

2.4 Agents and beyond: corruption risks in the football transfer market and the need for reform

Raffaele Poli¹

Agents are at the heart of the transfer and labour market of football players. Among many responsibilities, agents represent both clubs and players within the context of contract or transfer negotiations, they deal with players' image rights and they carry out scouting tasks on behalf of clubs.

The main corruption issues with regard to agents in football are related to the misuse of the transfer system by the different actors involved, both within and outside club structures, as a source of personal financial benefit. The key mechanism is the payment of commission fees to agents upon the transfer of a player, which are then kicked back to the different stakeholders, in particular originating club officials and owners, with whom the agents collaborate.

Given the considerable amount of profits to be made, sports directors, scouts, coaches, club shareholders and agents often have a financial interest in transferring more players and for more money, even if so doing is detrimental to the financial health of the club. The prevalence of vested interests in the football transfer market provides a stark picture of the poor financial situation of many clubs around the world.

Data from the Transfer Matching System (TMS) of the Fédération Internationale de Football Association (FIFA) shows that expenditure for international transfers reached new highs during the two last calendar years: US\$3.98 billion in 2013 and US\$4.06 billion in 2014. Meanwhile, commission fees paid to intermediaries acting on behalf of clubs alone went up from US\$218

million in 2013 (5.5 per cent of total transfer expenditure) to US\$236 million in 2014 (5.8 per cent of total transfer expenditure).²

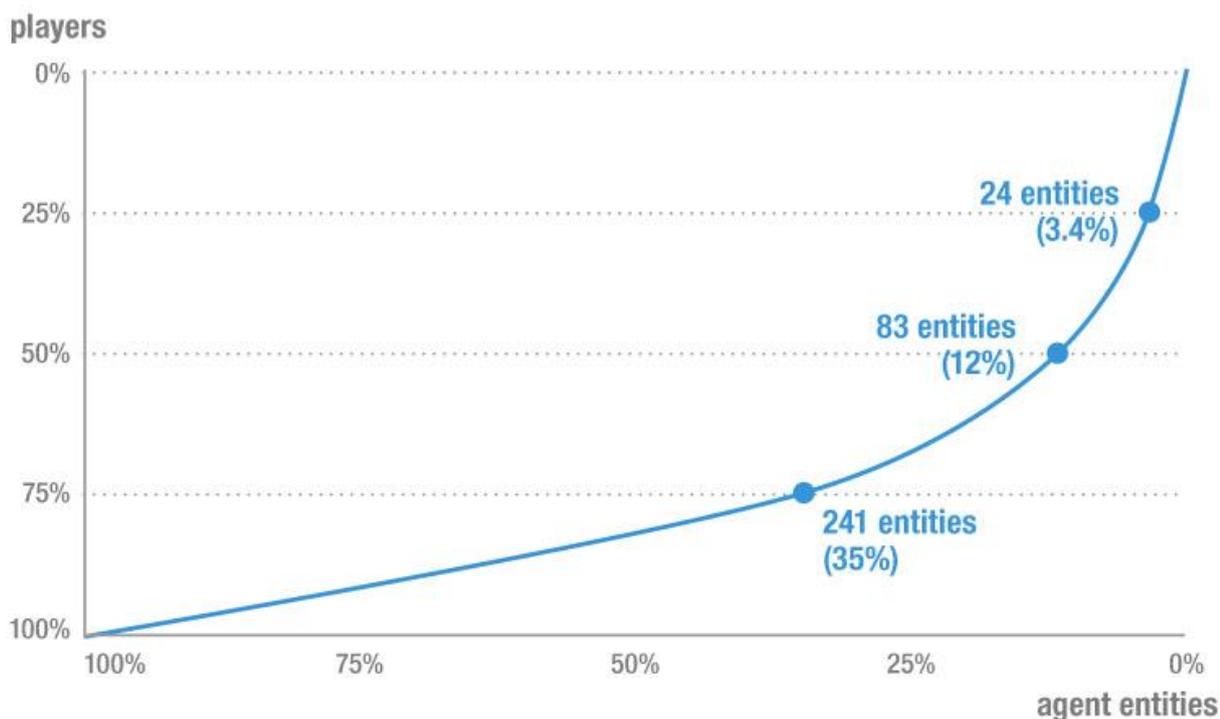
Beyond commission fees for representing clubs, dominant agents also earn considerable amounts of money by representing players. According to a report prepared by the Centre international d'étude du sport (CIES),³ the yearly turnover of football intermediaries is above €400 million (around US\$450 million) in Europe alone. Moreover, powerful intermediaries with the best connections are increasingly benefiting from transfer revenues, whether through personal entitlement to shares of deals or as advisers to investment funds and companies active in the third-party ownership business.⁴

