



House of Commons
Culture, Media and Sport
Committee

**European Commission
White Paper on Sport:
Government Response
to the Committee's
Seventh Report of
Session 2007–08**

**Third Special Report of Session
2007–08**

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The Culture, Media and Sport Committee

The Culture, Media and Sport Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Culture, Media and Sport and its associated public bodies.

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The current staff of the Committee are Kenneth Fox (Clerk), Martin Gaunt (Second Clerk), Lisa Wrobel/Anna Watkins (Committee Assistant), Rowena Macdonald (Secretary), Jim Hudson (Senior Office Clerk) and Laura Humble (Media Officer).

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Third Special Report

1. On 14 May 2008, the Committee published its Seventh Report of Session 2007–08, on the European Commission White Paper on Sport.¹ Gerry Sutcliffe MP, the Minister with responsibility for sport at the Department for Culture, Media and Sport, responded to the Report by way of a letter to the Committee Chairman on 16 July 2008. This response is published as the Appendix below.

¹ HC 347, Session 2007–08.

Appendix: Government Response

I am writing with regard to your Committee's Report, published on 14 May 2008, following the Committee's inquiry into the European Commission's White Paper on Sport.

I have read your Report with interest and would like to compliment you and your Committee colleagues for producing what is a very useful summary of the key components of a weighty document, covering a range of complex areas affecting sport.

As your Report states, the Government believes that the White Paper provides a "valuable platform for exploring some of the key issues facing sport at the European level". I was therefore pleased that a number of major sports and sporting organisations found time to provide evidence to the Committee on this important development in the field of sport.

I have also sought the views of key stakeholders since the publication of your Report and those views have helped the Government formulate its response. Indeed, I believe that proper consultation and consideration of national stakeholder views is an important component of the Government's ongoing consideration of the development of sport in the EU.

It is understandable that some sports have concerns about how the White Paper proposals and the new competence for sport, should the Lisbon Treaty be ratified, will progress. There are clearly a number of challenges for sport in the modern environment, notably from increased commercialisation, but conversely there are also a number of opportunities.

Whilst recognising the need to remain vigilant regarding the development of EU sports programmes, notably the principle of subsidiarity, I believe that the interrelated issues of the White Paper and the Lisbon Treaty represent a more positive view of sport in the EU and reflects the important place sport has in our society, both at national and European levels.

Your Report provides seven conclusions and recommendations concerning the White Paper's proposals. I have provided the Government's response to each of those as follows:

Conclusion/recommendation 1

1. We encourage Sport England and the Central Council for Physical Recreation to prompt national governing bodies to assess how they might make use of EU funding programmes targeted at sectors other than sport. (Paragraph 11)

As the Report rightly summarises, the lack of competence under existing Treaty provisions prevents the direct funding of sports programmes, which are consequently progressed by incorporating sports-related activities into programmes focused on areas such as health and education. Where there are EU funding opportunities available, the Government would strongly support governing bodies making full use of those opportunities, regardless of any additional direct benefits that may be provided should the new Treaty provisions be ratified.

The Government therefore supports the Committee's recommendation and additionally suggests that the sports councils within the devolved administrations should also be invited to participate in this exercise to facilitate a UK-wide exchange of information and best practice. The collection of this information should prove beneficial for those sporting organisations attempting to access these EU funding streams in the future.

Conclusion/recommendation 2

2. We strongly welcome the acknowledgement by the Commission of the essential part played in sport by volunteers, and we support the proposals in the Action Plan to use programmes such as Europe for Citizens or Youth in Action to encourage volunteering in sport, particularly by young people. (Paragraph 13)

The Government agrees with the Committee and the Commission in this area. As the Explanatory Memorandum states, the Government "supports the principle of enhancing volunteering, noting the societal benefits active citizenship offers" and has been successful in establishing programmes aimed at involving young people in sports leadership and volunteering, such as Step into Sport, and to continue this activity into later life.

