surprise. In fact, the calls for government intervention in the sports marketplace are quite often linked to the success of commercial sport (e.g. Foster, 2005). High ticket prices and enormous player salaries – targets of anti-market protests – are a reflection of the consumer value produced by sport under the current system. This system has come about largely through processes unleashed by individual and group initiatives rooted outside of formal state institutions.

In general, a nation's citizenry is better off with its government leaving the production of sport to the marketplace for the same reasons it does so with bicycles and computers. These reasons are well developed in the economics literature, particularly in the work of public choice and organizational theorists. This body of work examines the malformed incentives of state agencies and their consequences. In both a static and dynamic sense, government production of standard economic goods and services is rendered wasteful and inefficient by the incentive problem. Of course, government intervention can be justified when these inefficiencies are offset by greater costs from market failure. But the case for market failure in the provision of sport is both overstated and weak. In contrast, the case that the state has used sport to further the interest of those in power, at the expense of the general populace, is quite strong. Indeed, sport's usefulness as a tool for those in power has been illustrated over and over again throughout history. Those who seek protection for sport from the state may be looking to the wrong entity.

Nevertheless, there is a debate prompted by changes in sport which stem from market forces. This paper aims to shed light on the debate. Two themes are developed. First, common elements in the treatment of sport by the state throughout history are presented. By and large, the state's relatively light touch in the present day is a significant improvement over prior eras. Nevertheless, what has been observed over several millennia has counterparts in today's world. These parallels make one especially cautious about ceding power over sport to the state. Second, the context in which calls for state intervention in sport is analyzed. Powerful forces are transforming the world of sport, rendering some forms of sport as obsolete as the horse and buggy. Change has its enemies, of course, but a clear assessment of economic change in the western world suggests that the benefits far outweigh the costs, in sports as in other markets.

2. The State and Sport in History

The degree to which sport is a matter of state concern varies across both countries today and regimes throughout history. Yet history shows that sport is well-suited to exploitation by the state. Nations and rulers have offered spectator sports as celebratory entertainment for the masses, directed participation in sport towards activities perceived to be in the rulers' interests, and have used sport in various forms for producing nationalist propaganda. The factors which contribute to the use of sport in these ways remain in force even in democratic societies. Fundamentally, sporting competition attracts mass attention at a very modest cost in real resources. For this reason, spectator sport it is well suited for use in political activity.

2.1 Sport in Ancient Rome

Apart from boxing, chariot racing, and wrestling, the often brutal games of ancient Rome do not meet modern aesthetic criteria for sport. Yet in spite of the intentional violence and gore, fights to the death among beasts and gladiators share essential elements in common with modern spectator sport, combining strength, agility, skill and strategy in a narrowly defined competitive context. The Romans were not the first to stage such spectacles, apparently borrowing the idea from the funeral games held by earlier rulers in the region (Futrell, pp. 4-7). Funeral games held by Etruscans, Greeks, and others were symbolic displays to commemorate and

glorify the dead. Roman practice expanded the concept of games as a means of cultivating public attention and loyalty through the provision of entertainment, far beyond that practiced in ancient Greece, where sport was celebrated primarily for "the enjoyment and benefit of the competitors" (Harris, p. 184). Moreover, the provision of Roman sport came with explicit political objectives.

By the late Republic, the Roman games had become "a powerful political tool for attracting voters and enhancing one's reputation as a public benefactor. The funerary association had become merely a pretext by this time. [...] The primary motivation was political ambition" (Futrell, p. 11). These ambitions led to ever more lavish spectacles, with "the level of expenditure on games by politicians" rising to "exorbitant, even ruinous" levels. The waste associated with producing politically motivated spectacles was remarked upon by Cicero, and legal restrictions were passed in an attempt to limit the excess (Futrell, p. 14). As Rome devolved from republic to empire, the military generals themselves became sponsors of spectacles, using such occasions to celebrate and magnify their conquest of other peoples.

The importance of spectator sport to Roman culture is reflected in its architectural legacies: the circuses (oval stadiums with tracks for chariot racing) and arenas built in Rome and other cities throughout the empire. As with the spectacles themselves, successive stadia increased in size and became more elaborate over time. The Circus Maximus was enlarged by Julius Caesar and several successors, ultimately to a reported capacity of 350,000 spectators, an astonishing size for any era. The more elaborate and now iconic Coliseum was built to better showcase both gladiatorial combat, and the wealth and munificence of Roman emperors. Yet, beneath the surface manifestation of liberality in Rome's provision of sport lay what has been described as a "prodigal contempt of labor and expense" on behalf of Rome's ruling class that ultimately could not be sustained (Smith, pp. 82-90). The collapse of Rome brought with it the collapse of the Roman form of sport.