Market concentration

As in other industries, the representation market in football is a business based on relationships, with trust playing a crucial role. This raises crucial issues with regard to opaque arrangements between business partners, corruption, unfair competition and market concentration based on privileged relations.

According to the CIES report,⁵ in June 2011 694 individual agents – whether licensed or not⁶ – or companies represented the 1,945 players employed by the clubs of the five major European leagues⁷ for whom the authors were able to collect the relevant information. This represents nearly three-quarters of all footballers in the 'Big Five' leagues. As illustrated in Graph 2.1, the study also indicates that 50 per cent of the players were clients of 83 individual agents or agencies, and one-quarter of footballers were represented by only 24 of them. This clearly shows the high level of concentration in the representation market of top league footballers.

From the perspective of market concentration, it is useful to recall that in June 2011 there were more than 2,400 licensed agents domiciled in the countries hosting the 'Big Five' European leagues. This figure is much greater if we also include people acting as intermediaries without the possession of a licence delivered by a national association, as well as lawyers and players' relatives.



Graph 4.1 Percentage of individual agents or agencies (entities) with clients in the "Big 5" leagues according to the percentage of players represented (2010-2011 season)

Source: CIES Football Observatory, *Football Agents in the Biggest Five European Football Markets: An Empirical Research Report* (Neuchâtel: Centre international d'étude du sport, 2012), p. 17.

The CIES report also highlights the existence of strong entry barriers to intermediaries aspiring to work in the representation market for top league players. According to a survey of licensed agents in the Big Five leagues carried out for the report, the existence of established agents dominating the market is considered to be an important hurdle for newcomers.⁸

The European Commission (EC) attempted to increase competition by facilitating agents' ability to obtain licences through national associations, which was put into practice by FIFA with the entry into force of a regulation on agents in 2001.⁹ This has fallen short of achieving the EC's and FIFA's desired impact¹⁰ of a more accessible representation business, however. FIFA's recent efforts to no longer require licenses for agents will hardly change the situation. While more people will be able to be recognised as legitimate intermediaries, those who hold the closest relationships with club officials will maintain their hold on the market.

In addition, the direct involvement of the most influential agents in deals entitling them or other parties to shares of transfer revenues or as advisers of investment funds or companies active in this business aggravates 'cartelisation' concerns, and leads to an institutionalisation of the conflict of interest as the modus operandi in the transfer market. In fact, there are investment funds and companies that collaborate on a regular basis with a small group of intermediaries who maintain strong ties with clubs and their shareholders. These dominant networks are exercising increasing control over footballers and clubs.¹¹ This increases the risks of insider trading, collusion and kickbacks, and gives dominant actors and networks even more leverage over outsiders. As in all economic sectors, this oligopolistic position is indeed advantageous; specifically in football, it drives up transfer costs for players, generates ever greater profits and consolidates control of the market.

Transfer system reform

The corruption risks related to the role of football agents should be tackled from a holistic perspective. Notably, the role played by team officials and shareholders within the context of poor corporate governance at club level should be taken into account. To be effective, any action with

regard to agents should take into consideration the vested interests between the multiple actors involved in the transfer market of football players.

Comprehensive reform is needed to move away from the speculative view of the transfer market, which has gained ground during the last 20 years. The key objective should be to make the transfer system better suited to fulfil the purpose for which it was first implemented and has since been adapted: for contractual stability, the promotion of training and development, and fair income distribution. An efficient measure to accomplish this would be to entitle each team that a player passes through to compensation for all transfers involving the payments of fees that later take place over the course of that player's career. This could be done on a pro rata basis, according to the number of official matches played at the club. In the current situation, the contribution to clubs that developed players is limited to 5 per cent of any transfer fee.

