In Football We Trust?

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Abstract

There is a growing concern amongst football supporters, government and the wider community about the increasing level of financial and operational difficulties facing many of today's professional football clubs. The focus of much of this concern currently centers on the many of the clubs owners and where their interests really lie. Clubs that were once the cornerstones of local communities run with sporting success as the primary motivator are seemingly becoming the 'playthings' of wealthy individuals with no links to the community or the clubs history. This paper details a history of club ownership in the Premier League through to present day. It then examines current regulation in the football industry and focuses on the applicability of Section 172 of the Companies Act 2006. The paper concludes by detailing alternative forms of ownership as a possible solution to one of footballs most enduring corporate governance challenges.

Keywords: Governance, Shareholder, Stakeholder, Football, Supporter, Ownership, Community, Trust.

1. Introduction

'I am the investor, but this is their club and their community'

Sulaiman Al Fahim (Former owner of Portsmouth FC) 2009

The transformation of top level English football clubs from focal point of the community to multi million dollar businesses is an emotive subject amongst many football fans. Since the inception of the Premier League in 1992 the English game has changed immeasurably. The Premier League, reputedly now the best in the world (Farquhar, 2008) has become a global brand which not only attracts some of the worlds finest players, but also some of the worlds richest businessmen vying to become owners of these footballing institutions. The issue of club ownership in English football is rarely out of the headlines and continues to divide opinion. Where once the owner of a local club may have been the local businessman 'done good' it is now more likely to be an arab sheik, a russian oligarch or an american captain of industry, where once the team consisted of players predominantly from the British Isles who were on a 'decent' wage, they are now more likely to consist of the finest players from all over the world who command salaries akin to that of Hollywood movie stars.

The premier league has become the most lucrative league in the world with revenues totaling over 2 billion euros for the 2008 - 2009 season (Deloitte, 2010). In modern economies, investor owned companies are the primary vehicles for business (Mills, 2001) and in the English Premier League all of the clubs are incorporated as either private or public limited companies (Premier League, 2011). Traditionally the aim of investor owned companies in the United Kingdom has been to maximise the shareholders return on their investment, but in the business of football this is rarely the case. The Memorandum and Articles of Association of the vast majority of premiership clubs include in their objectives both the promotion of football as a sporting activity and the running of the club as a business (Hamill et al, 2005). Although these two objectives need not be mutually exclusive the pursuit of silverware nearly always takes precedence over the pursuit of profit and the measure of success is generally a full trophy cabinet or a high league position and not the size of the annual dividend. This has resulted in many clubs ignoring their fiduciary responsibilities which in turn has led to virtually all of premiership clubs servicing high levels of debt and only six of the twenty making an operating profit in the 2008-09 season (Chu, 2010)

The level of debt amongst premier league clubs is an unusual phenomenon given the level of revenue within the premier league. The 2011 Deloitte 'Football Money League' report shows that of a selection of the top 20 european clubs (based on revenue) the premier league has the highest representation, with 7 clubs whose revenues total almost 1.5 billion euros. This figure may seem high in the sporting industry but premier leagues revenues are dwarfed by American equivalents such as the NFL ($7.8 billion), NBA ($4.0 billion) and MLB ($6.8 billion) (Plunkett Research, 2011). Despite the difference in revenue the global audience of the Premier League and its potential for growth could see it become the most lucrative sporting league in the world thus making it a potentially attractive investment opportunity. However, due to the level of debt involved in football this investment opportunity would generally only present itself to a select few who have both the financial clout and appetite for risk that is required in the business of football.

