

FOOTBALL, CORPORATE OWNERSHIP, AND CONFLICTS OF INTEREST: DARK SPACES AND BLACK BOXES

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Abstract

The paper takes the move from the recent (2018) essay by the global study jointly undertaken by the International Association of Lawyers (UIA) in partnership with the ICSS INSIGHT and the Sport Integrity Global Alliance (SIGA). Shockingly, the preliminary findings of that study reveal that only three countries have a dedicated body that has specific oversight of investment and ownership in its football clubs and only two nations are able to fully track and monitor the money behind club investments and ownership. Meanwhile, the vast majority of countries do not have any mechanism in which to understand the source of a club's investment and rely on generic laws with most 'assuming' that any financial scrutiny falls under the country's existing club licensing system. On the premises of the above, the paper traces the case of Italy Serie A and it develops some considerations regarding the negative consequences of the lack of transparency (e.g., purchasing clubs for non-sporting reasons, such as transforming them into vehicles for money laundering, third-party investment funds and sports betting fraud).

1. INTRODUCTION

This paper reflects on the recent global study "Legal, Financial and Integrity Aspects of Club Ownership in Football" published in 2018 and spearheaded by the International Association of Lawyers (UIA), the International Centre for Sport Security (ICSS) INSIGHT, and the Sport Integrity Global Alliance (SIGA).

Astonishingly, the preliminary findings of this study reveal that only three countries have a dedicated body that specifically oversees investments in football clubs and their ownership, and only two are able to fully track and monitor the money behind such investments and ownership.

As such, the vast majority of countries do not have any mechanisms in place to understand the sources of investments in a club and rely on generic laws 'assuming' that any financial scrutiny falls under the country's existing club licensing system.

Given these premises, the paper analyzes the case of Italy's Serie A, developing some considerations on the negative consequences of the lack of transparency (e.g., purchasing clubs for non-sporting reasons, such as transforming them into money laundering vehicles, third-party investment funds, and sports betting fraud).

More in detail, the research question of the paper is to understand whether, in the Italian Serie A, there are mechanisms which, apart from the precise identification of the clubs' ownership, are capable of rendering the economic mechanisms of the football industry opaque and, as such, potentially malfunctioning.

The paper is structured as follows: Section 2 reviews the recent literature, Sections 3 and 4 focus respectively on the current status quo of football in general and in Italy in particular, Section 5 concludes.

2. METHODOLOGY AND LITERATURE REVIEW

The paper tackles the field of Serie A as its case study: Serie A, in particular, has been chosen since it represents a pivotal portion of the European football, in terms of both its audience and its economic impact.

That said, generally speaking, football teams are either controlled by a broad base of investors and supporters or fall under the control of a small number of shareholders, namely, a family.

The relationship between the football industry and ownership has garnered interest in recent years in different institutional and cultural domains.

Consider, for instance, the seminal paper of Adams et al. (2017) who apply "boundary theory" to football organizations, stating this theory "was developed to make sense of complex social interactions [...] to understand how a football club negotiates its relationships and organizational form within the network of social groups or worlds upon which its existence depends and with which it shares boundaries [...]".

The authors argue that "turbulence in the political, social, and financial infrastructures of professional football has contributed to evolution in football clubs' ownership and governance structures. The use of boundary theory has allowed us to demonstrate how the boundaries of organizations involved in the production and delivery of football have become increasingly blurred, evident both in changes in the identities of

clubs' social groups, in particular supporters and owners, and in the emergence of new organizational forms. The blurring of a football club's boundaries is linked to the extent and nature of the interfaces present in the configuration of social worlds and social infrastructure of that club".

In fact, "even though professional football in the postmodern era is turning an increased focus towards the shareholder perspective, it is utterly important to maintain a strong focus on stakeholders, where supporters and the local community may be the most important ones to maintain the viability of a football club" (Junghagen, 2016).

At the same time, Cocieru et al. (in press) point out the psychological side of ownership, stating "a major development in international sport governance is the increasing number of clubs owned by supporters. Researchers have advocated for more supporter involvement in the governance of sport teams but have not fully explained why some supporters attempt to become team owners. Sport governance scholars have also generally ignored the perspectives of those fans that do not seek to become club owners". Taking the perspective of psychological ownership theory and using semi-structured interviews to examine the perspectives of a professional football team's supporters, they find that "a primary reason supporters attempt to become club owners lies in their sense of psychological ownership for their team. Following this sense of ownership, supporter ownership initiatives appear to follow a certain pattern of events, including a sense of dissatisfaction, expressing such dissatisfaction in an attempt to bring about change, and eventually, initiating a formal ownership movement after reaching a tipping point". Last, they argue that "during supporter ownership movements, the actions taken by supporters involved in such initiatives may impact fans not involved in the ownership movement" (Cocieru et al., in press).