As an example, take footballer A, who begins as a professional in club X, playing 75 matches there before being transferred to club Y. After 25 games with club Y, the player transfers to club Z. In the event of a 'paying fee' transfer to club Z, club X is entitled to 75 per cent of the transfer fee, regardless of club Y already having paid a fee to sign the player from club X. In this scenario, obligations for increased transparency – including open negotiations, expert valuation, compulsory disclosure, sporting and financial sanctions for non-compliance - will be very important as a means of preventing the possibility of club Y hiding from club X the real deal arranged with club Z. This would allow football governing bodies to ensure that transfer incomes are evenly distributed throughout the whole chain of teams that have contributed to players' development.

With regard to contractual stability, this reform would ensure that clubs receive compensation even if the player leaves at the end of his contract. This could also enable teams to more easily afford

hanging onto their best players for longer periods, and salary inflation might also be better kept in check.¹² This reform could also have a promising impact on development and training, making investments in clubs or youth academies more interesting from a financial standpoint. Importantly, training clubs would receive substantial money in the event of a second, third or subsequent paying fee transfer, which are generally the most profitable. This should incentivise current or new club shareholders to invest in the training of players instead of disproportionately speculating on specific talents from a short-term profit maximisation perspective, with no real contribution to the smooth development of football, as it is often the case currently.

The reform would also be beneficial from an income distribution perspective. Although the wealthiest clubs, in their quest for success, will probably continue to spend huge amounts of money to sign players, their investments would be split more evenly throughout the whole chain of clubs that have developed them.

The increased guidance and control resulting from the proposed reform would help to address the corruption risks related to agents in the transfer market. Although it would not resolve all the concerns arising from the prevalence of vested interests in the transfer market, it would help return the system towards the critical principles underlying its creation and existence; contract stability, the reward of training and fair income distribution.

Notes

¹ Raffaele Poli is the co-founder and head of the Football Observatory of the Centre international d'Etude du Sport, University of Neuchâtel, Switzerland.

² Fédération Internationale de Football Association, 'International transfers break \$4bn mark – FIFA TMS Annual Report', media release, 28 January 2015, www.fifa.com/governance/news/y=2015/m=1/news=international-transfers-break-4bn-mark-fifa-tms-annual-report-2512285.html.

³ Raffaele Poli and Giambattista Rossi, *Football Agents in the Biggest Five European Football Markets: An Empirical Research Report* (Neuchâtel: Centre international d'étude du sport, 2012), www.football-observatory.com/IMG/pdf/report_agents_2012-2.pdf.

⁴ In this regard, see Asser International Sports Law blog, 'Blog symposium: third-party entitlement to shares of transfer fees: problems and solutions', 15 April 2015, www.asser.nl/SportsLaw/Blog/post/blog-symposium-third-party-entitlement-to-shares-of-transfer-fees-problems-and-solutions-by-dr-raffaele-poli-head-of-cies-football-observatory.

⁵ Poli and Rossi (2012).

⁶ In 1994 FIFA introduced a requirement for individuals to obtain a licence in order to officially operate as agents. This required no tests, but the payment of CHF 100,000 (approximately US\$70,000). In a 2001 reform to open the market, tests, conducted by the national associations under FIFA guidance, were required to obtain a licence. Lawyers and players' relatives could also operate as agents. Non-licensed agents continued to be present in the market. Various additional regulations exist according to country. In April 2015 FIFA abolished its guidance on and control of the licensing system. Each national association is now responsible for the development of its own regulatory framework regarding agents, following FIFA's minimum requirements.

⁷ The so-called 'Big Five' leagues include the English Premier League, the Spanish Liga, the German Bundesliga, the Italian Serie A and the French Ligue 1.

⁸ Poli and Rossi (2012).

⁹ See endnote 6.

¹⁰ Stanislas Frenkiel, *Une histoire des agents sportifs en France: Les imprésarios du football (1979–2014)* (Neuchâtel: Centre international d'étude du sport, 2014).

¹¹ For further information on the role of investment funds and third-party ownership, see the following two articles.

¹² As many clubs transfer players to avoid their leaving for free, or, alternatively, they are obliged to pay them significantly increased salaries to persuade them to extend their contracts, the reform would help limit salary inflation.