Sport England has recently launched a new strategy to deliver a world leading community sport infrastructure to sustain and increase participation in sport and allow everyone to develop their sporting talent to the full. With annual investment of around £250 million the new strategy will be delivered primarily through the national governing bodies of sport, where the focus will be on more and better qualified coaches, more modern sports clubs and increased support for volunteers.

The Government will continue to support this important sphere of activity both at a national level and through suitable supplementary EU programmes. Indeed, the UK plays an active role on the EU Working Group considering issues of interest to non-profit sports organisations and looks forward to further exploration of matters related to this area through that forum.

Conclusion/recommendation 3

3. We do believe that sport has distinctive characteristics which need to be taken into account in the application of EU law. The simplest way to achieve this would be to draw up a specific exemption from the application of EU law. In the absence of this, we believe that the White Paper should at least have provided a stronger statement, based upon principles set out in the supporting Working Document, on which types of general activity would and would not be likely to be seen by the European Court of Justice as being compliant with the Treaty. (Paragraph 28)

The Government agrees with the Committee's view that sport has distinctive characteristics which need to be taken into account in the application of EU law.

As the Committee's Report rightly points out, many sports stakeholders have been disappointed by the absence of a more definitive statement on specificity within the White

Paper and continue to argue that their ability to govern sport in an effective manner is hampered by a lack of clarity around the relationship between EU law and sport.

The Government has been clear that it will not support block exemptions from EU law for sport. This would not be an appropriate or proportionate response to the challenges facing the sector. It is essential that sport continues to operate within the existing legal framework, but that it does so with the confidence that the Commission and the European Court of Justice fully recognise and respect the autonomy and specificity of sport.

Requests from sporting organisations for more clarity (rather than exemption) in this area are therefore understandable and the Government recognises that uncertainty could potentially have negative consequences for the development of sport in this country. The Government therefore intends to continue to explore this matter with interested parties and to press the Commission to put in place effective mechanisms to “sports-proof” future policy-making to ensure that its special nature is properly considered.

The Commission’s White Paper provides a useful starting point, providing a welcome detailed breakdown of the case law to date and an indication of the kind of sporting rules that are likely to be found compatible with EU law. This provides valuable clarification and guidance to sporting organisations, and an informative platform from which to consider and explore these issues.

The Government also welcomes the Commission’s on-going commitment to dialogue and its constructive response in those areas where sport has identified specific areas of concern, as it has recently done surrounding home-grown players. For its part, the Government will continue to work closely with interested parties to identify areas requiring further clarification and to take these issues forward, where it is necessary and appropriate to do so.

Specificity will no doubt form a significant part of the discussions at future meetings of EU Sports Ministers. Indeed, there will a joint meeting between Ministers and sports during the French Presidency, which should provide a useful opportunity to consider what further practical steps might be taken to deliver greater clarity in this area.

In addition, the revised Treaty provisions, if ratified, which provides for a “supporting” competence in the field of sport, commits the EU to taking into account sport’s special nature and this should give sport a much stronger voice within the Commission’s wider interests.

Conclusion/recommendation 4

4. Intellectual Property rights represent a large and increasing proportion of the income generated by sport. We share the view that it is disappointing that the White Paper does not give greater recognition to this, and we believe that it is therefore essential that sport has a seat at the table in all consultations and policy making relating to intellectual property. (Paragraph 34)

The Government is aware of the importance of intellectual property rights to sport and that sport derives an increasing amount of income from the exercise of those rights.

Although the Government notes the Committee's disappointment, the Government is pleased that the European White Paper acknowledged that the growth of the economic value of sport is linked to intellectual property rights. It also welcomes the White Paper's commitment to develop a statistical method for measuring the economic impact of sport. We believe that the statistical methodology, to be meaningful, must include consideration of the value of intellectual property rights to sport. The Government is also encouraged by the European Commission's development of the Sport Satellite Account and the fact that the statistical mechanism for that Account will cover some intellectual property rights.

