

COVID-19: SUPPORTING THE RECOVERY AND REBUILDING OF THE GLOBAL SPORT INDUSTRY

WORLD PLAYERS
ASSOCIATION



INTRODUCTION

COVID-19 has deeply impacted the global sport industry. This multi-billion-dollar industry experienced a global shutdown putting many millions of jobs and livelihoods in jeopardy including for players, and those in connected sectors including travel, tourism, infrastructure, transportation, hospitality and broadcasting.

Players have shown great leadership in response to the crisis, including through the extensive support offered to their communities and the sacrifices they have made to enable sport's phased return. This includes agreeing to Return To Play Protocols (RTP Protocols) that seek to protect players from the risks of COVID-19 on the one hand, however also place significant demands on a player's mental health and wellbeing through self-isolation, quarantining, performing, and even living, in a hub environment.¹

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Players, like many others, have also faced wider negative short-term impacts, including reduced or unpaid wages, unlawfully terminated contracts, evictions, and exclusion from the social security system. The long-term impacts will also be acute.

Despite these challenges, the global sport industry which accounts for up to one percent of global gross domestic product, offers enormous economic, physical and social benefits which can again be fully realised as the crisis eases. This is especially for youth who have been severely impacted by the crisis.

This guidance for *Supporting the Recovery and Rebuilding the Global Sport Industry* can ensure that recovery and rebuilding is done in an inclusive, sustainable, and human rights compliant way and avoid hasty responses that may ultimately undermine the industry's recovery.

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stakeholders including sport governing bodies (SGBs) and businesses must also play their part to ensure a positive future for the industry.

I.

A UNITED INDUSTRY AND COMMUNITY WIDE RESPONSE IS ESSENTIAL

At the beginning of the crisis, World Players released eight *Guiding Principles for the Sports Industry and Community*.ⁱⁱ These remain relevant, especially Principles III, IV, V and VII, with Principle VII repeated in part below:

- ‘...
III. *Respect for human and labour rights...*
IV. *Care for people...*
V. *Athlete engagement and social dialogue...*
...
VII. *Impact mitigation and recovery planning.*

‘All key stakeholders should further unite and work together to mitigate against the harm of COVID-19 and plan collectively for the long-term recovery of the sports industry and the galvanisation of the sports community. The wider economic impact is also likely to affect the viability of key businesses that have long supported sport financially including broadcasters, sponsors, brands, media organisations and commercial partners.

Moreover, sport’s important social, cultural and educational role should be part of government stimulus packages being designed to help drive a strong economic recovery...’



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As the industry seeks to recover from this unprecedented crisis, all stakeholders must take coordinated and urgent action to ensure this is done in a sustainable way that optimises the essential contribution from players. This guidance for recovery and rebuilding contains the key aspects.

- Jonas Baer-Hoffman, FIFPRO, General Secretary

This is consistent with various commitments made at the global, regional and national levels since 2015 that emphasise the collective and multi-stakeholder culture that must underpin recovery and rebuilding.ⁱⁱⁱ The response to the crisis must be a catalyst to build on, rather than unwind, the encouraging process that has been made. The fora provided by UNESCO, the International Labour Organization (ILO), European Commission, the Council of Europe (CoE) and others are important platforms for coordination.

Key aspects:

- Include player associations in all aspects of the recovery and rebuilding policy making process
- Implement policies that fulfil existing global level commitments
- Build the capacity of SGBs to implement and fulfil international requirements
- Actively participate and contribute to global, regional, national and multi-stakeholder fora, especially global and regional level social dialogue

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II.

IMMEDIATE RELIEF BACKED BY LONG-TERM VISION

The global sport industry is comprised of different markets, sports and levels of competition that each have been impacted differently. Parts of the industry that have the benefit of significant broadcasting and sponsorship revenues have been affected, but less so than those dependent on crowds in stadia and other locally generated revenues. The latter face additional hurdles given ongoing public health measures deprive them of their ability to generate revenue with the real risk that this will exacerbate existing inequities in pockets of the industry.

At the same time, SGBs and other stakeholders are yet to fully realise opportunities for growth, including in many countries where some sports are still emerging (for example 'tier 2' rugby nations and associate members of the International Cricket Council). Promotion and investment in these sports, through for example enhanced scheduling and competition opportunities offers considerable upside.