2. Football Club Ownership: a Brief History

Traditionally, football clubs were viewed as sports and social clubs which were run by committees for the benefit of its members and community, and not as a commercial enterprise (Conn, 2010a). The majority of clubs were formed using the 'mutual' structure but the onset of commercialisation led to an increasing need for those involved in running the clubs to protect themselves from personal liability. The move from club to limited company became inevitable and throughout the 1880's and 1890's the majority of clubs were incorporated as limited companies (Conn, 2010b). In 1899, faced with the possibility of unscrupulous businessmen buying into clubs solely for profit, the FA imposed restrictions on the way football clubs were administered. These rules, later to be codified as Rule 34, restricted the dividend payments to 5% of the face value of shares (raised to 15% in 1981) and prohibited directors from being paid a wage (Oughton, 2004). In an effort to prevent asset stripping it was stipulated that in the event of a clubs closure, its assets would have to go to other local sporting institutions (Michie, 1999).

Regardless of their newly acquired legal status, these football companies remained clubs in spirit (Conn, 1999) and directors and shareholders became involved out of more a sense of duty or 'noblesse oblige' (Hamil 1999) than for any personal benefit. Sloane (1971) suggests that their involvment may have stemmed from 'such psychological reasons as the urge for power, the desire for prestige, the propensity to group identification and the related feeling of group loyalty .' The role of the football club director was seen as that of a custodian with the interests of the club to be foremost in strategy and decision making. Rule 34 combined with the social and sporting sporting ethos of football to encourage clubs to be run as not for profit companies. This helped to keep prices low so as to be affordable to the working man and in turn resulted in many fans pledging lifelong allegiances to their local teams thus guaranteeing a steady stream of gate receipts to keep the club 'ticking over'. Rule 34 was to be circumvented in the 1980's with the introduction of the holding company to the business of football which led to football clubs being owned by companies rather than individuals meaning that the directors of the ultimate parent company could receive dividends (Oughton, 2004). This has been identified as the 'root' cause of the current problems in football (IMUSA, 2011) who lament that 'all the FA of the time needed to do to block this move was to make some minor amendments to the wording of Rule 34 but they chose not to do so'.

Due to the absence of large profits in the sport, it would seem that there was an apparent lack of interest in the business side of football and whilst gate receipts may have been enough to keep a club 'ticking over' clubs would need further investment to ensure progression.

In today's game this investment commonly comes from a billionaire investor which before the 1990's this was a relatively rare occurrence. For many clubs a combination of wanting to keep ownership in the community and restrictive clauses in articles of association preventing the free transfer of shares (Bose, 2008) resulted in a lack of investment which would lead to poor facilities, unsafe grounds and in one extreme case, a catastrophe which would ultimately change the way football is run.

On the 15 April 1989 at an FA Cup semi final taking place at Hillsborough between Nottingham Forest and Liverpool, 96 Liverpool fans were crushed to death on the standing room terraces. The inquiry into the disaster was led by Lord Chief Justice Taylor and resultant Hillsbourough Stadium Disaster Report in 1990 recommended in section 94 on p16 'that grounds in the first and second divisions of the League and national stadia should be all-seated by the start of the 1994/1995 season'. It was this recommendation that was to force directors of football clubs to review their finances and look beyond the traditional sources of income such as gate receipts, broadcast rights, sponsors and transfer fees. Before the Taylor report recommendations there was rarely a need for a club to raise a large amount of money.

3. Football's Flirtation with the Stock Market

Football first flirted with the stock exchange in 1983 with the flotation of Tottenham Hotspur FC. This was viewed by the city as an 'eccentric one-off move' Haverson (1998) and it would be eight years before football re-entered the stock market when Manchester United floated in 1991. The groundbreaking deal in 1992 between the Premier League and BSkyB TV saw a dramatic increase in revenue for football clubs and which would lead to greater investment in players and infrastructure which would in turn attract more fans who could be charged premium ticket prices. This potential for profit was enough to make investors sit up and take notice (Brown, 1998). Between 1994 and 1997 18 more football clubs floated on the stock market. It can be argued that a stock market listing for a football club represented a more democratic style of ownership (Rabinovitch, 2007) or 'peoples capitalism' (Michie & Walsh, 1999). The City's attitude to football soon changed and Haverson (1998) claims that a 'barrage of hype and a near-complete absence of well-informed analysis, investors large and small piled into football club shares in a two-year binge which saw the football sector emerge as one of the brightest stars of a buoyant stock market'. What these investors did not realise was that football was first and foremost a sport where points in the Premiership points were deemed preferential to a balance sheet showing profit and that around 60% of clubs revenues were going in player wages (Oughton, 2007). When this became apparent, shares in football clubs went into a steep decline (Haverson, 1998).

