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Competition and Professional Sports – Note by Denmark

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This document reproduces a written contribution from Denmark submitted for Item 4 of the 76th meeting of Working Party 2 on 4 December 2023.

More documents related to this discussion can be found at
www.oecd.org/daf/competition/competition-and-professional-sports.htm.

Federica MAIORANO
Federica.Maiorano@oecd.org

JT03531183

Denmark

1. This paper reflects the views of the Danish Competition and Consumer Authority (hereinafter: “the DCCA”) on the topic “Competition and Sports”. This paper focuses on the joint sale of the media rights to the Danish national football league, the Superliga, and the organization of the Superliga.
2. The DCCA and the Danish Competition Council (hereinafter: “the DCC”) has dealt with the joint sale of the media rights to the Superliga since 2007 and most recently in a decision from December 2022.
3. In 2022 the DCCA made a survey amongst Danish consumers in order to investigate the importance of the Superliga.

1. Introduction to the Superliga and distribution of rights

4. The Danish Football Association (hereinafter: “DBU”) organizes all official football tournaments in Denmark, inter alia the Superliga. There are 12 football clubs in the Superliga. The Association of Danish League Clubs (hereinafter “ADLC”) is an association of, among others, the clubs in the Superliga. ADLC is authorized by DBU and the clubs to conduct negotiations concerning media rights to football matches in Denmark to which DBU and ADLC’s members, respectively, hold the rights.
5. The payments for the rights are distributed by ADLC between the football clubs and DBU.

2. The joint sale of the media rights

6. The joint sale of the media rights to the Superliga have been regulated through commitments to the DCC since 2007 addressing the competition concerns that were raised by the DCCA. The reason for the decision in 2007 was that the media rights to the Superliga had been sold exclusively to one broadcaster since 1998 and that ADLC had the intension to extend this agreement until 2013 – which would have entailed that the media rights would have been sold exclusively for 15 years.
7. The DCCA had competitive concerns regarding the joint sale including that the joint sale may be in violation of the Danish competition law section 6¹ and article 101 in the TFEU, as the joint sale entails only one access to essential rights, risk of the rights being sold to one broadcaster as well as the following risk of distortion of competition in subsequent markets.
8. The joint sale may restrict competition on the rights market, but it can also affect the mutual competition between the broadcasters and distributors respectively. This is because the media rights to the Superliga are of such importance that it may be difficult for the broadcasters to compete if they don’t have access to show matches. Similarly, it may

¹ Danish competition law is aligned with the EU competition rules. The two prohibitions in the Danish Competition Act - section 6 (the prohibition against anti-competitive agreements) and section 11 (the prohibition against abuse of a dominant position) - are similar to Article 101 and Article 102 of the Treaty for the Functioning of the European Union (TFEU).

be difficult for a distributor to be able to offer a sufficiently attractive product if the distributor does not have access to channels showing matches from the Superliga.

9. The commitments ensure better access on the rights market, as the commitments have reduced the barriers to entering the market, which is why the DCCA considered that the competitive concerns would be resolved through commitments. Without the joint sales agreement the 12 clubs would have to sell their rights individually.

3. Market developments and changes to the commitments

10. In 2007 the DCC accepted commitments offered by DBU and ADLC in relation to the joint sale of the media rights to the Superliga.

11. On ADLC's initiative the DCC accepted revised commitments in 2014 which are still in function. The commitments include a "no single buyer"-clause which entails that the media rights cannot be sold exclusively to one broadcaster/distributor/streaming service.

12. Since the commitments were revised in 2014 there has been a development in the media markets especially in relation to the importance of streaming services. Streaming services such as Netflix, HBO Max and Disney+ are now active in Denmark, and several Danish broadcasters are active with their own streaming services. In addition, since 2014 the TV market has changed in relation to consumers' options to freely choose TV channels. Today, most distributors offer consumers an option to choose how many and which TV channels they want. It has thus become significantly easier for consumers to choose between distributors, TV packages, TV channels, streaming and content since 2014.

13. Traditionally, the Superliga has been the most important sports right in Denmark when assessed by price. In recent years – and after the commitments were offered in 2007 – the price for the media rights for both Premier League and Champions League has increased significantly in Denmark.

14. Based on these developments the DCCA investigated the market and in December 2022, the Danish Competition Council granted a temporary and partial dispensation from the current commitments. This temporary dispensation includes that the media rights could be sold exclusively to one broadcaster/distributor/streaming service for a period of 4 years (2024-2028).