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Although hardship is being felt industry wide, including by players who face reduced employment and labour mobility opportunities, it continues to be a source of a tremendous range of societal benefits. The worst impacts of the crisis can be alleviated through providing immediate relief now, supported by the development of long-term post-pandemic strategies.

Key aspects:

- *Include industry support in government fiscal stimulus measures*
- *Consider solidarity measures by SGBs for those parts of the industry who temporarily cannot operate given ongoing public health measures*
- *Promote the growth of sport, for example through revised scheduling arrangements and opportunities for emerging nations*
- *Develop long term strategies that harness the global sport industry's key contribution to economic growth and development and wider social, cultural and physical importance*
- *Explore innovative ways to generate revenue, including via fan engagement and allowing players to fully exploit their earning potential*



We need to be smart to try to find ways to attract bigger broadcaster audiences and to ensure we fill stadiums through lesser amount of product.

- Omar Hassanein, IRP, CEO



FAIR WORK, FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

Players in good faith have made economic and workplace concessions that have enabled the global sport industry to continue in response to the crisis. These warrant being reciprocated, yet early research alarmingly indicates that the precarious workplace challenges experienced by players have been exacerbated.^{iv}

Players, as the labour and product, and the source of the industry's prosperity must be supported through fair working environments if their contribution to the industry is going to be optimised and retained. This requires committed actions to reduce precarity such as fair wages, equal opportunities and workplace security, social protection and opportunities for personal and professional development.

This can best be achieved through respect for freedom of association and collective bargaining which are the key enablers of fair work for players and all other workers.

Freedom of association

Freedom of association - the ability to form and join independent player associations, is crucial. The crisis has emphasised the need for the essential services provided by player associations, with heavy demand for these since it began. Players with strong associations have been able to return to work and play as

safely as possible, whereas those without have been exposed to unacceptable risks. Nevertheless, player associations have been heavily impacted by the pressures facing the industry and must be provided with the necessary support.

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Collective bargaining

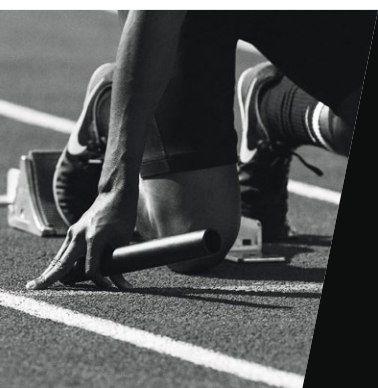
Collective bargaining has successfully resolved complex labour market matters, including drafts, revenue sharing through salary floors and caps, transfer and compensation systems, player trading, and a graduated model of free agency where an uncontracted player can work and transfer employment without restraint. It has also addressed matters including standard player contracts, minimum wages, player development and wellbeing and health and safety.

It is now especially important given parts of the industry are seeking to impose labour market restraints (such as salary caps), without the negotiations or evidence to ensure they are legitimate, proportionate and necessary measures. What is more unilateral changes to terms and conditions of employment will be unlawful and come where many players are especially vulnerable due to the uncertainty that surrounds their careers and industries.

On the other hand, adopting a phased and timed approach to negotiations through collective bargaining is integral to the long term recovery planning required. It will also help mitigate the industry from the worst financial impacts of the crisis.

Key aspects:

- *Ensure players, and players associations, benefit from fiscal stimulus measures*
- *Review and ensure player access to social protection, including for unemployment and workplace injuries*
- *Review laws and regulations to ensure they are consistent with international labour standards, including respect for a player's right to form and join independent player associations and their status as a worker*
- *Provide access to effective remedy, including a safe space to air grievances and the effective enforcement of terms and conditions of employment*
- *Resolve the complex economic, industrial and regulatory challenges the industry faces through collective bargaining (See 'Annex I & II' for guidance in relation to labour market restraints)*



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It is disappointing that 45% of associations have had cases of athletes' contracts being unlawfully terminated or modified by the employers. This is simply unacceptable. The pandemic is not a justification for unlawfully imposing changes to players contracts”

- EU Athletes, Preliminary Research on the impact of the COVID-19 Pandemic on Players and their Player Associations.

IV.