2.2 Sport as an Instrument of Politics

Most would agree that the demise of Roman spectacles came none too soon. In this case, sport was produced as an artifact of political competition, and lost its central purpose when the political regime gave way. In addition to Rome there are many other examples of the use of sport as a political tool. An often expressed purpose behind a state's promotion of participation in sport has been to enhance the fitness and skills of the population for military purposes, both defensive and aggressive. The English monarchy, for example, expressed a strong preference for

subjects to participate in the sport of archery, to the exclusion of activities that people preferred. Edward IV, for instance, banned the playing of an early form of cricket on the grounds that playing the game kept people from archery practice. Golf was banned in Scotland, for the same reason (Leib, 2004, pp. 63-4). Henry VIII issued a statute which required all fathers to develop archery skills in their sons, and to provide them with a bow and arrows.

Although archery was popular in England, history shows that the monarchy's attempt to stop people from engaging in their preferred activities was a failure. Most notable among the sports that the monarchy disfavored were the folk antecedents of modern football (Magoun, 1929). Ironically, the game that emerged from Great Britain to become the world's most popular sport was – in its early rough and tumble forms – banned repeatedly: over thirty times between 1314 and 1667. As Dunning and Sheard (2005, p. 30) note, the multiple re-enactment of these laws banning the playing of football testifies to the futility of the state at keeping people from engaging in their favored pastimes.

2.3 Sport & the State Under Authoritarian Regimes

The fascist and communist regimes of the twentieth century provide the most extreme examples of state intervention in sport. Mussolini saw sport as vital means of “regenerating” individuals and integrating a fractured Italy into a centralized nation. (Martin, 2004). Although he had no particular interest in football, or calcio, per se, he recognized its ability to command a mass audience. The government restructured the national league, embarked on an extensive stadium construction program, invested in the national team – ironically, in part by recruiting players from abroad – and made sure the media was motivated to publicize what was taking place.

An aggressive lobbying campaign won Italy the right to host the second World Cup in 1934. Italy's team had the benefit not just of foreign-born players, but a greater share of club professionals. During this period, most players did not take international competition seriously and would often not participate. But Mussolini's regime made sure that top players contributed to the nationalist cause by playing for their country. Between 1934 and 1938, Italy won two world cups, the first at the Stadium of the *Partito Nazionale Fascista* in Rome, and an Olympic Gold medal. As with many leaders, Mussolini took pains to be seen and photographed with his

victorious team.¹ In short, calcio was repackaged and managed as a propaganda tool by Italy's fascist regime.

During this period, of course, Hitler was engaged in similar project in Germany. As in Italy, the Nazi regime went to great lengths to build a strong and powerful society, with sport serving as an important propaganda device. The Berlin Olympics of 1936 provided an international stage for propaganda. Hitler's government valued the Olympics so highly they even attempted to take over the International Olympic Committee itself, with the objective of permanently hosting the games in Berlin (Walters 2006, pp. 314-315). The use of the Olympic Games to "make a statement" was crystallized in Berlin, and the practice continues to this day with the Beijing Olympics of 2008.

2.4 Common Features Across Time and Regimes

From Rome to the present day, leaders and those with political aspirations have understood that affiliation with sport is a potentially powerful means of enhancing one's visibility. Media exposure is naturally attached to sport, and thus politicians are attached to sport as well, for the sole purpose of enhancing one's recognition by the public. This principle holds for democracies such as the USA, where the President invites championship athletes and teams to the White House on a regular basis, to autocracies, where stadia can be found adorned with enormous, Soviet-style posters of the national leader. In the USA, Congress has minimal to no role whatsoever in regulating or governing sport. Yet congressional hearings on the controversies of the day in sport are routine. A well established pattern for an issue to arise is, to call a Congress hearing, compelling leading sports figures to testify. In the past year, a hearing was called to discuss how the NFL went about enforcing the rules of the game (specifically, videotaping of an opponents signals during the game). The legitimate congressional interest in this issue is difficult to fathom. Rules of the competition are presumably a sacrosanct element of sport that is immune to state regulation. But regardless, the end result of the hearing was the same as always: some discussion followed by ... nothing. For the purpo-

1 This is an urge that political leaders, whatever their inclination towards sport, apparently cannot resist. A good example is the behavior of Iranian leadership during the World Cup in France in 1998. The Iranian football team had been associated with the Shah and western ways prior to the 1979 revolution, and the new leadership disbanded the national team. Ultimately the team was reconstituted, it was still regarded negatively by the regime. That changed when Iran beat the American team 2-1 in France, and the Iranian leadership heralded the team as heroes (Chelabi, 2002).

se of a hearing on sports in the US Congress is simply to garner publicity for the politicians and nothing more.

