

# Intermediation market and transfers in football

## State of play, empirical working and corrective measures



July 2018 – Dr. Raffaele Poli and Fernando Roitman

## Executive summary

This research project is aimed at describing the empirical functioning of the representation market for football players and clubs. The first part presents the key trends observed in the European football labour and transfer markets since the Bosman ruling in 1995. Using exclusive data from the CIES Football Observatory, it shows that the internationalisation of the labour market has gone hand in hand with an intensification of transfers of players' at an increasingly younger age.

A booming football economy brought about a considerable inflation in transfer indemnities. The higher financial gaps between clubs and leagues reinforced speculation around players' mobility. The number of players' agents heavily increased and the incomes of the most established ones rose steadily. The diffusion of third-party ownership deals allowed the most influential agents to gain a more solid grip over footballers' careers and acquire a greater power vis-à-vis clubs.

Clubs have also relied more and more on agents to manage transfer operations, which has given rise to the development of the figure of the intermediary acting on behalf of teams. Contrary to traditional agents, who are paid on a percentage of players' salaries, the remuneration of the most influential intermediaries is indexed to transfer indemnities. This provides them de facto with the possibility to earn significant amounts of money from transfers.

This development reinforced the tendency for agents to seek remuneration from clubs as if they were intermediaries, even though they represent players. Clubs were also complacent about this process for tax reasons. This has brought about much confusion on the effective role played by middlemen and contributed to putting conflicts of interest at the heart of the empirical function of the representation market in football.

In 2017, the total indemnities paid by clubs for both national and international transfers reached a record figure of about €9.2 billion. With the same annual growth observed over the last five years, this figure will double by 2022. In 2017, the global economic size of the representation market can be estimated at around €1.5 billion, of which about €600 million for career management tasks and €900 million for transfer commissions. If the same growth recorded in the last years continues, the total turnover of agents and intermediaries will rise to almost €3.0 billion by 2022, of which at least two thirds will be related to transfer commissions.

The second part presents the key findings from interviews conducted with 51 people across Europe with direct knowledge of the practical workings of the representation business in over 30 national football markets. The problem-focused approach followed has allowed us to bring to the fore a wide

array of issues from five complementary points of views: players, agents, clubs, football integrity and economic integrity.

From a player perspective, three main concerns were identified:

- following the FIFA 2015 reform and the abolition of the license system for agents in most countries, the lower segments of representation market became saturated. Agents are exerting an exaggerated and often negative pressure on players, minors in particular. Lack of competence, greed and bad advice put the career of many talents at risk.
- agents and intermediaries tend to go against the key principle of workers' freedom of movement as short-term personal profit is often the main rationale of their action. Different strategies are used to control players' careers such as indebting them, mismanaging their savings and filtering information.
- the strong imbalance in the access to the information during negotiations with clubs and the general belief by players and families that agents are the key in making it in the professional game lead to frequent abuses of footballers' rights.

From the standpoint of agents and intermediaries, the report highlights four main issues:

- the segmented structure of the representation market combined with the lack of regulation imply a 'far-west' situation in the lower segments and a high level of concentration in the most lucrative ones. Dominant agents and intermediaries abuse their position notably by purchasing the representation of the most talented young players.
- club representatives make it difficult for not-dominant agents to progress in the job through anti-competitive behaviours aiming at favouring the most powerful ones or those more inclined to act in their own interest to the detriment of agents with greater professional conscience.
- agents are heavily exposed to the lack of loyalty by players, who are frequently poached by competitors, notably just before potentially lucrative transfers, with no concrete possibility to receive adequate compensation for the job performed.
- the lack of legal protection also affects agents in their relationships with clubs, the latter being often reluctant to respect agreements and pay commissions negotiated, in particular in Southern and Eastern European countries.

The empirical functioning of the representation market is far from being optimal also from the perspective of clubs. Four main issues were put forward by the interviewees:

- dominant agents and intermediaries have a solid control on the careers of a greater number of players, notably through third-party ownership arrangements, which puts them at advantage in the power game existing with clubs.
- fierce competition between teams within an highly unregulated context with no effective enforcement of the few existing rules (i.e. TPO ban) creates a climate of suspicion in which clubs are afraid to lose competitiveness by acting in legal and/or ethical ways.
- the lack of transparency in transfer operations in general, and in the representation market more particularly, puts clubs at disadvantage vis-à-vis agents and intermediaries who have easier access to the most relevant information.

- the lack of harmonisation on an international level implies unfair competition between clubs to attract the best talents and increases the possibilities for agents and intermediaries to cash commissions from them.