SUPPORT PLAYER DEVELOPMENT AND WELLBEING PROGRAMS

Players have led in responding to the crisis, including by supporting charitable projects, healthcare workers and their local communities.^v Players, like all others, are not immune to the immense stresses and challenges arising in their employment, as well as in their personal and family lives. Some players have been forced into early retirement, while others have had to stay in restrictive hub environments for extended periods at significant personal sacrifice. The severity of these impacts will be compounded the longer they remain in place.

To address these challenges key stakeholders must continue to actively support player development, wellbeing and education programs that are most effectively developed and implemented by player associations. These programs are crucial to address looming mental health challenges and provide players with important opportunities for education and skills development. This is especially for those players forced to transition into the wider labour market early.

Key aspects:

- *Maintain and expand resources for player development, wellbeing and education programs, including focussing on:*
 - o *mental health support, especially for particularly vulnerable players*
 - o *education and skills development opportunities*
 - o *dual career and career transition programs*
- *Research and respond to the unique impacts experienced by players as a consequence of the crisis, such as:*
 - o *forced transition*
 - o *the wellbeing impacts of time spent in hub environments*
 - o *limited interactions with family, friends and other support networks*

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V.

FULLY COMMIT TO WOMEN'S SPORT

Women's sport has made significant progress in recent years and has considerable untapped promise – yet women players have for too long been deprived of reaching their full potential. Fully realising the promise of women's sport is essential to supporting industry-wide recovery and rebuilding and achieving a fully inclusive future.

This requires a proactive change in mindset for many stakeholders where women's sport is no longer positioned as the little sister to men's sport, with support and investment deferred on that basis. Committed action is needed to develop sustainable career paths underpinned by fair and playing conditions, as well as addressing existing inequities in the governance of sport.

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Key aspects:

- *Build the commercial case for women's sport, including through innovative means*
- *Promote gender equality across sport, and for example through greater representation of women at all tiers of sport's governance*
- *Promote and implement minimum working and playing conditions for women, with special attention paid to existing areas of inequality, such as:^{vi}*
 - o *professional status*
 - o *equal pay*
 - o *maternity leave*
 - o *safe and adaptable working environments*
- *Promote and implement minimum standards for participation in global and regional tournaments*



We have an opportunity to make much-needed structural changes which can benefit football as a whole. Let's take advantage of this moment to support players and create a stable industry for the future.

- Amanda Vandervort, FIFPRO, Chief Women's Football Officer.

VI.

FINANCIAL TRANSPARENCY AND GOOD GOVERNANCE

Poorly governed institutions present an obstacle to recovery and rebuilding. They discourage investment and have the potential to do great damage to the industry's standing and reputation in the wider community. Well known risks of poor governance that have previously undermined the industry include abusing positions for personal gain, bribery, late and non-payment of wages including as a result of insolvencies and the commodification of players.

Financial transparency is critical given drastic changes in revenue will necessitate a significant restructuring of the industry.

Lessons from the past must be learnt, and a culture of robust financial management and good governance must be embedded in the global sport industry. Financial transparency is critical given drastic changes in revenue will necessitate a significant restructuring of the industry. To ensure these impacts can be collectively and objectively addressed and resolved, access and availability to key information is essential.

Key aspects:

- *Develop measures to withstand future crises, for example through enhanced safeguards and protections in relation to ownership, investment, liquidity, reserves and insolvency*
- *Provide access to key financial information including special audit rights for player associations*
- *Review and modify internal controls, ethics, audit and compliance measures*
- *Undertake player and human rights due diligence to identify and address the adverse human rights impacts caused, contributed or linked to the activities of sport, including proposed regulatory responses^{vii}*
- *Ensure government support measures are conditional upon respect for strong principles of good governance and respect for internationally recognised human rights*



This is a time for the game's stakeholders to work collaboratively, and the key to getting the best outcomes is transparency and the sharing of the best possible information, including with the players.

- Tom Moffat, CEO, FICA

ANNEX I - RESOLVING SPORT'S ECONOMIC CHALLENGES AT THE SOURCE: THE PROBLEM DOES NOT START WITH THE PLAYERS. THEREFORE, NEITHER DOES THE SOLUTION:

Players are not only sport's public face; they supply both the product and labour of sport. Accordingly, they are sport's most visible investment and expense. In challenging economic times, it is easy for management to call for a cut in player pay and entitlements and for such calls to be met with media and public support.