15. The dispensation – if applied – could show whether and how the price development would be affected if the media rights was sold to a single broadcaster, distributor or streaming service. Further, it could show whether and how this development would affect the distributors and ultimately the consumers.

4. Consumer survey 2022

16. In the investigation of the market in 2022, the DCCA conducted a survey amongst Danish consumers.²

² The survey was conducted among 1,610 consumers. The initial question was whether the person or someone in the household watch football. 1.004 answered that they watch football and 480 answered that someone in their household watch football. The remaining answered that neither they or someone in their household watch football.

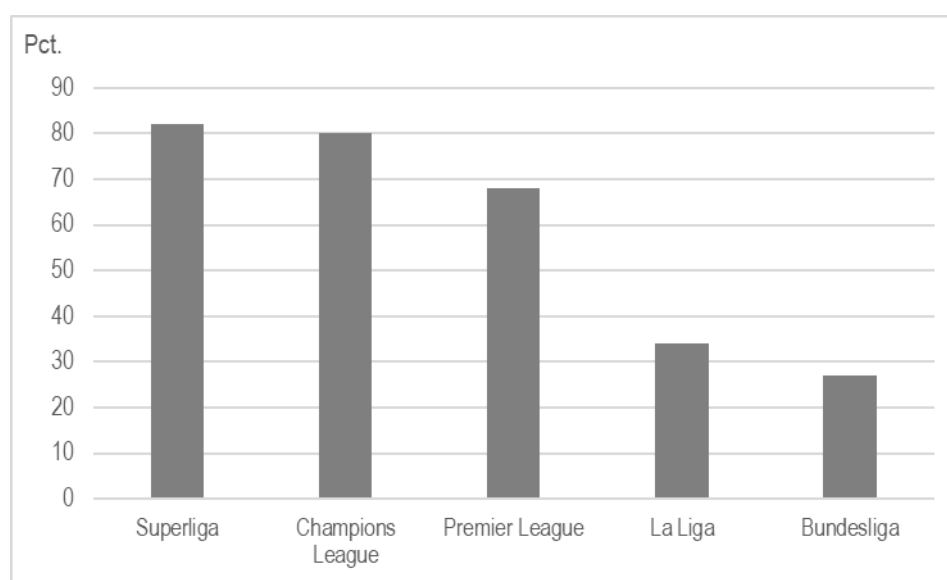
17. In some European countries the national league has a very important and special role for the consumers, but in Denmark both the Superliga, Premier League and Champions League are popular.

18. The DCCA wanted to investigate whether Premier League and Champions League had gained a more significant role for the consumers, and – if Premier League and Champions League could be considered as important or more important than the Superliga – and what impact this would have on the current commitments.

4.1. Question: which football leagues do you watch on tv?

19. The survey showed that 82 pct. of the consumers interested in football watch the Superliga, 80 pct. watch Champions League and 68 pct. watch Premier League. This shows that all three leagues can be considered to be popular among the Danish consumers. In comparison 34 pct. watch La Liga and 27 pct. watch the Bundesliga.

Figure 1. Which leagues do consumers primarily watch?



Note: n = 1484. The shares are shown for the consumers in the DCCA's survey where the respondent or someone in their household watches football on TV. Question: "Which football leagues have you or someone in your household watched at home in the past year."

Source: The DCCA's consumer survey, 2022.

20. The survey showed that the consumers watch several leagues. 70 pct. of the consumers watch both the Superliga and Champions League and 60 pct. watch both the Superliga, Champions League and Premier League. 8 pct. only watch the Superliga, 2 pct. only watch Champions League and 1 pct. only watch Premier League. This also indicates that all three leagues have an important role for the consumers.

4.2. Question: which football league is the most important to you?

21. The consumers view the Superliga as the most important league to watch in Denmark. Almost 50 pct. of the consumers answered that the Superliga is the most important league, 30 pct. answered Champions League and 19 pct. answered Premier League. In comparison only 2 pct. answered La Liga and Bundesliga respectively.

22. To understand how important the leagues are for the consumers, the consumers were asked to distribute 10 points on different types of sports in order to determine how important that sport is for the consumer, see table 1.