The relationship between ownership and financial results has given rise to mixed and ambiguous findings. For instance, according to Sanchez et al. (2017), "football teams organized as members clubs, with dispersed ownership and uncontrolled by foreign investors perform better. Thus, property structures facilitating less control over managers relate positively to performance".

Based on the suggestion that "professional European football clubs have been hypothesized to maximize sporting or financial objectives", Rohde and Breuer (2018) analyze the impact of various ownership structures on management efficiency in maximizing profitability and national sporting success.

Referring to a panel of English and French clubs between 2006 and 2012, Rohde and Breuer (2018) find that clubs that are "majority-owned by private investors are less efficient than other clubs in French Ligue 1. In English professional football, the majority of takeovers is pursued by foreign investors", concluding that "although previous researchers have shown that foreign investors increase financial resources and team

investments [...] the analysis of survival and financial team efficiencies of club ownership structures indicates that clubs tend to compete by investments rather than efficiency”.

Acero et al. (2017) argue poor governance and lack of transparency, finding “an inverted U-shaped curve relationship between ownership structure and financial performance as a consequence of both monitoring and expropriation effects”.

However, the current paper focuses mainly on the work of Andrews and Harrington (2016) described in the next section.

3. TRACKING THE STATUS QUO

According to Transparency International¹, “the risk of corruption at too many football associations around the world is high. This problem is made worse by the lack of information such as audited financial statements by many associations”.

In their pivotal study “Off pitch: Football’s financial integrity weaknesses, and how to strengthen them”, Andrews and Harrington (2016) point out that “in terms of financial transparency, we asked even more basic questions; focused on whether organizations involved in football produce financial reports according to standards, make reports and information available to key stakeholders (like boards and tax bureaus), and make reports and information available to broader groups of interested stakeholders (like supporters)”.

Amongst other interesting points, these authors depict two main tiers in the football industry: the top tier, and the tier of clubs below them, where “national associations and league bodies have limited capacity to provide the oversight needed for many clubs (and we assume that limited oversight probably yields limited compliance)” Andrews and Harrington (2016).

Furthermore, they refer to the abundant literature and examples of weaknesses in club transparency, accounting, and reporting regimes.

For instance, Emery and Weed (2006) describe a limited financial management capacity in lower league clubs in England, and David Prochazka’s (2012) study reveals that a significant number of Czech football clubs submit their financial statements to the Business Register late or do not submit them at all. In another example, Barajas (2004) finds “a lack of financial transparency” in Spanish football (Andrews and Harrington, 2016).

The depiction of clubs according to their natural position in the tiers (in the top or below) is pervasive, sustained, and agreed: at the same time, the authors are well aware that even in the top tier, more articulated schemes can lead to financial misperceptions and failures.

¹ The Guardian. (2018). *Transparency international: Fifa member federations are too secretive*. Retrieved from: <https://www.theguardian.com/football/2015/nov/19/transparency-international-fifa-secretive>

In this sense, they present the case of the over-articulated relationship between Paris St Germain and UEFA.

This figure does not argue that there are de facto wrongdoings in the financial dealings or relationships shown but highlights the important and widespread presence of potential and apparent conflicts of interest for UEFA that are not properly disclosed.

In other words, the issue of potential conflicts of interest and black boxes concerns both minor and major clubs due to their implicit organizational and normative apparatus and their close link with supervisory bodies.

More recently, in November 2018, the preliminary findings from an independent global study were released titled "Legal, Financial and Integrity Aspects of Club Ownership in Football", this is the first phase of a global study jointly undertaken by UIA in partnership with ICSS INSIGHT and SIGA. In detail, a team of lawyers from 25 countries, including top football nations, provided a robust and independent diagnosis of the legal landscape relating to football club ownership in their respective jurisdictions.

The project's overall conclusion is a general lack of effective supervision and due diligence and weak regulatory frameworks on club ownership and investments.

Surprisingly, the preliminary findings reveal that only three countries have a dedicated body that specifically oversees investments and ownership in their football clubs, and only two nations are able to fully track and monitor the money behind such investments and ownership. Instead, the vast majority of countries do not have any mechanisms in place that enable understanding the source of a club's investments, relying on generic laws, and most 'assuming' that any financial scrutiny falls under the country's existing club licensing system.

The preliminary results show a considerable lack of transparency across all levels of clubs, with details of exact ownership and investments virtually invisible at the lower league and club levels.

Some of the preliminary findings include:

- While 83% of countries have an obligation under national legislation to disclose club owners/investors' identities, only the UK, Netherlands, Spain, and Switzerland have some kind of a structure/process with a monitoring and control role.
- Public information regarding full ownership and investment structures is only available in Belgium, Ukraine, and the UK.
- Only five countries (Brazil, UK, France, Portugal, and Ukraine) have the legal obligation to fully disclose club owners/investors in both professional and non-professional football clubs.
- 64% of countries require information on club ownership structure for only the professional top two level divisions.
- Where countries have disclosure obligations that apply to full ownership structure, the majority is unable to identify the ultimate

beneficial owner of the club; only 39% of countries monitoring club ownership are able to track the ultimate beneficial owner, albeit with limitations.

- Only three countries (France, Italy, and Switzerland) have a dedicated registry body that deals with club ownership.

Amongst those interviewed after the publication of these astonishing results were:

- Fernando Veiga Gomes, President of the Sports Law Commission of the UIA – International Association of Lawyers, who stated: “What most impressed me with the preliminary findings of the Global Study on Club Ownership is the lack of adequate and strong regulation regarding club ownership. I was also surprised by the lack of pre-acquisition clearance in most countries and with the fact that 70% of the countries analyzed have no fit and proper test regarding their board members. We have moved from TPO to club ownership and in fact, the same problems such as influence, conflicts of interests, and lack of integrity are still out there”.

- Rick McDonnell, former Executive Secretary of the Financial Action Task Force (FATF), Executive Director, ACAMS and Vice Chair of the SIGA Standing Committee on Financial Integrity, who stated: “This study confirms what I suspected since my days at the Financial Action Task Force when we commissioned the first report that researched money laundering in the world of football: lack of transparency allows corruption to thrive and no industry is immune. The preliminary findings show a need for a robust regulatory approach, with the effective fit and proper owners’ tests in every country to close the loopholes that enable third-party investment funds to conceal the identities of the ultimate beneficial owners. There is a need for sports organisations to implement the SIGA Universal Standards on Financial Integrity, which offer an antidote to this problem”.

- Pedro Machado, Head of Legal Department, Bank of Portugal and Vice Chair of the SIGA Standing Committee on Financial Integrity, who stated: “Whilst I am not surprised by the preliminary findings of this groundbreaking study, I am concerned by the number of black holes in club ownership worldwide. It is clear that urgent action is needed to close the gaps. Without transparency, we cannot adequately respond to the challenges facing sport. As one of the Vice Chairs of the SIGA Standing Committee on Financial Integrity, this study goes to the heart of the problem: proof of origin of funds coupled with sound accounting and auditing practices. SIGA is committed to pushing for reform on club ownership via the implementation of the SIGA Universal Standards and corresponding Implementation Guidelines”.

In December 2018, abundant media coverage was given to the German Football Federation President, Reinhard Grindel, who launched a withering attack on FIFA president Gianni Infantino over the lack of transparency on proposals for new competitions. “With this lack of

transparency on these questions he is reinforcing the prejudices against FIFA,” said Grindel to journalists. “It is why I am insisting with my UEFA colleagues in the FIFA Council on the creation of a task force where all the information can be laid out on the table and we can determine with honesty if we need other competitions and if so what format they should take” he continued.

Infantino has long envisaged the creation of an international nations league and a Club World Cup expanded to 24 teams. In November, he told AFP that it was the best way to fight the possibility of a breakaway Super League.

The vague proposal to sell FIFA rights for \$25 billion over 12 years to finance the club tournament also concerned Grindel, “I would be satisfied if FIFA launched an open process of discussion and if the principals concerned, that is the clubs, the leagues and the federations were involved in the discussions”.

Grindel’s concerns echo those that the UEFA President Aleksander Ceferin voiced at the start of December, “we still have a lot of difficulties with these two proposals”. He was particularly ambivalent about the Club World Cup, which would be “financed by a fund whose origins and names of supporters are unknown”.

In conclusion, the literature in recent years (and even the last months of 2018) has shown an increasing interest in relation to opaque spaces within the realm of football clubs and their complicated financing and collaboration architectures. Both large and small clubs and institutional bodies (such as UEFA) are under increasing scrutiny from scholars and the media.

4. THE CASE OF SERIE A

In light of the aforementioned, and based on the available documentary evidence (from the register of Italian Chambers of Commerce and a miscellanea of information on the web), this section depicts the ownership structure of the 20 Italian football clubs currently (as of the 2018/2019 season) belonging to the highest category, Serie A.

Juventus, Lazio, Roma: These three clubs are listed on the Stock Exchange. Nevertheless, the beneficial and ultimate owner is always clear, namely, the Agnelli family, Claudio Lotito, and James Pallotta respectively.

Atalanta: In Bergamo, Antonio Percassi, a former defender in the 1970s, holds 80% in Atalanta (the rest divided between 150 partners) via the holding company Odissea together with the cosmetics chain Kiko.

Bologna: A North American group headed by Joe Tacopina and Joey Saputo stated its interest in acquiring the club in 2013. On 15 October 2014, the board of directors ratified the sale of the club to BFC 1909 Lux SPV, which is owned by the BFC 1909 USA Spv LLC, an American company in which Saputo has interests.

Cagliari: Since 2014, the club has been owned by Fluorsid, a company that produces fluorochemicals since 1969 and which in turn is owned by the Giulini family, close to the former *patron* of Inter, Massimo Moratti.

Chievo: According to the media, the club is generally deemed to be in the hands of Luca Campedelli, owner of the renowned Italian pastry brand "Paluani", however, Campedelli's sister and mother are relevant Chievo shareholders.

Empoli: The Italian Corsi family, operating in the textile manufacturing industry and focusing on clothing and leather accessories, is the owner of Empoli.

Fiorentina: The shoe and leather entrepreneur Diego Della Valle has owned Fiorentina since 2002.

Frosinone: The controlling owner is Maurizio Stirpe, via Prima Spa, a company that operates in accessories mainly for cars.

Genoa: Enrico Preziosi, chairman of the board of directors of Giochi Preziosi, a toy wholesaler, is the owner of Genoa.

Inter: On 6 June 2016, Suning Holdings, via Great Horizon Sarl, signed a contract to acquire a majority stake (around 70%) from Erick Thohir's consortium (Internazionale Sports Capital) and the Massimo Moratti family (Internazionale Holding). The deal was approved by the extraordinary general meeting on 28 June, after which Suning Holdings acquired 68.55% shares.

A.C. Milan: In July 2018, Elliott Advisors Limited took control of the club after the previous owners defaulted on the repayment. In its first move as the new owner, Elliott allocated Milan €50 million in "equity capital" to provide financial security in the short term.

Napoli: The club is owned by Aurelio De Laurentiis, a film producer.

Parma: After a brief period under the control of Jiang Lizhang, a Chinese businessman, the club was re-founded by a group of Parma-based entrepreneurs (Guido Barilla, Giampaolo Dallara, Mauro Del Rio, Marco Ferrari, Angelo Gandolfi, Giacomo Malmesi, and Paolo Pizzarotti).

Sampdoria: The club is owned by Vanessa Ferrero, daughter of the patron Massimo Ferrero, an entrepreneur.

Sassuolo: The Squinzi family, via the family firm Mapei (a worldwide producer of adhesives, thinsets, and sealants for buildings), controls the club.

Spal: Spal is owned by the Colombarini family, which in turn owns Vetroresina Spa, a company that produces polyester resin laminates.

Torino: The beneficial and ultimate owner since 2005 is Urbano Cairo whose principal business interests are in Cairo Communication, a business he founded. Urbano Cairo, via U.T. Communications and UT Belgium Holding, owns a 50.1% stake in Cairo Communication. U.T. Communications is also the parent company of Torino F.C.

Udinese: Giampaolo Pozzo, once owner and director of Freud, a leading manufacturer of industrial woodworking tools, is the owner of Udinese.

Even if in some cases the ownership of Italian football clubs came about via a number of different stages and with some foreign countries (consider, for instance, Bologna), clear ownership – an Italian family or a family with Italian entrepreneurial ancestors – is present in 18 out of 20 cases. In fact:

- The three listed companies pertain to three families (Agnelli, Lotito, Pallotta)
- All the other clubs (with the exception of Inter and Milan) are owned by an entrepreneurial family: Percassi, Saputo, Giulini, Campedelli, Corsi, Della Valle, Stirpe, Preziosi, De Laurentiis, Parmesan entrepreneurs, Ferrero, Squinzi, Colombarini, Cairo, Pozzo.

In the case of Inter and Milan, even if traditionally linked to two well-known entrepreneurial families (Moratti and Berlusconi), foreign investors control these clubs.

In line with the above, Regoliosi (2016) in his essay claims that “the relative weight of the ownership composition in such an analysis has not been ignored. Nonetheless, no test on this topic has been run because all Italian professional clubs are narrowly owned by a single owner or a family. Despite the fact some of them are listed on the Italian Stock Exchange, their floating minorities are very poor and mainly inactive. So, in the Italian football context, the characteristics of the ownership are not a concern”.

However, the concentration of power in a limited number of entrepreneurial families gives rise to questions beyond clear ownership.

First, generally speaking, the Serie A league has been characterized in recent decades by clubs whose ownership is highly concentrated in holding groups or individuals: since football is widely reported to be financially deleterious or not profitable, in Italy it has been used as a propaganda tool by large families with power and part of the Italian economic and political establishment (Rey and Santelli, 2017).

Second, other authors (Boeri and Severgnini, 2014) recall that most of the Serie A teams are run by individual entrepreneurs with other economic interests and with some direct or indirect media influence; most of the owners are active in oligopolistic sectors (such as TV, transportation, telecommunication, oil refinery).

According to these authors, “This situation suggests two things: first, the club is not seen as an independent unit whose financial sustainability should be pursued; second, the objective function is almost uniquely related to maximizing image returns” (Boeri and Severgnini, 2014).

The case of Italy is useful to bring attention to the work of Andrews and Harrington (2016), who also mention an Italian club when depicting

the "dark spaces" and black boxes between football clubs and organizations.

Andrew and Harrington (2016) trace a number of different organizational and structural mechanisms that could favorably enable minimizing the risks of potential conflicts of interest: *inter alia*, to enhance club and league transparency, increase commitment to financial supervision by governing bodies, fully disclose assets and conflicts of interest of football officials, build a global club registry, and create a transfer clearinghouse.

5. CONCLUDING REMARKS, LIMITATIONS AND VENUE FOR FUTURE RESEARCH

In recent years, the literature on football and accounting has focused on some opaque spaces in the ownership of football clubs, as well as in the definition of collaboration and commercial partnership mechanisms that, even in the case of larger clubs, are at times misrepresented in financial reports.

The Italian case is particular in that even if facing clear steps of control, the strictly familial nature of Italian capitalism clearly emerges.

The clubs are in fact controlled by influential entrepreneurial families (often operating in the entertainment industry) who through football consolidate their image.

In other words, the risks of conflicts of interest and opacity in commercial formulas, already highlighted by the best literature, are reflected in a system of economic and meta/non-economic returns in which the object "football" becomes an instrument of social recognition and financial growth via indirect mechanisms.

In effect, this paper highlights how, beyond the lack of transparency in the ownership structure, the football industry suffers as per today from other significant potential conflicts of interest, on which it is necessary for scholars and practitioners to devote more time and more attention.

As such, these aspects need to be carefully monitored to (1) enlarge the spectrum of areas of possible conflicts of interest between economic actors, and (2) define an adequate system of checks and balances.

The points above are also particularly significant to reduce the convenience of acquiring clubs for non-sporting reasons, such as their transformation into money laundering vehicles, third-party investment funds, and sports betting fraud.

On the topic of money laundering, for instance, May (2018) developed the case of the English football club Birmingham City FC (BCFC). In October 2009, the Hong Kong based businessman Carson Yeung led a takeover of BCFC. The Birmingham International Holdings (BIH) group that he headed aimed to develop the club's business profile and support in China by importing Chinese players to BCFC and signing deals with Chinese companies. Yeung was arrested and charged with

money laundering in 2011, and was unable to directly fund the club he bought.

Sport and fraud have a complex and heterogeneous relationship. Indeed, sport and fraud, and more generally a crime, have the power to stir emotions and stimulate debate.

In accordance with Armstrong and Hodges-Ramon (2015), "for some, sport is a bastion of physical prowess and moral virtue; abiding by the rules and playing fair is considered a vehicle to encourage the wayward to veer from potential deviance or to rehabilitate offenders. A surfeit of programs designed to use sport as a method of crime control currently exist. However, the sport itself contains many paradoxes and in some cases has become a realm for criminal behavior: corruption, bribery, doping, discrimination, violence, hooliganism, and a host of other undesirable behaviors are all evidenced in the delivery and practice of sport. Thus, the Hydra-headed character of the sport makes the correlate between sport and crime a sometimes controversial milieu".

In this sense, the excellent work of Caglio et al. (2016) concludes that "clubs wanting to participate to the UEFA tournaments must operate as self-sustaining businesses protecting European football from bad business practices, avoiding dangerous injections of sometimes opaque and often volatile 'benefactor money' as well as equally opaque and volatile instances of financial speculation such as third-party ownership and third-party investment".

The main limitations of the paper lie in the analysis, as a case study, of Italy alone (Series A). The study of other leagues and the deepening of some specific clubs could lead in effect to different results: this enlargement, at the same time, represents one of the fruitful avenues of further research as well.

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