

A European Super League would violate EU competition law – as would UEFA's proposed reforms of the Champions League

The last year has seen mounting speculation that some of Europe's top football clubs are preparing to establish their own European Super League. Tsjalle van der Burg argues that given a European Super League would violate European competition law, the European Commission should step in and forbid it. This would empower European football's governing body, UEFA, to reform football for the benefit of supporters.

Since 1998, major European football clubs have threatened several times to leave UEFA competitions and start a European Super League. Until now, the threats have always ended with UEFA reforming its competitions to the advantage of the big clubs. As a result, many big clubs can qualify for the Champions League more easily now, and they get a larger share of the revenues from European competitions.

The same thing seems to be happening again this season. In October 2020 there were, according to [David Conn](#), reports that the bank JP Morgan had been asked to examine the financial possibilities of a Super League, a project said to have been initiated by Real Madrid. Top clubs have always been hesitant to support a breakaway Super League publicly, but, according to Conn, concrete proposals for a Super League were being discussed by top clubs including Manchester United and Liverpool. [FIFA and UEFA](#) firmly rejected any proposal along these lines on 21 January. Football supporters' groups at top clubs across Europe also made a strong collective statement, issued by [Football Supporters Europe](#) on 29 January, condemning proposals for a Super League.

At the same time, UEFA is "[understood to have proposed](#)" a new format for the Champions League, which includes a larger number of matches. From the media coverage, one gets the impression that the reform would be particularly beneficial for the big clubs. Dutch newspaper [NRC-Handelsblad](#), for instance, noted that the Dutch champions are expected to earn so much money from playing in the new Champions League that it may tear the Dutch competition apart.

What has been missed is that these developments are illegal from the perspective of European competition law. This stems from the fact that football clubs compete with one another for consumers (stadium visitors, television viewers, buyers of club merchandise) at the national level (mainly). For instance, to attract consumers, Ajax Amsterdam is strongly competing with other Dutch clubs. Consequently, as far as the end products of the football industry are concerned, the 'relevant markets' are the national markets. Note that the relevant markets are the markets on which courts focus when they have to answer the question of whether there is sufficient competition or whether competition has been reduced to an extent that harms economic welfare.

Football and European competition law

The observation that the relevant markets for the products of football clubs are national markets is not a new one. For instance, economists, legal scholars and the European Commission all agree that the relevant markets for TV coverage of football are national markets. However, this insight has not yet been applied to the new competition formats. If it were, it would become clear that both a European Super League and the proposed reforms of the Champions League would violate European competition law.

This is evident when one considers how competition has developed within national markets in recent decades. In most European countries, the number of football clubs with a realistic chance of winning the Champions League has decreased. In the Netherlands, for instance, Ajax is in the process of becoming by far the most popular choice for Dutch fans who want to follow a club that still has some chance of winning a European title. This means that clubs like Feyenoord Rotterdam and PSV Eindhoven will, in the long run, be less able to compete with Ajax when it comes to attracting new fans. Ajax will therefore gain market power, and competition within the Dutch market will be reduced. According to general economic theory, this will result in higher prices for fans.



Mohamed Salah celebrating during the 2019 Champions League final, Credit: Shutterstock

This example shows why it is important to focus on national markets. In Europe as a whole, there may be some thirty clubs that still have a realistic chance of winning the Champions League one day in the future. From this perspective, it may seem there is sufficient competition, and there would still be no harmful lack of competition even if the number of clubs that can win the Champions League decreased to twenty.

However, once it is established that the main relevant markets are national markets, it becomes clear that developments even in big footballing countries like England are problematic. In the past, relatively small English clubs like Nottingham Forest had a serious chance of winning the largest prize in European club football (the European Cup, as it was then known), but there are now only around eight English clubs, at a push, who have a serious chance of winning the Champions League. English fans who would like to follow a top club within England therefore have less choice than they did in the past.

The European Super League

A European Super League would simply reinforce this process. Let us first assume it would be a closed league, without relegation and promotion. Each country would then have at most one or a handful of clubs playing in this elite league, and their names would always be the same. It is not unlikely that the Netherlands would have only one participant, Ajax, which would give the Amsterdam club a monopoly on top-level football in the Dutch market. England might have six clubs playing in the Super League, potentially leaving the English market for top-level football divided between these six clubs forever. In other words, competition in national markets (the relevant markets) would be strongly reduced as a result of the introduction of a closed Super League.

Even a more 'open' version of the Super League – incorporating the possibility of promotion and relegation – would stifle competition. This is because the clubs that play most regularly in this elite competition, earning big money in the process, would steadily gain a greater advantage over the other clubs in their own country. The choices for young people who want to be a fan of a club that can win the highest prizes would therefore be strongly reduced. As such, the Super League would lead to less competition in the relevant markets, even if it were an open league.

A Super League could only be created if several clubs agreed to take part. But this would essentially entail them reaching an agreement that restricts competition. Article 101 of the Treaty on the Functioning of the European Union (TFEU) prohibits "all agreements between undertakings, decisions by associations of undertakings and concerted practices... which have as their object or effect the prevention, restriction or distortion of competition within the internal market". Since legal scholars and the courts have come to agree that football clubs are undertakings, there can be one conclusion only: a European Super League violates European competition law.

A return to democratic decision-making

As discussed above, major clubs have been jointly threatening to leave UEFA since 1998, which has forced UEFA to reform the Champions League in a way that benefits these clubs. The present threats may well have the same result, causing Europe's largest clubs to become even stronger on the pitch. This would increase their chances of winning European and national titles. As a result, competition in national markets for the products produced by football clubs would decrease. These developments can only be described as concerted actions to restrict competition and would also violate EU competition law.

The European Commission is therefore legally bound to put an end to the threats of a Super League. If it did, the power of the top clubs would diminish and UEFA (an association) would once again be able to pursue a policy based on the principle of 'one member, one vote'. The members of UEFA are the national football associations, with associations from smaller countries having the majority of the votes and most members of the national associations being small clubs.

This return to democratic decision-making would produce more opportunities for smaller clubs, improve the excitement of existing competitions, and reduce prices for fans. Put simply, we would get greater variety, greater quality, and lower prices, which are precisely the objectives of European competition law. The European Commission has had the opportunity to intervene since 1998 – the only question remains, what is the Commission waiting for?

For more information, see the author's accompanying paper at [Managing Sport and Leisure](#)

Note: This article gives the views of the author, not the position of EUROPP – European Politics and Policy or the London School of Economics. Featured image credit: [Shutterstock](#)