Table 1. Consumers distribution of 10 points based on how highly they value the sport

Sport	Distribution of all points (1460 respondents)
Superliga	25 pct.
Champions League	18 pct.
Premier League	16 pct.
Formula 1	10 pct.
Cycling	9 pct.
Club handball	8 pct.
Badminton	5 pct.
Tennis	4 pct.
Ice Hockey	3 pct.
Other football leagues	3 pct.

Note: The respondents are the consumers who watch football themselves or who live in a household with a person who watches football on TV.

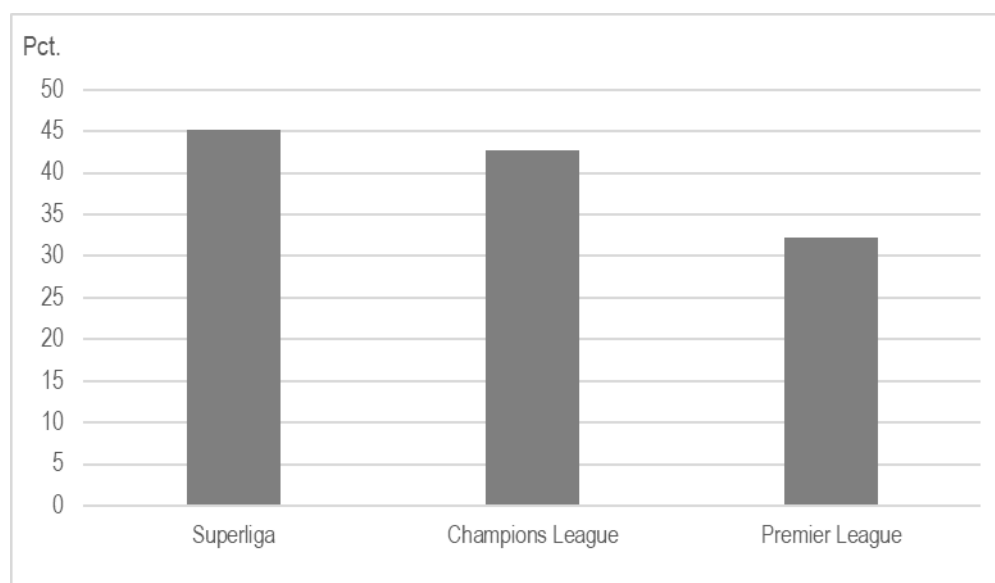
Source: The DCCA's consumer survey, 2022.

23. As shown in table 1 the consumers distributed most points to the Superliga overall – in total 25 pct. of the points were distributed to the Superliga. Further, it shows that both Champions League and Premier League were awarded 18 and 16 pct. of the points, respectively.

4.3. Question: what significance does it have for your choice of tv-package or streaming that you are able to watch the Superliga, Champions League and Premier League on tv

24. 45, 43 and 32 pct. of the consumers answered that it has great or decisive importance for their choice of tv-package or streaming that they are able to watch the Superliga, Champions League and Premier League respectively.

Figure 2. Is it of great or decisive importance to be able to watch the Superliga, Champions League and Premier League respectively?



Note: n = 1606. Question: "Is it of great or decisive importance to be able to watch the Superliga, Champions League and Premier League respectively?"

Source: The DCCA's consumer survey, 2022.

25. 50 pct. of the consumers answered that they undoubtedly or probably would buy access to another tv-package or streaming service if they were no longer able to watch respectively the Superliga or Champions League and 40 pct. for Premier League.

4.4. The DCCA's assessment of the survey

26. Several results in the survey indicated that the Superliga plays a very significant role for the consumers as a whole. However, especially Champions League and partly Premier League also seem to be important to the consumers.

27. It was on the basis of the results from the survey and the price and market development that the Danish Competition Council granted a temporary and partial dispensation from the current commitments.

5. Market performance

28. The sale of the media rights for the Superliga was completed in 2023 and the rights were sold under the current commitments, i.e. among others the "no single buyer"-clause. The temporary and partial dispensation was therefore not used in connection with the sale of the media rights.

29. There has been an increase in the price of the media rights to the Superliga since the commitments were offered in 2007. However, the price for the media rights to the Superliga has not seen the same increase as the Premier League and Champions League in Denmark in the same period.

30. The media rights to the Superliga have been sold to several broadcasters according to the "no single buyer"-clause in the commitments, while Premier League and Champions League haven't been regulated through commitments in Denmark. Consequently, both

Premier League and Champions League have had the possibility to sell their media rights exclusively to one broadcaster in Denmark which have contributed to the differences in the price developments.