However, it is rarely the case that the cause of economic strain on a sports body, league or a team is due to overspending on players. Sports bodies, leagues and teams exist within a complex sports and entertainment market and have their own peculiar models within that market. It is essential to understand the source of a sport's economic challenges and opportunities, especially given the breadth of the impact of Covid-19. As a matter of principle, the economic challenges and objectives should be addressed at their source.

A sequenced four-step evidence-based approach is essential:

1.

WHAT ARE THE LEGITIMATE OBJECTIVES OF THE SPORT?

Identify, understand and articulate the legitimate objectives that will inform the approach of the sports body, league and teams. As any restraint affects the legal rights of players (and possibly other key stakeholders such as teams), they are necessarily narrowly defined. They include:

- *To promote economic sustainability*
- *To promote competitive balance*
- *To promote stability of membership among players in teams, and*
- *To promote training and development.*

'To promote' is inherently a positive concept. For example, the promotion of economic sustainability needs to be underpinned by a commitment to revenue maximisation and the encouragement of investment.

However, sports commonly seek to further the pursuit of their legitimate objectives through negative means. Any controls or restraints in pursuit of legitimate objectives are subject to strict legal standards applicable in the relevant jurisdiction. In addition, they must be evidence based. Mostly, the onus is placed by the law on the party imposing a restraint to show that it, as a matter of fact, effectively advances the legitimate objective, is essential to the advancement of that objective and is proportionate (i.e. it goes no further than is reasonably necessary in order to do so). Cost control or cutting – taken in isolation for their own sakes – are not legitimate objectives.

2.

WHAT IS THE ESSENTIAL NATURE AND STRUCTURE OF THE SPORT?

While they are substantial businesses, sports bodies, leagues and teams do not operate in historic or cultural vacuums. They possess inherent features which can prevent change from being made based solely on the business interests of the sport. For instance:

- They may be run for profit or on a not-for-profit basis. If not-for-profit, quite commonly the sports body will also be the governing body of the sport and have responsibilities in relation to both the amateur and professional sides of the game, including game development and the encouragement of grass roots participation
- The league may be 'open', in that its teams are subject to promotion and relegation, or it may be 'closed', where teams are guaranteed tenure and have access to exclusive markets. Further, some teams may play in continental or international competitions which may be highly prestigious, competitive and lucrative¹
- Is the sport national or global in nature?
- The sports body, league and / or teams may be privately owned or community entities, made up of members
- The sports body, league and teams may have very different levels of marketability, at global, national and local levels
- Do the teams in the league train and develop the professional players (e.g. European football), or are players recruited from another development system (e.g. college sports in the United States)?
- How liquid are the sports body, league and teams?

3.

WHAT PRODUCT MARKET MEASURES ARE IN PLACE TO PROMOTE THE LEGITIMATE OBJECTIVES?

Uniquely for a business, professional sports leagues require competitors to cooperate in order to produce a product, from two teams competing in a single match to all teams playing in a league that can create a season and, indeed, a sense of history. Teams may also be part of a broader network of competitors, with promotion and relegation to and from other leagues being features in some while others provide eligibility for continental or international competitions. Sports bodies, leagues and teams cooperate to maximise revenue from these products, principally through media, stadia, sponsorship, licensing and government. Policies surrounding the generation, ownership and distribution of rights and revenues from these products profoundly affect the financial strength and capacity of teams, both absolutely and comparatively.

In short, if a sports body, league or team wishes to advance certain legitimate objectives, it must adopt measures in relation to the product market that are consistent with them. These

1 Refer, for example, to the economic rights policy of the World Players Association, which records that players in leagues run by not-for-profit sports bodies tend to agree to a lower share of revenue for players in recognition of the need for the sports body to invest in the sport beyond the professional side of the game.

include sound media and marketing strategies that maximise revenue and policies of financial equalisation, such as the equal distribution of revenues from media and stadia irrespective of the media audiences and attendances that various teams attract. Such product market measures are often tailored to meet the nuanced conditions of each sports body, league and teams.