3. Economic Change & Sport

3.1 A Historical View of Economic Change

Concern over the future of sport stems from the fact that we live in a dynamic economy, in which the forces of technological change and capitalist exploitation alter the world we live in, sometimes in radical ways. Continued commercialization of sport is viewed by many authors as inherently threatening to the integrity of the games. Our love of sport naturally produces a desire to protect its valuable institutions that are perceived to be at risk.

The process of economic change has a wrenching character which focuses attention on the negative side of Joseph Schumpeter's ledger of creative destruction. Although understandable, I believe this focus tends to be excessive, in the economy in general and sport in particular. Public discussion would improve with greater recognition of the long term benefits to society from enabling and coping with economic change.

While adjusting to economic change can be difficult, looking back upon a century's worth of technical progress makes it obvious that the benefits of capitalist-led economic development have far outweighed the costs. Few of us would trade places with our ancestors. J. Bradford DeLong (2000) illustrates this by addressing the rhetorical question, what would it take to fully compensate him were he able to travel back a century in time?

I would want, first, health insurance: the ability to go to the doctor and be treated with late-twentieth-century medicines. Franklin Delano Roosevelt was crippled by polio. Nathan Meyer Rothschild—the richest man in the world in the first half of the nineteenth century—died of an infected abscess. Without antibiotic and adrenaline shots I would now be dead of childhood pneumonia. The second thing I would want would be utility hookups: electricity and gas, central heating, and consumer appliances. The third thing I want to buy is access to information: audio

and video broadcasts, recorded music, computing power, and access to databases. None of these were available at any price back in 1890.

Antibiotics, electricity, and information technology are goods that are regarded today as essential. Yet electricity and IT were brought to market in incredibly disruptive ways – the newspaper industry in the US, for example, has been crippled in the past decade by more rapid and more specialized news sources on the internet. The development of electricity and information technology decimated formerly powerful industries, yet in the exchange our lives have been much improved. These two “new” industries have also made more sport more accessible to the average person. Games can now be played on weekday nights when most people have finished their day’s work thanks to floodlights. The ability to follow a game using a PC or mobile phone in real time makes old institutions such as the BBC’s “Match of the Day” television coverage seem quaint by comparison. Some old traditions have had been tossed aside by the forces of new technology, but the idea of turning back the clock to nullify these changes does not bear close scrutiny. There is no turning back, and few spectators or sportsmen would do so if such a prospect were real.

3.2 The Relative Durability of Sport

One relevant question for the topic at hand is whether valuable institutions in sport can weather the incessant storm of economic change. The risk from market-driven change is that new technologies may enable some elements of sport to be monetized, with in-appropriable values being displaced in the process. Yet in many ways sport is more durable and resistant to change than the typical commercial enterprise. The fraction of leading football clubs from 1900 that remain on the English scene a century hence is clearly much greater than the fraction of leading English industrial firms. Two factors may explain the relative durability of European soccer clubs to industrial firms. First, innovations in strategy are soon discovered and easily copied in sport, whereas adaptation to new ideas is much more problematic in industrial competition, leading to the overthrow of outmoded technologies and organizations. Second, the cultural capital and economic muscle of leading clubs in major cities make dislodging them difficult, in a market which limits the appropriate impact and durability of an upstart’s strategic innovation.²

2 A recent example of strategic innovation is described in Michael Lewis’ book, *Moneyball*. Jahn Hakes and Raymond Sauer (2006) produce supporting evidence that the innovation described by Lewis was indeed significant. However, within several years the practices described by Lewis had spread to other clubs and as Hakes and Sauer show, the competitive advantage had vanished.

Sport may also be more resistant to change than other forms of entertainment, such as art, music and cinema. Fans and participants often view the laws of the game as sacrosanct, and some laws seemingly are. The width of the goal in football has been eight yards since the Football Association's Laws of 1863, and the dimensions of the baseball diamond (90 feet between bases) have been the same since the Knickerbocker Rules were codified in 1845.³

These observations suggest that the threat to sport from market forces may be overstated. Indeed, the combination of durability and network effects goes some way towards explaining the phenomenon of "American exceptionalism"—the resistance of uniquely American sporting institutions to global trends that have made soccer the world's most prominent game.