The practical working of the representation market is also highly problematic from a football integrity perspective, notably concerning the four following aspects:

- the collusion between agents or intermediaries on one side, and club or national team members on the other, coaches in first instance, implies an undue influence for the selection of players to be recruited or fielded.
- the greater financial interest of agents for transfers than for contract extensions jeopardises the key transfer system principle of contractual stability, even more so when agents and intermediaries have sufficient power to negotiate the payment of high commissions up-front during transfers.
- in a zero-sum game, high commissions paid to the most established intermediaries not only imply lower retributions to players, but also to teams having developed them, which puts at danger another key principle of the transfer system: the reward of training.
- while banned by FIFA, the third-party ownership of players' economic rights is still a well-established reality. Agents and intermediaries are often at the heart of this kind of arrangements, which in many cases explain the sizeable commissions that they are able to obtain from clubs.

The functioning of the football representation business also challenges the economic integrity of the communitarian market. Four main points are at stake here:

- the recurrent payment by clubs of agents representing players and the dual representation of both players and clubs make conflicts of interest the *modus operandi* in the football representation market. This goes against civil law and implies unfair competition for those who would like to act in a legal way.
- widespread collusion between club members and agents or intermediaries gives rise to corrupt practices through which the actors involved misuse club funds for their personal profit, which raises many issues from a criminal law perspective.
- the purchase of players' representation by organised crime goes hand in hand with money laundering operations. In addition, the payment of high commissions by clubs with no visibility or control on final recipients also raises issues from a money laundering standpoint.
- payments to agents or intermediaries are often at the heart of tax evasion schemes through which money is sent to uncooperative tax havens, not only to the profit of agents and intermediaries themselves, but also to that of club owners and executives with whom they collaborate.

The third part introduces the main reasons for regulating the market as put forward by the interviewees. A wide consensus exists about the need to improve the current situation through stronger regulatory efforts by football governing bodies. The following aspects were notably brought to the fore:

- all the stakeholders highlighted the need for more regulation in the football representation market specifically, and the transfer market in general. They notably insisted on the necessity of international rules to harmonise practices at least at European level, if not globally.

stronger regulation should go hand in hand with serious enforcement and sanctions by football authorities. The lack of control was often put forward as the decisive factor explaining the failure of previous regulation efforts.

football stakeholders ask for more transparency on agent and intermediaries' commissions, notably through the public disclosure of each payment. They also ask for the improvement of the traceability of financial flows for both commissions and transfer indemnities.

increasing player protection and minors in particular, is also a crucial issue for the interviewees. To achieve this goal, raising professional standards in the representation market through education programmes and certification is considered of great importance.

Finally, the report presents some straightforward, enforceable and proportionate recommendations to regulate the football representation market. The system proposed asks for the introduction of caps on commissions for both agents and intermediaries, always indexed to the salary of players and never on transfer indemnities. This would notably allow football governing bodies to fight against the over-speculation on players' mobility, contractual instability and third-party ownership.

To limit conflicts of interest and unfair competition, the payment of the agents should be made by effective clients. However, to stimulate transparency, clubs could be entitled to pay agents acting on behalf of players following tripartite agreements on effective salaries paid (and taxed accordingly) under the condition that the representation mandate is registered in a centralised database. The latter should be accessible to all market actors in order to know with certainty who represents who.

The right to register representation mandates should be reserved for agents or intermediaries without a criminal record and professional liability insurance. To fight against money laundering and tax evasion, agents and intermediaries should also accept cashing commissions through a clearing house system. In addition, they should give access to the statements of bank accounts where the money is remitted and allow their transmission to the relevant public authorities.

The registration of mandates would also allow agents and intermediaries to receive legal protection through an arbitration system set up by football governing bodies. A compensation system for former agents should also be implemented in order to prevent market concentration in the highest market segments, dominant positions and abuses. Such a system would also be useful in fighting against corrupt practices arising from the collusion between agents and club members.

An investigation body should be put in place by football authorities to analyse situations having led to disputes and, more generally, to control all financial flows deriving from transfer operations by cross-checking information collected at different levels, notably through club licensing systems at both continental and national level. Fees paid by intermediaries and agents to register representation mandates and financial penalties arising from regulation breaches could partially finance this body.

A strong sanction system should also be implemented for all transfer market actors: agents, intermediaries, players, as well as club representatives (owners, executives, coaches, etc.). Commercial agreements between agents or intermediaries and club members aiming at favouring the signature of representation mandates by players should be strictly sanctioned, as well as parallel payments to agents or intermediaries through companies outside of the club structure.

Education programmes involving all football stakeholders should be implemented to allow people with the right of registering representation mandates to improve their knowledge and competencies. Successful participation in these programmes would lead to the obtainment of an official football agent

and/or intermediary certificate, which in turn would give access to an alumni association to be considered by football authorities as the representative body for these professions.

Taken together, the recommended rules have the potential to impact very positively the empirical working of the football representation market. However, they would not solve all the distortions existing at transfer market level, notably with respect to the great amounts invested by clubs in transfer indemnities. In this regard, more transparency, greater traceability and the benchmarking of transfer indemnities on an objective basis are additional measures that would improve the integrity of football both as a sport and as an economic sector.