A major factor in footballs failure on the stock exchange was the business standards of football clubs (Dempsey & Reilly, 1998). The financial transparency required by stock exchange regulation was at odds with the 'fast moving and shadowy transfer market' (Rabinovitch, 2007). This coupled with the sometimes unpredictable behaviour of clubs directors and poor governance standards (Matusiewicz, 2000) meant that football clubs found it hard to meet the standards required for a stock exchange listing. Whilst many headlines were created through footballs flirtation with the stock market, there was an ultimate lack of profitability that has led to no clubs being currently listed on the main board. Whether this will remain the case is yet to be seen and there is always the possibility of a return should appropriate governance frameworks be implemented and adhered to.

Football has so far defied the recession with January's transfer window seeing Premier League clubs spend £225 million (The Telegraph, 2011) however this can be seen as an example of clubs' continuous failure to control costs which is not an attractive trait to any shareholder, especially institutional big hitters who make up the majority of investors in the FTSE 100.

4. Foreign Investment

As Football Clubs left the city, other sources of investment were sought, the Premiership was becoming a victim of its own success and the need for continuous development and investment heralded a new dawn of foreign ownership. The thousands of supporters who fill stadiums on a weekly basis and the millions more who tune in on televisions around the globe have meant that clubs command increasingly lucrative broadcasting contracts and although the city may balk at the way football is run, private investors and more specifically private foreign investors seem only too eager to become involved. In 1997 Fulham FC became the first club to come under foreign investment, when Egyptian born businessman Mohamed Al Fayed, notable for being the owner of the Harrods in London, invested £30 million (Reuters, 2008) for a controlling stake and became the clubs chairman.

It was six years before the next foreign investor entered the fray and in 2003 Russian businessman Roman Abramovich purchased Chelsea FC's holding company in a deal which valued it at almost £60 million (Reuters, 2008). In 2005 U.S. financier Malcolm Glazer raised his stake in Manchester United to over 75 percent and finally gained full control of the club in a deal worth £790 million (Reuters, 2008). 2006 has been described as 'the sale of the century' (McKenzie, 2007) and saw Portsmouth being sold to Alexandre Gaydamak for about £32 million, American billionaire Randy Lerner completing his takeover of Aston Villa for £62.6 million (Reuters, 2008) and West Ham United agreeing an £85 million takeover (Reuters, 2008) from a consortium led by Iceland Football Association president and UEFA member Eggert Magnusson. This pattern continued into 2007 with the sale of Liverpool to U.S. sports tycoons George Gillett and Tom Hicks for £174 million (Reuters, 2008) and Manchester City to former Thai Prime Minister Thaksin Shinawatra £81 million (Reuters, 2008) which was sold on in 2008 for a reported £200 million (Wilson, 2008) to the Abu Dhabi United Group for Development and Investment. In May 2009 Ellis Short an Irish American businessman upped his stake in Sunderland FC from 30% to 100% to become the fourth American owner of a Premier League Club (The Times, 2009). In October 2009 Hong Kong businessman Carson Yeung completed a protracted £81.51 million (Macaskill, 2009) takeover of Birmingham FC.

Major concerns have arisen about the long term effects of the influx of new owners to the premiership due to the level of debt incurred by some when acquiring the clubs. The most high profile example of this is Manchester United whose debt levels were in excess of £700 million, which is made up of £509 million of bank debt and £202 million of 'payment in kind' (PIK) loans (Kelso, 2010). The ability of the new breed of owners to successfully maintain the clubs gives serious cause for concern to the stakeholders of football as a number of the clubs taken over during the 'sale of the century' have since changed hands.