It is, of course, tempting for professional sports leagues – which can be held to account by teams with substantial fan bases and political influence – to design product market regulations that undermine, rather than promote, the legitimate objectives. It is equally tempting to seek to compensate that design failure through labour market regulation, as this will also see a greater share of league and team revenues retained by ownership and management.

However, the evidential base of the history of professional team sports shows that the adoption of sound product market measures is effective in advancing the legitimate objectives, whereas labour market regulation tends to undermine them. Players have, through collective bargaining, worked in partnership with sports bodies, leagues and teams to advance revenue sharing among teams and even allocate player revenue to industry development. Such an approach is attractive in building a planned response to the impact of Covid-19, for a long term approach allows for the impact to be mitigated on current stakeholders and shared with future stakeholders by smoothing the recovery over an achievable timeframe (e.g. five to ten years).

4.

WHAT LABOUR MARKET REGULATION REMAINS NECESSARY, EFFECTIVE AND PROPORTIONATE TO FURTHER THE LEGITIMATE OBJECTIVES?

Only when Steps One to Three have been thoroughly analysed, can attention shift to designing any necessary regulation of the labour market. Player associations have collectively bargained a wide variety of labour market restraints in this context, including player drafts, revenue sharing between players and ownership / management through salary floors and caps, transfer and compensation fee systems, player trading, reserve clauses and a graduated qualifying process towards free agency, where an uncontracted player can work and transfer employment without restraint. These negotiations also address the breadth of industrial matters, such as the terms of player contracts, minimum wages and entitlements, personal education and development, health and safety, scheduling, among many others. Like management, players have a deep interest in the sustainability of their industry and ensuring that teams operate within their means in order to meet their commitments to players. While basic, simple regulations which limit the right of a team to contract new players when it has outstanding payables can significantly enhance financial prudence without unreasonably restraining the trade of players.

ANNEX II - SOPHISTICATION, DETAIL AND HISTORY MATTER:

Labour market regulation in sport is a matter of detail and has a rich history. Sports have thrived when the four steps have been properly sequenced and followed in accordance with Annex I. While the phrases ‘salary cap’ and ‘transfer system’ may resonate publicly, they have evolved separately over a long period of time with varying levels of sophistication.

It is one thing to demand the introduction of a restraint for reasons of cost constraint, it is quite another to robustly assess whether a proposed regulation would be effective. By way of illustration, if the proposed restraint is a form of:

- Salary cap:
 - o How will it be determined and calculated
 - o Will it be hard or soft
 - o Will it be accompanied by a salary floor and mandated collective and individual minima
 - o What exceptions will be provided for
 - o What definitions and accounting rules are to apply to the determination of revenue, expenditure and player payments
 - o Whether the independent governance and financial transparency exists to ensure it is fair and enforceable
 - o What role will the regulation of player agents play
 - o How will its effect be in an open league such as in European football?

- Transfer system - history shows such a system can be a source of player abuse and undue competitive advantage for some teams.

The risks to players are exacerbated by a desire to simultaneously impose multiple, counter-productive and conflicting restraints.

Moreover, should a new wave of labour market restraint take hold as a consequence of the crisis, history suggests that such restraints are only ever avoided or removed through:

- Player instigated legal action
- Industrial action
- A profound policy shift by the sport, either with or despite the players. Such a shift is rare, and normally the consequence of an economic threat or crisis that threatens the very survival or social licence of the sport.

14 October 2020
Nyon, Switzerland

The **World Players Association** is the exclusive global voice of organised players and athletes across professional sport. A sector of UNI Global Union, it brings together 85,000 players through more than 100 player associations in over 60 countries. Its role is to ensure that the voice of organised players is heard at the highest levels in the decision-making of international sport.

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 - iv FIFPRO, Playing our Part: The Impact of Professional Footballers During Covid-19 (16 July 2020), https://www.fifpro.org/media/aohdwsr/fifpro_playing_our_part_report_english.pdf.
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 - vii. See World Players Association, World Player Rights Policy (17 July 2017) and Universal Declaration of Player Rights (14 December 2017), https://www.uniglobalunion.org/sites/default/files/imce/world_player_rights_policy_doc_v1.pdf and https://www.uniglobalunion.org/sites/default/files/files/news/official_udpr.pdf

O U R V A L U E S



Inheritance

Leadership

Support

Legacy