The Government has regular contact with representatives from sporting organisations to discuss the development and implementation of intellectual property policy which impacts upon sport. In addition, the UK Intellectual Property Office has recently initiated twice yearly meetings with representatives from a wide range of sporting groups to discuss the intellectual property challenges faced by sport.

Conclusion/recommendation 5

5. We believe that governing bodies should be free to decide whether or not to introduce quotas for locally-trained players, and we regret that the White Paper, while making encouraging and welcome sounds about the compatibility with EU law of quotas for home trained players, did not propose action to ensure the desired certainty, leaving only a precarious authority under ECJ case law. (Paragraph 42)

The Committee's Report highlights the on-going concerns of governing bodies around the development of domestic talent, and the extent to which they are able to regulate effectively in this area. Indeed, the issue of home-grown and locally-trained players encapsulates the wider debate around the recognition of the specificity of sport in the EU.

The Commission has recently provided a very useful commentary on the application of FIFA and UEFA proposals to EU law. However, it is clear from discussions with stakeholders that, due to the diverse structures and competitions associated with each sport, a "one size fits all" approach is unlikely to provide a workable solution to this issue.

The Government has been clear that the introduction of quotas must be a decision for national governing bodies, in conjunction with their stakeholders, supporting the application of autonomy and subsidiarity principles. However, the Government will not support the introduction of regulations which breach EU rules on free movement.

The Government will, however, continue to work closely with governing bodies and the Commission to find practical and effective solutions. This is an area where the Commission has the scope to add real value, providing clarity in an area identified by sport as one of significant concern.

It is also crucial that the on-going debate around the future success of national teams focuses not just on the provision of opportunity, but on development and coaching more widely. In this regard, the Government welcomes The FA's recently published National Game Strategy, which sets out a clear vision for the game's grass roots through to 2012.

The FA's Strategy includes an important focus on how we can better develop players from the grassroots, setting out a commitment to support every player to achieve his or her potential and developing techniques and embedding basic skills within the 5–11 age group. This Strategy will be complemented by the creation of The FA's Youth Management Group which will oversee the development of players within Academies and Centres of Excellence.

The Government very much welcomes these developments. It is, after all, important that we recognise and encourage advances in training and, whilst recognising the positive impact of foreign players on our sporting competitions, that we also rightly acknowledge the importance of producing players for our national teams and of ensuring that proportionate measures are actively considered in order to protect that significant aspect of our national sporting heritage.

To that end, the Government encourages all sports to properly consider and explore appropriate measures that can best deliver that outcome. That is the challenge for sport. For its part, the Government will support suitable measures that achieve that position.

Conclusions/recommendations 6 and 7

6. The Government should hold the Commissioner to his assurances that the White Paper proposes neither regulation, harmonisation nor integration, and we believe that it is essential that national governing bodies of sport continue to have the freedom to decide for themselves how their sports should be run. (Paragraph 46)

7. If the EU is to have a role in sport, it should be to identify possibilities for fruitful action by Member States, to be taken at their discretion. The limitations of the role should be acknowledged openly by Member States and EU institutions alike, as a guard against any sign of creeping regulation by EU institutions in the future. (Paragraph 47)

The Government has been clear that the White Paper's proposals should be compatible with the requirements of subsidiarity; a position which is fully respected by the Commission. The Committee's support of the Government's statement in the Explanatory Memorandum that "activity in this area must be underpinned by a clear commitment to the autonomy of sport and to where it adds value to existing national policy" is therefore welcomed. The Government intends to continue to promote this approach and advance work in this area accordingly. It is not for national governments or the Commission to regulate or govern sport.

I would like to thank the Committee for its valuable input into the discussion surrounding the development of sport in the EU and I hope that you will find the Government's response to the Committee's Report, notably the seven conclusions and recommendations, helpful in that regard.

16 July 2008

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