The sale of some of England's biggest clubs to foreign investors can be viewed thus far a mixed blessing. Roman Abramovich's investment has seen Chelsea become a multi title winning team whilst Randy Learners investment in Aston Villa has brought stability to the club by clearing club debts. For other clubs, foreign investment has brought uncertainty. In 2008 Manchester City owner Thaksin Shinawatra was facing charges of corruption in his native Thailand and if convicted would place him in direct contravention of of Premier League rules which prevent owners convicted of corruption charges from retaining control of their club. This coupled with his failure to retrieve his assets which had been frozen by the Thai government ultimately led to the afore mentioned sale to the Abu Dhabi United Group for Development and Investment headed by Sheik Mansour. West Ham Utd were another club whose future was jeopardised by new ownership. The tenure of West Hams Icelandic owners was brought to a premature end by the collapse of the icelandic banking system when On 8 June 2009, Icelandic CB Holding which is 70% owned by Straumur-Burdaras bank and 30% owned by Icelandic based banks Byr and MP took over Hansa Holding whose sole asset was West Ham United and filed for bankruptcy protection.

In January 2010 businessmen David Gold and David Sullivan successfully fought off rival bidders to acquire a 50% stake, which was increased to over 61.2% during the course of the year with minority investors (including former owner Terry Brown) purchasing a further 3.8% (WHUFC, 2010). Liverpool was another high profile premiership club with whom life under its new foreign owners was less than successful. The American Owners failed to deliver a new stadium, faced fierce opposition from the clubs supporters and reportedly fell out over then manager Rafa Benitez's transfer targets and in September 2010 the club's loans with RBS were placed in its toxic-assets division (The Guardian, 2010). In 2010 the club was sold to the US company New England Sports Ventures headed by John W. Henry for £300 million (BBC, 2010a).

The club who suffered most was Portsmouth FC. After being sold to Alexandre Gaydamak in 2006 the clubs fortunes waned. In December 2008 a recession hit Gaydamak announced that he was seeking a potential buyer as he could no longer afford to fund the club. The club was eventually taken over in August 2009 by the Dubai-based businessman Sulaiman al-Fahim for £1 and the promise of a £5 million pound investment and further funding. Fahim failed to secure further funding and after just 43 days sold 90% of the club to a company, Falcondrone, registered in the British Virgin Islands and owned by Saudi Arabian businessman, Ali al-Faraj. Plans to invest £30 million borrowed from Private Equity Bank EFG to stabilise the club didn't materialise and Al-Faraj instead borrowed £17 million from a Hong Kong-based businessman, Balram Chainrai. The £17 million proved insufficient as the club owed millions in tax and vat to HM Revenue as well as to other clubs and was being stifled by an insurmountable wage bill (Conn, 2010c).

On the 26th February 2010 Portsmouth became the first Premier League club to go into administration and on the 17th of June the clubs creditors voted for a Company Voluntary Arrangement. The club eventually exited administration on the 24th October when Balram Chainai completed his takeover of the club. In Febrauary it was reported by the BBC (2011) the that the ownership of Portsmouth could yet again change hands when the club confirmed they had held talks with Russian consortium Convers Sport Initiative (CSI), who were interested in buying the club.

Speculation over take overs is omnipresent in English Football with few clubs being immune to rumour. One such example occurred in February 2011 when it was reported that the Saudi Royal Family were interested in taking Manchester United (Bloomberg, 2011). In this instance the takeover did not go ahead and may have been due to the current owners valuation of the club at £1.6 billon which according to Stephen Schechter, founder of London-based investment bank Schechter Co was excessive (Bloomberg, 2011). It is worthy of note that although Manchester United have denied the takeover (BBC, 2011) the clubs Bonds continue to soar amid the speculation (Bloomberg, 2011).