The formative period of modern institutionalized sport took place initially in late 19th century England and America. During this period, Americans began by consciously modeling their sports after English counterparts. Adaptation and evolution took place in the nineteenth century in England and America with little integration and feedback between the two countries. Hence, despite their common origins and similar initial conditions, the separate evolutions led American and English forms of batted ball (baseball and cricket) and kicked ball (American and association football) down different paths. The resulting institutionalized sports of the two countries now bear only a family resemblance to each other.

Although the fundamentals that created this divergence are not clear – indeed the process may have a large element of chance in it – the fact that sporting institutions remain so different in the two countries speaks to their durability. Baseball, for example, became known as the "national pastime" in America and its popularity remains as high as ever, with 2007 attendance in Major League Baseball setting a new record, despite there being only minor interest in this sport in the rest of the world. Americans like the game because they can share their interest in it with other Americans; folks in the rest of the world don't because they can't. This illustrates that network effects can reinforce a status quo which was arrived at through a somewhat arbitrary, path-dependent evolutionary process.

3 Altogether, while there is significant resistance to changing rules, this point may be somewhat overstated. The sanctity of rules in both sports is partly a myth – both FIFA, MLB, and the clubs themselves have a history of tinkering with "lesser" rules and specifications (sometimes in un-saintly ways) in order to increase their game's appeal to fans and their club's chances of success. Moreover, the NBA's practice of adjusting the rules to better market professional basketball has elicited considerable criticism (see Goff 2008).

3.3 Market Forces and Change In Sport

Although network effects help explain American exceptionalism via their contribution to the durability of sporting institutions, they by no means insure the status quo against change. Indeed, coupled with other factors, network effects may contribute to the impact of emerging global forces in bringing about change in American sport. America continues to grow in population at a rate of about 1% per year. Yet with fertility among the extant population hovering at the replacement rate, the growth in the U.S. population comes primarily from immigration.⁴ It has been said in other contexts that "immigrants bring their games with them," and the world's game is soccer.

The American experience with sport suggests that while leading commercial sports at any point in time have a decided advantage, potential competitors are capable of capitalizing on organizational or competitive weaknesses. A century ago, the "big three" American sports were baseball, boxing, and horse racing. Only baseball remains commercially prominent today. Economic forces were critically important in the decline of boxing and horse racing. Boxing is the prototypical example of poor organization and corruption in sport, a sharp contrast with the unitized and businesslike National Football League. Horse racing is burdened with regulatory and political interference in virtually every significant business decision, and there is a lesson in that. Horse racing has been hobbled by state regulation, while leagues based on team sports have been given the green light to define the future of American sport. The idea that state intervention could have preserved whatever value has been lost due to the decline of boxing and horse racing seems far-fetched. Indeed, these forms of sport have been replaced in America by forms that are judged by American consumers to be superior. From this vantage point, preserving the 1900 status quo through state intervention must necessarily have retarded the development of sport that the current population finds better.

Moreover, the commercial aspects of both baseball and football have been subjected to market forces in much the same way as other businesses. Reviewing DeLong's list of time-travel requirements, each of his three categories contains an item that has had a dramatic effect on sport: medical advances which come to the aid of injured athletes, electricity which enables games to be played at night under the lights, and last but by no means least, video broadcasts, which have been transformative. More than any other technological advance, broadcasting represents the

4 See Passel and Cohn (2008).

“disruptive factor” that has and will continue to reshape the business and cultural institutions of sport.

3.4 Broadcast Technology and the Reorganization of Sport

The most obvious impact of broadcast media is seen in the direct flow of revenue itself. Revenue from television and new media such as internet and mobile phone services now far surpasses revenue from ticket sales for the National Football League (\$2.39 billion per year, over $\frac{3}{4}$ of total revenues) and the Premier League (£900 million) and the other four major European leagues.⁵ This is a stunning fact, in light of the early resistance of sport to live broadcasting, in efforts across many countries to protect matchday attendance (Williams, 1994).

Yet the impact of broadcast media goes much further than the impact on revenues: media represent the most powerful threat to cultural institutions that have been built around sport. The traditional 3pm Saturday kickoff for English Football and the 1pm kickoff for college football games in America have been pushed aside in the interests of television. A typical weekend fixture list for the Premier League will have six of the ten matches played in separate, non-overlapping time slots, extending into Monday night. In America’s Pacific time zone, a college football fan can awake to a 9am telecast, and watch more than twelve hours of continuous live coverage – all football, all of the time – before falling asleep on the couch at night.⁶

Over the past century, the scale of sporting competition has increasingly moved from the local to the national and international stage. The great Brazilian soccer players no longer play in their home country, but for top teams in Europe. The best American talent plays there as well. Asian and European players now dot the landscape in American baseball, basketball, and hockey.

Players go where the money is, and increasingly, the money has been generated by media in recent decades. Television concentrates the world’s eyes on sport not

5 NFL revenue from <http://www.rodneymfort.com/PHSportsEcon/Common/OtherData/DataDirectory.html>; Premier League and European data from <http://www.telegraph.co.uk/news/uknews/1539819/Premiership-shares-andpound900m-TV-windfall.html>, and Deloitte (2008).

6 A 1984 court decision that forced the NCAA to abandon a joint-selling arrangement is partly responsible for the cornucopia of coverage – even minor games involving a team with a strong following are televised.

from a seat at the stadium, but the couch in the living room. Given this newfound visual mobility, spectators naturally focus on the teams and leagues where the best collection of talent is on display. The best leagues, filled with the best talent, are what capture interest in the international television marketplace.

The consequence of this form of globalization is that traditional, local-based competition faces serious challenges. This scenario has been played out before. Competition in intercollegiate athletics has become competition not so much against your local or regional rivals, but competition to gain a share of attention on the national stage, in a national market. The result: conference expansion beyond a regional footprint has been the trend for the past thirty years or so. In 1978, the Pac 8 nicked the Arizona schools from the old Western Athletic Conference, morphing into the Pac 10. The Southwest Conference, a league with seven Texas schools plus Arkansas, imploded in the early 1990s for these very reasons.⁷ Its major sports programs were picked off by the Big 12 and Southeastern Conferences, both with a more extensive national footprint. The recent ACC expansion to twelve teams is a delayed reaction to the same fundamentals - economic forces which have increased the scale of competition.

Local rivalries suffer from this as a consequence. The Clemson-Georgia series in football - a source of heart-stopping games in the 80s when both programs won national championships - is no more, despite the fact that the schools are but 80 miles apart. The tobacco road round robin in basketball, a feast for ACC basketball aficionados, has also been thrown over the transom. These losses are real, and it is true that athletic directors and conference commissioners have "sold out" to the almighty dollar by abandoning the forms of competition that their fans once adored. But the scale of competition in modern intercollegiate athletics dictates that this cost has to be incurred, if schools want their programs to be prominent on the national stage.

European soccer has to come to grips with these forces as well. UEFA currently mandates that its member clubs compete in domestic competitions. This rule precludes countries like Ireland and Switzerland from generating enough support to field a team that can compete with the best on the continent. Demand clearly exists for teams like Celtic and Rangers to compete with the Barcelonas and Bayern Munchichs. But the competition from other teams in the Scottish League is too poor to generate the interest, and thus the financial support for these clubs to acquire the necessary talent to win in Europe's king of competitions, the Champions League.

7 See <http://www.texasalmanac.com/history/highlights/swc/>

In the absence of UEFA's rule, Glasgow as a town could support world-class soccer, but with UEFA's rule in place, Scotland cannot.

The Champion's League is UEFA's response to the same economic forces that have increased the scale of competition in NCAA athletics. It has expanded the old European Cup into an extended form of semi-league, semi-knockout competition, primarily among the elite clubs in Europe. The Champions League is providing what the spectators desire: matches between the great teams of Europe, albeit through a mechanism burdened with significant political constraints.

The increased quality of the opposition creates a positive feedback loop, where Team A responds to the increased talent of Team B by hiring more talent itself. All teams in the Champions League face this incentive, creating an arms race in talent among the elite clubs. This has the undesirable effect of creating less balanced competition in the domestic league, a feature which appears most prominent in England, where the top four clubs (Arsenal, Chelsea, Liverpool and Manchester United) have been distancing themselves from their league rivals with an increased talent gap.

Some observers mistake this response for a cause, as indicated by the title of this article in the Guardian, "Champions League 'is killing football':"⁸

UEFA's own William Gaillard: These mid-size teams have made the history of European football. There are a lot of glorious names today that, if nothing is done, in 20 years' time will be threatened with extinction. They have no possibility of getting to the top eight or ten of the top division in their countries'. UEFA's proposed solution is a plan to force clubs to include a specific number of 'home-grown' players in their squads.

The home-grown rule is no solution. The claim that UEFA is "powerless to reverse" the trend is more nearly correct.

The economic forces are aligned with the big clubs. The demand is for these teams to play each other, not for them to tinker with modest domestic rivals. The big clubs will thus abandon UEFA if it remains a barrier to financial gain, and go off on their own.

8 See http://football.guardian.co.uk/News_Story/0,1563,1345361,00.html

So how would a rational UEFA react to this threat? Look at it this way. The ban on “nondomestic” league competitions is not so much a ban, but a rule which allows nondomestic competition (i.e. the UEFA Cup and the Champions League), so long as it is run by UEFA itself.⁹ UEFA’s response is likely to be a proposal for a UEFA-sanctioned “super league” composed of the best clubs in Europe. If they don’t, the top clubs will simply do it on their own, because the stakes are so high.

In the US world of intercollegiate athletics, there is no effective barrier to entry, as in the domestic leagues of Europe. As a result, competition in both is more fluid than in the monopoly professional leagues of the US. But there is an important difference. In the US, collegiate conferences were able to reshape their leagues in response to media-driven economic change. UEFA policy has limited that adjustment so far in Europe. It will not be able to do that much longer. Although Europe has yet to experience direct rivalry among leagues in the same sport (akin to the ABA and NBA, or the AFL and NFL), such a challenge to UEFA’s status as organizer and governor of European soccer is likely to emerge if the potential revenues from cross-border competition continue to grow.

4. European and American Models of Sport and the State

There are two essential differences between the European and American models of sport. First, leagues and governance are functionally separate, with governance taking place both at the national and European level. Nevertheless, sport is generally self-governing in both America and Europe, as European governing bodies such as the English FA and UEFA are not functions of the state. Although the multinational character of UEFA creates challenges for football as discussed above, for the most part, separation of ownership and governance has only modest impacts on outcomes (as capture theory might suggest). The key difference is that most leagues in Europe have an open, hierarchical structure, which allows new (domestic) entry based on results from sporting competition. The closed system of the US, under control of the owners themselves, generates a monopoly league structure with an inherent under-provision of the number of competing teams. The closed system rule could conceivably be found to violate competition law in the US, just

9 The ban on multi-country leagues may not withstand antitrust scrutiny in the EU.

as UEFA's requirement that leagues be comprised exclusively of teams from the same nation is an obvious restraint of trade.

The European Court of Justice has been much more consistent in its application of competition law to sport than the US. One reason for the parade of congressional hearings on antitrust issues over the years is the terrible precedent set in the 1922 Federal League case, where the US Supreme Court refused to punish a blatant boycott on the grounds that sport was not commerce. The European Court made it very clear in the Bosman case and in others that sport set up and operated as a business is indeed commerce, and thus is subject to competition law as is any other business entity (White, 2007).

Nevertheless, however clear the European Court is, ministers of parliament can expect to hear of the complaints spawned by globalization and growth in commercial sport. High and rising ticket prices, schedules designed with the interests of television in mind, and the influx of foreign talent are each bringing with them demands for political intervention. Moreover, the perceived threat of "Americanization" in sport has led some to argue that national governments should test the limits of the court in light of the court's recognition that preserving some non-commercial elements of sport may require restrictions on the marketplace. Yet this exception would appear to apply only for grass roots or competition between national teams. Moreover, using the state in an attempt to recapture bygone qualities such as the dedicated and polished amateur sportsman in a dynamic commercial marketplace is folly.

There are some important differences among European countries with regard to the extent of state intervention in sport. France, for example, has a sports ministry at the national level that impacts among other things stadium finance and construction and the management of the national team (Mignon, 2000). Nevertheless, the court has declared that commercial sport is subject to the same legal and economic considerations as any other form of commerce. To date, these rulings have limited the scope for state intervention in sport across Europe over the last two decades.

Commercial spectator sport is flourishing under the current regime of minimal state intervention in both Europe and America. That we love our sport and watch in awe as our talented sportsmen perform implies not that we should be seeking to protect sport from the marketplace. Rather, an enjoyable and vibrant world of sport comes from allowing individuals to organize and produce the competitions in ways that consumers find most appealing. History shows repeatedly that the

state uses sport to further non-sporting ends. Market forces and private human initiative have produced the present cornucopia of modern spectator sports that are enjoyed by so many. May they long continue.

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