



WE CARE ABOUT FOOTBALL

Union des associations européennes de football

Sent in advance by fax

EUROPEAN COMMISSION
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| Your reference | Your correspondence of | Our reference | Date |
| | | LCOM/inf/guc | 01.07.05 |

Subject: 3G sector Inquiry CASE/COMP/C2/38782

Dear Sir,

The purpose of this letter is to set out the views of UEFA in relation to the Sector Inquiry the Commission is currently undertaking regarding the exploitation of sports content over 3G mobile networks. UEFA has already answered questionnaires sent by the Commission and also participated in the hearing held in Brussels on 27 May 2005 on this subject. We have studied the issues paper produced by the Commission for the hearing and our comments in this letter are mainly directed to the observations expressed by the Commission in the issues paper.

By way of background, it is relevant to point out that so far as our main club competition is concerned – the UEFA Champions League™ – UEFA operates on the basis of an exemption decision. That exemption – granted by the Commission in 2003 – foresees that UEFA will market 3G rights on a near live basis. That is to say, there are short (maximum 30 second) clips of action available during the match, just after the event (goal, penalty etc.) has occurred. Longer summaries of the matches are available after the final whistle.

UEFA provides a catalogue of possibilities and our mobile partners are able to select the services most appropriate for their target audience. The operators can then commercialise these services in a wide range of product offerings using a diverse range of service networks over the GSM, GPRS, and 3G transport mechanisms. These include:

1. SMS for text based alerts service and handset personalisation.
2. MMS for picture, still pictures with supporting text.
3. MMS and streaming for near live short video clips and full 90 minute post match video coverage.
4. WAP based archive search functionality for browsing and video clip download.

These products are available on both "subscription" and "pay per view" models and the services are available because UEFA itself has invested heavily in the new media sphere, establishing a separate company – UEFA Media Technologies S.A. – specifically for this

purpose. Most of the 3G wireless products are derived from an extensive video database developed by UEFA and which is licensed to mobile operators, normally on an exclusive basis. Clubs also may acquire the video feed from UEFA and may customise and edit the material in order to create a club-branded product. All this results in a wide range of UEFA Champions League™ products for the European consumer to choose from.

Against this background, we consider that the market is developing well and that UEFA is playing its own part in helping this to happen. With this in mind, we also feel reasonably well qualified to comment on the issues paper and would summarise our main observations as follows:

Firstly, we were somewhat concerned by the suggestion that the practice of joint selling and the practice of exclusive selling could be damaging to competition and harmful to consumer interests (Issues paper, paras 9, 31).

As regards joint selling, the paper implies that this practice necessarily leads to less mobile coverage being available to consumers. However, our experience points to the opposite conclusion. As described above, the joint selling model of the UEFA Champions League™ has resulted in a situation where mobile clips of the matches have been made available in various forms on a near-live basis across most of Europe.

That situation may be contrasted with the UEFA Cup™ – a competition where, until recently, individual selling was practised. In that case, the commercial rights – television, internet, mobile – have been in the control of the clubs. According to the competition theory as expressed in the issues paper, this should have resulted in a greater availability of services to consumers. However, in practice, the opposite has been the case: much of the time it is not even possible to see the UEFA Cup™ on television. Coverage on new media platforms is even more limited. As such, it is difficult to see what benefits consumers derive from this particular arrangement.

Secondly, as regards exclusivity, it is perhaps worth bearing in mind that the grant of exclusive rights can also be pro-competitive and can help to drive the development of new technologies precisely because the buyer of the rights knows it is getting something which differentiates its services from those offered by its competitors. So, providing the duration of exclusive deals stays within reasonable boundaries, we do not think there is anything worrying with the practice of exclusive selling per se. And we understand that the Commission has, in past competition decisions, recognised that exclusivity is a natural feature of the media environment.

The third and last point UEFA wishes to draw attention to also relates to exclusivity though it concerns another discussion currently going on in another part of the European Commission, specifically related to proposed revisions to the "Television Without Frontiers" Directive. That discussion concerns the issue of "news access" and in particular, whether "news access" or "fair dealing" provisions, typically found in national copyright laws, should be extended to cover the new media sphere – i.e. 3G mobile phones and internet.

We believe that there are significant dangers here. News access is fundamentally a human rights issue – it is about freedom of information – to be informed not to be entertained. However, we have had situations, notably in a court case in Italy, where a mobile operator claimed that it was entitled to have access to footage of football matches for "news reporting" purposes. Naturally enough, it delivered the "news" to its subscribers for a price.

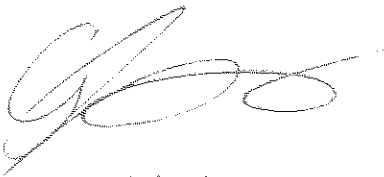
Quite apart from the legal merits of an argument based on "news access" (and we think it is difficult to see one) it is clear that a practice of this nature would substantially dilute if not

totally remove the value of any exclusive rights sold to a legitimate mobile partner. There is little point in paying a rights holder for a clip of action and investing in the necessary technologies to deliver it if a competitor can obtain the same content and pay nothing for it.

For this reason, we would strongly argue that "news access" provisions should not be extended to cover content delivered via mobile phones and we would hope that the Competition Directorate of the Commission would share this view and also express it to Mrs. Reding and her colleagues who are responsible for revising the "Television Without Frontiers" Directive.

We hope these comments are of assistance to the Commission.

Yours Sincerely
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Gianni Infantino
Director
Legal Services