The ease with which clubs can be taken over by owners with no relation to the local community can cause resentment among loyal supporters, especially, if it appears that the long term sustainability of the club is not the dominant driving force. Hutton (2008) claims that ‘our system uniquely allows predators to snap up any of them at a moment's notice, especially by the now $3 trillion of sovereign wealth funds or stateless private equity funds. Britain is in the middle of a fire sale of its assets for which future generations will reproach us… If this were the result of some competitive weakness, it would be understandable, if worrying. But it is not. It is happening because we organise our ownership system so that companies are permanently up for sale.’ Pini Zahavi an Israeli football agent who was responsible for brokering Roman Abramovich's purchase of Chelsea, Alexandre Gaydamak's takeover of Portsmouth, and Kia Joorabchian's failed bid for West Ham does not see a problem with foreign takeovers stating 'Britain has sold its banks, its gas, electricity and water supply companies and even its airports to foreign companies.... Ninety per cent of Mayfair is foreign owned and sometimes all of Arsenal's team is foreign, so why not the football clubs?’ (Bower, 2007).

There is a fear that wealthy new owners may not realise the importance of these clubs to local communities and see them primarily as a ‘vehicle for personal ambition’ (Jones, 2003). Buying a football club is not like buying most businesses, these clubs are institutions in their community that have been loved by generations of fans. In an interview with the BBC in 2006, (then) FA chief executive Brian Barwick recognised that foreign ownership is an ‘emotive issue’ but stated that the FA has to act according to the law, regardless of opinion.’ Barwick stated that the FA ‘cannot discriminate on nationality or insubstantial concerns’ and added that ‘football clubs are heavily regulated, not just under football rules but also company law and stock market controls.’ In 2007 Premier League Chief Executive Richard Scudamore stated ‘I am sure there are people who wish every player was English and every owner was a local businessman made good who supported the club as a boy. Clearly that is not where we are at and we cannot go back there. It is not about who the owners are. It is about how they perform and how they behave.’ Scudamore added ‘Our experience suggests the new owners bring a level of professionalism to the situation. They bring new things to the game and I don't see any evidence that they have ripped up the old traditions or that they are riding roughshod over the rulebook.’ Michel Platini the president of UEFA argues that English clubs are in danger of losing their identities and stated ‘do you want in Liverpool an Arab sheikh as president with one Brazilian coach and nine or 11 African players? Where is Liverpool in that? We have to make some rules’ (Kay, 2008).

The impact of foreign investment has significantly contributed to the globalisation of the premier league, Hutton (2008) claims that ‘a Premier League without foreign players or a British economy without foreign investment would be miserable affairs and many overseas companies have made an outstanding contribution to the country.’ The people buying premier league clubs would generally be considered to be talented business people who have proven themselves in the business world and have the resources to ensure the sustainability of the club. They would be expected to bring a certain level of business acumen to running of the club. The concern is that if there is no connection to the community who can hold the owners accountable for the way in which they operate the clubs? Criticism of foreign ownership has also been directed from clubs still under English ownership. Boltons chairman Phil Gartside stated that ‘clubs under foreign ownership have falsely inflated the value of transfers and wages making it increasingly difficult for clubs like ourselves to compete‘ (This is Lancashire, 2008).

Middlesbrough chief executive Keith Lamb has pledged that he would resist any approach from foreign owners to invest at the Riverside and stated 'I know the game is global and fans all over the world like to keep in touch with Premier League football, but you don't need foreign investment for this,' he said. 'Maybe it's good for TV rights but I am not sure how good in the long-term it is for these clubs to have foreign ownership or why they have got it. Soon every club in the Premiership will be owned by mega-rich foreign investors. That's how it will go' (This is Lancashire, 2008).

There is growing discontent with the behaviour of the owners of some clubs, a case in point being Manchester United where a proportion of fans have taken to wearing the original club colours and campaigning under the banner of 'Love United, Hate Glazer', Glazer being the family name of the clubs American owners. The level of resentment towards the Glazers hostile takeover of their club led some fans to sever their ties with Manchester United and form their own football club FC United of Manchester. Disgruntled fans are not solely the preserve of foreign owners, Mike Ashley the English owner of Newcastle United has continuosly enraged fans by his lack of investment and questionable handling of clubs affairs and more specifically his mooted idea to sell the naming rights to St James's Park (Young, 2009). Another English owned club Tottenham Hotspur displayed its lack of respect for clubs tradition and community when it attempted to move the clubs ground from its home of over a hundred years to the new Olympic stadium in the East London borough of Newham (BBC, 2010)

5. Regulation of Football Owners

In 2004 in an effort to try and encourage a more responsible approach to clubs' financial management the Football Association introduced a "fit and proper person" test. The test applied to people wishing to become directors or take a shareholding of more than 30%, and primarily relates to an individual's criminal record or whether they have been bankrupt. The original test was as follows:

A person shall be disqualified from acting as a director and no club shall be permitted to have any person acting as a director of that club if:

- Either directly or indirectly he is involved in or has any power to determine or influence the management or administration of another club or Football League club
- Either directly or indirectly he holds or acquires any Significant Interest in a club while he either directly or indirectly holds any interest in any class of shares of another club
- He becomes prohibited by law from being a director
- He is convicted on indictment of an offence set out in the Appendix 12 Schedule of Offences or he is convicted of a like offence by a competent court having jurisdiction outside England and Wales
- He makes an Individual Voluntary Arrangement or becomes the subject of an Interim Bankruptcy Restriction Order, a Bankruptcy Restriction Order or a Bankruptcy Order
- He is a director of a club which, while he has been a director of it, has suffered two or more unconnected events of insolvency
- He has been a director of two or more clubs or clubs each of which, while he has been a director of them, has suffered an Event of Insolvency.

- BBC 2007

In 2009 following government calls for football to 'reassess its relationship with money' the premier league updated their 'fit and proper persons test' to increase transparency over club finances and ownership. The new rules would force clubs to make public any shareholding of more than 10% and to declare their ultimate ownership. New controls were also introduced,(modelled on Uefa's licensing system) which could see clubs banned from transfers or forced to sell assets or players if they fail a new 'going concern audit' (Gibson, 2009). In 2010 the test was renamed to the 'Owners & Directors Test' and strengthened to ensure that 'persons barred from other sporting organisations/competitions and professional bodies will not be permitted to be a director of a club'. There was also the introduction of a 'means and abilities test' for prospective new owners, a requirement for clubs to provide information to HMRC upon request and the ability for the Premier League to request a meeting with any person proposing to take control of a club.(Premier League, 2011b).

6. The Bubble Bursts?

The recent economic downturn revealed the extent to which football has become exposed to external market forces.

Portsmouth went into administration, West Ham narrowly avoided the same fate and Liverpool had to be apply for a loan extension to the US investment bank Wachovia and the Royal Bank of Scotland (itself a recipient of a government bailout). Football is running out of ways to fund itself. Stock market listings, and billionaire investors are no longer seen as viable solutions meaning that football has little option but to embrace a more sustainable form of governance. Professor Tom Cannon, a football finance expert from the University of Liverpool, has warned that 'the bubble will soon burst unless drastic action is taken big clubs have too often neglected turning themselves into viable businesses and relied on quick-fix solutions to their financial problems'. Football has embraced the big money with the fans on the terraces slipping down the pecking order to behind those in the corporate box or the 'Prawn Sandwich Brigade' as they were once referred to by the former captain of Manchester United, Roy Keane. In 2008 then Football Association chairman Lord Triesman warned that football was in 'grave danger' and that the domestic game was £3 billion in debt and the impact of this was being felt through out football. Triesman stated that 'further down the pyramid of football more and more clubs are in trouble and a number of owners leave abruptly and either seek repayment of debt owing to them as directors or they consider selling the ground'

Football represents a clear example of a business needing to embrace 'stakeholder accountability'. Maximising the economic performance of a club can potentially conflict with stakeholders such as fans whose main priority is the on field success of the club. Generally, when teams are successful on the pitch they attract bigger crowds to games, thus providing more custom for businesses in the local community who in turn offer their unfettered support to the club. To a football fan the thought of an owner with no connection to the local community selling off their ground to finance their debts is unthinkable and something that must be avoided at all costs.

Historically English Company Law would dictate that the interests of the clubs investors supersede those of the fans, should a conflict arise, the directors would be liable for breach of fiduciary duty should they act in the interests of the fans in such a case (Michie & Ramalingham, 1999). However the introduction of The Comapnies Act 2006 and more specifically Section 172 of the act can have an impact on this. Section 172 of the states that A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to —

- the likely consequences of any decision in the long term,
- the interests of the company's employees,
- the need to foster the company's business relationships with suppliers, customers and others,
- the impact of the company's operations on the community and the environment,
- the desirability of the company maintaining a reputation for high standards of business conduct, and
- the need to act fairly between members of the company.

Football supporters can be justifiably regarded as the core stakeholder of their club. The loyalty displayed by many supporters is such that they 'regard the clubs as expressions of their identity' (Burnham, 2008). In any other business, a customer with the characteristics of a football fan would be a dream come true. The loyalty of the football supporter is such that they will make every effort to attend the games with many doing so wearing the latest replica jersey. Club owners have a monopoly over their supporters, however as with any other stakeholders they should be treated with respect. The underlying sporting role of football in the community is in danger of being overtaken by commercialisation and current governance structures (or lack thereof) are incapable of preventing this (Michie et al, 2006). The Premier League is approaching a crossroads and may soon be forced to make the choice between a global business model which could alienate the communities that built them or a more socially inclusive approach which strengthens the links between the club, its fans and the community.

7. A Mutual Solution

A possible future solution for footballs ownership dilemma comes in the form of the 'mutual structure'. If a football club adopted a mutual structure as its ownership model the members of this structure would be the clubs owners. These members would have nominal shareholdings which could not be sold at a profit and the value of which could not be realised upon the sale or winding up of the club. The mutual model represents a democratic style of ownership that would return football to its roots in the community.

A 'total football mutual' would have the following as features of its constitution to build a healthy relationship with its supporters and its community (Jaquiss, 2000):

- a clear statement in the rules of the nature of the relationship and its importance as a guiding principle;
- a representative board charged with responsibility for setting standards and monitoring the club's success in meeting its community aims;
- a separate executive board chosen on merit with responsibility for running the club efficiently and in line with its constitution and the wishes of the representative board;
- a membership without any right to share in the capital of the club on a sale or winding up so that the board and executive would not be under pressure to secure a return or capital growth for shareholders;
- a modern democratic structure for the election of the representative board and testing community opinion.

FC Barcelona represent a prime example of the successful implementation of the mutual model of ownership. The club is owned by its 173,071 members (FC Barcelona, 2011) who are each entitled to vote for the election of the club president and its principle officers. The clubs statutes state that the club is a not for profit organisation (article 1) whose aims include the 'promotion, practice, diffusion and exhibition of football' (and other listed sports) along with 'the promotion of and participation in social, cultural, artistic, scientific or recreational activities that are relevant and necessary to maintain the representative nature and public projection that the Club enjoys due to its ongoing tradition of loyalty and service to Club members, to the general public and to Catalonia' (Article 4). FC Barcelona is the most successful club in Spanish football and is currently regarded as having the best team in the world. In 2011 the club was named as the second richest team in the world by the Deloitte Football Money League but it must be noted that the club has a debt level comparable with many of its English counterparts (£369.5m) (La Liga Weekly, 2010) showing that financial mismanagement can exist regardless of the ownership model employed.

8. Power to the people?

The implementation of a mutual ownership model in top level English clubs would bring the ownership of football clubs full circle and offer a solution to a variety of problems faced by the English game. At present the most successful option for supporter involvement in ownership is the supporters trust. This provides a democratic framework for fans to play a more inclusive role in the management of their clubs through the provision of finance for the acquisition of club shares or direct board representation. The first of these was established in 1992 by the supporters of Northampton Town FC in 'response to a financial crisis at the club and a series of misleading statements issued by the then chairman' (ntfctrust, 2011).

In 1999 the UK government (with cross party support) set up 'Supporters Direct' to provide support and assistance for supporters trusts and whose 'goal is to promote sustainable spectator sports clubs based on supporters' involvement & community ownership' (Supporters Direct, 2011a). The idea of supporters trusts has gained considerable momentum in England since the inception of Supporters Direct and trusts have now been established at over 160 clubs with a membership of over 120,000 people. 110 supporters' trusts now have shareholdings in their clubs of which 15 of these own or control their clubs. Nearly 60 supporters' trusts have directors at their clubs of which 50% of these are directly elected by the membership of the trust. Nearly 70% of clubs in the top five divisions of football in England, and the top four divisions in Scotland have established supporters' trusts (Supporters Direct, 2011b). The popularity of the supporters trust can be attributed to its democratic ideology and the idea that the public can seize power of an institution they care passionately about (Maltby & Jackson, 2003).

So far the success of supporters trusts in English Football has been limited to lower league clubs and whether or not this success can be replicated in the premier leagues is open to debate. Hindley (2005) suggests that supporters trusts are likely to have little impact on the bigger clubs arguing that those already in positions of power are unlikely to 'concede ground to an already captive audience'. One notable effort came in the form of 'Share Liverpool FC' when in 2008 Dr Rogan Taylor, the director of the football industries group at the University of Liverpool and a passionate Liverpool supporter attempted to implement a community ownership scheme modeled on that of FC Barcelona. The aim of Share Liverpool FC was to raise a takeover fund of £500 million from 100,000 Liverpool fans who were willing to pay £5,000 each (BBC, 2008). The takeover was never realised as the group were unable to raise the capital required to make an offer for the club.

9. An unusual example of 'fan' ownership

Ebbsfleet United FC provides an interesting interpretation of a community owned football club. In this case it is the internet community.

In 2008 the website MyFootballClub.com announced that its members had voted to proceed with a deal to taken over Kent based Ebbsfleet United. 20,000 MyFootballClub.com members each paid £35 for an equal share in the club which amounted to a £700,000 takeover pot, enough to purchase a 51% stake in the football club (BBC, 2007). The difference between this model of ownership and that espoused by supporters direct is that the 'community' buying the club is not necessarily one that will have close ties with the football club. In Ebbsfleets case this community was spread over 88 different countries and many of its investors may not have heard of the club before the marketing of the scheme by myfootballclub.com. Critics of the Ebbsfleet takeover include Kevin Rye of Supporters Direct who claims that 'fundamentally, playing fantasy manager is not about responsible democratic supporter representation or community ownership, which are the core values of the trust movement… Indeed we are one of the most vigorous exponents of reform of the ownership structures in football, but our interests are in long term sustainability and governance of clubs…This might be seen as a one off gimmick, and harmless enough by many, however this is a real football club, these are real finances, and real fans. The question needs to be asked what happens to the club finances and its supporters if the novelty starts to wear off?' (Fleet Trust, 2007) Rye's criticism may yet prove prophetic as Ebbsfleet United has seen its membership drop from a high of 30,000 to 3,500 (BBC, 2010b) and the club continue to struggle through lack of finance (MyFootballClub, 2010). The local community have retained a stake in the club and are represented at board level through the 'Fleet Trust'.

10. The interesting case of FC St Pauli & 'The Fanladen'

German football implements a supporter friendly '50+1 rule' which enshrines the idea that the majority of a club has to be owned by its members thus ensuring no one individual can own more than 49 % of a club. