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Ministry of Culture and Sport
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Your reference	Your correspondence of	Our reference ldir/dra/zyl	Date 6 March 2014
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Consultation by the Ministry of Culture to the Swedish Listed Events Regime: Response by the Union of European Football Associations (UEFA)

Dear Sirs,

UEFA welcomes the opportunity to comment on the report presented by the Swedish Broadcasting Authority to the Ministry of Culture and the accompanying draft list of events of major importance to Swedish society.

We very much hope that our contribution will be taken into account by the Swedish Government in its decision whether to adopt such a list and if so, in what form. We hope and trust that the future of broadcasting policy in Sweden will be considered in a manner that meets the real interests of the Swedish population but while also safeguarding the future of sport.

Before turning to the specific questions raised by the draft report and list, it may be helpful to provide a general description of UEFA's role and responsibilities, including an outline of UEFA policy with regard to television coverage of our own events.

Founded in 1954, UEFA is the governing body for football in Europe with a membership comprising 54 national football associations, including the Svenska Fotbollförbundet (SvFF). Our mission is to develop European football at all levels, to promote the principles of unity and solidarity, and to deal with all questions relating to European football. UEFA organises 15 amateur and professional tournaments for men and women, the most famous of which are the UEFA European Football Championship (the "EURO"), the UEFA Champions League and the UEFA Europa League.

UEFA works closely with its member associations and with the different stakeholders in European football (supporters, clubs, leagues, players) to achieve a number of key objectives:

- increase access and participation in the game, without discrimination on grounds of gender, religion or race and to support growth in the grassroots;
- support re-investment and re-distribution of revenues in accordance with the principle of solidarity between all levels of football, professional and amateur alike;
- promote positive sporting values, including fair play and anti-racism, as well as safe and secure match environments;
- organise successful competitions for professional, youth, women's and amateur football.

These objectives are at the heart of UEFA's activities and also inform its approach to broadcasting policy. Consequently, for UEFA, it has never been a simple question of selling media rights to the highest bidder - we also take into account the expectations of football supporters as well as our duty to make top competitions widely available to the public.

Therefore, whilst UEFA is broadly sympathetic to the aims of listed events legislation (i.e. that the majority of the public has access to sporting events of major public importance), we believe that this objective can be achieved by responsible decision making by sports bodies themselves. We do not see a need to regulate the situation.

Accordingly, as a matter of long-standing policy and irrespective of any regulatory requirements, UEFA already makes its top competitions available to a very wide audience, including on free-to-air television. We adopt this policy in the vast majority of European markets, including in Sweden, by our own determination of what is in the best interests of European football and not through legislative or regulatory compulsion and restraint (which would effectively be the case in relation to the Swedish market for both Swedish national team matches (in qualification and final tournament) and semi-final and final matches in the EURO should the proposed list be adopted).

In relation to the final tournament of the EURO, we would emphasise that as a matter of policy choice, irrespective of national regulatory landscape, UEFA ensures that matches of major interest to society are available on free-to-air television. So, for example, in the case of EURO 2012, the policy adopted by UEFA in Europe ensured that a minimum of one match per match-day (out of a maximum of two in the then competition format) was available live on free-to-air television, whether or not the EURO (or any part of it) happened to be listed in the relevant territory.

Further, UEFA policy requires that of such matches broadcast on free-to-air television, for a relevant European country, the matches of the national team in the final tournament of the EURO are included within those required to be broadcast live on free-to-air television. This is because UEFA recognises – without needing to be told – that matches involving the national team in the final tournaments of the EURO (as opposed to qualification matches) are likely to be of major interest in the country concerned.

Some countries have “listed” these matches and others have not, however, UEFA follows the same policy approach in all markets irrespective of the regulatory framework.

In practice, this means that a minimum of 19 matches out of 31 (for Euro 2012) – including the opening match, both semi-finals and final matches – were transmitted live on free-to-air television in every European country. In the case of Sweden, 27 matches of EURO 2012 were available on a free-to-air basis on SVT and TV4.

All in all, we believe that our broadcasting policy to date clearly demonstrates our consistent commitment to free-to-air broadcasting. This is notwithstanding the fact that there have been significant developments in pay television across Europe (including in Sweden) since the adoption of the revised ‘Television Without Frontiers’ Directive by the European Union in 1997, which suggests that any need for events of ‘major importance’ to be protected for free to air television is now somewhat redundant. In the specific case of Sweden, we understand that of the total number of television households in Sweden, over 95% of such households have pay television (in its broadest sense) subscriptions.

In any event, we intend to maintain a strong free-to-air policy for the foreseeable future, including within the context of the centralised marketing of the media rights for the qualification matches for the EURO and World Cup. As you may be aware, at the request of all its member associations, UEFA is centrally marketing the media rights to all European qualification matches of the men's national A teams for both EURO 2016 and the 2018 World Cup. In the case of Sweden, all Swedish national team qualification matches (home and away) for both EURO 2016 and the 2018 World Cup shall be available on a free-to-air basis, on either TV4 or Kanal 5.

The problem – and we see it as a problem – is that in the draft list, the Swedish Broadcast Authority proposes to include all qualification and final tournament matches of the Swedish men's and women's national teams, together with the semi-final and final matches in the EURO and UEFA Women's EURO. We do not believe that qualification matches can reasonably be described as events of “major importance” to the Swedish society (a fact likely to be demonstrated by relevant viewing statistics) and we also believe such a regime would significantly distort competition on the Swedish market for these media rights.

Indeed, for a sporting event to be of major importance for society, UEFA believes that it must, as a minimum, command the interest of a high proportion of viewers who are not usually interested in that sport. With the present draft list, while the Swedish Broadcasting Authority proposes that all qualification matches of the EURO and UEFA Women's EURO involving the Swedish national teams are of major importance to Swedish society, no evidence is offered to support such a view. On the contrary, there exists clear evidence showing that the European qualification matches do not command sufficient interest among non-football supporters to justify the conclusion that they are events of major importance to society. As an overall comment, the Swedish Broadcasting Authority's conclusion that these matches are of major importance is made without any supporting evidence or analysis to determine that the proposed listing is objectively justified. In addition, we note that no substantive

analysis or assessment is set out in the draft report of the impact the proposed listing would have on competition for the affected media rights in the Swedish market.

UEFA believes that the proposed inclusion of qualification matches as proposed by the Swedish Broadcasting Authority could have a materially detrimental impact on the availability of funds for investment in grassroots football in Sweden.

In this regard, we must emphasise that it is revenue generated by national team football that serves to fund grassroots development of football. The distribution of revenues generated by UEFA EURO 2012 illustrates this clearly. After deducting solidarity payments paid to clubs and the staging and operating costs of EURO 2012, monies were distributed in the following approximate proportions: 25% to the participating national teams; 63% to the 54 national associations of UEFA (including those that did not reach the final tournament); and the remaining 12% used to finance UEFA's education and training programmes for national associations and the organisation of UEFA's other smaller competitions (including for women and youth) for the 4 year period between EURO 2012 and EURO 2016. Again, it is important to bear in mind that it is national associations who have a mandate to nurture the development of football at all levels.

In concrete terms, from the revenues attributable to EURO 2012, in addition to the revenues distributed to SvFF for its participation in the final tournament amounting to EUR 9 million (being a participation fee of EUR 8 million and a performance fee of EUR 1 million), the SvFF is entitled to receive solidarity payments amounting to EUR 9.4 million covering the 4-year cycle 2012-2016, which is broken down into 2 components as follows:

- EUR 3 million for investment projects such as training, youth development (e.g. national youth training centres and football academies) and infrastructure (e.g. renovation and construction of football pitches, football stadia, etc.);
- In addition, each national association is entitled to receive solidarity/incentive payments of EUR 6.4 million (EUR 1.6 million per year).

For the current purposes, the crucial point to note is that the proposed listing in Sweden would distort the competitive environment in which the rights are sold without protecting a real or legitimate public interest and fundamentally would materially reduce the amount of revenue available for grassroots investment in Swedish football. In many respects, this amounts to an unfair and unnecessary tax on sport which, at the same time, serves as an indirect subsidy to free-to-air broadcasters.

This is not reasonable and goes significantly beyond what is necessary to protect events that are genuinely of major importance to society. There is a fundamental difference between events which are of major importance to society (in other words, events which are not simply of general interest but are events which could be said to 'unite a nation') and events which are of major importance to sports fans.

In conclusion, we believe the list currently proposed by the Swedish Broadcasting Authority is unworkable and would constitute a disproportionate interference with property rights which would, in

turn, distort the competitive environment and most likely reduce the availability of funding for grass roots football. If however the Ministry of Culture were to consider including UEFA's events in its list, there are certain additional points which we would stress need to be addressed and observed in order to avoid the listing rules having unintended negative competition impact and to avoid unfairly prejudicing existing commercial partners. Firstly, any listing should not be implemented in a retrospective manner – in other words, listing should only apply to exclusive rights agreements concluded after its entry into force. Secondly, the rules applied as a result of listing should only apply in respect of the actual use/exploitation of relevant rights (rather than the acquisition of such exclusive rights). Lastly, if a broadcaster who acquires rights would ordinarily be required by the listing rules to sub-license rights to another broadcaster, this should not apply where no offers are received reflecting 'fair market conditions'.

We would therefore urge the Ministry of Culture to reconsider the content of the proposed list and remove the qualification matches from the list.

We thank you for your consideration of our comments and remain available to discuss any of the above in further detail.

Yours sincerely,

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Simon Drake
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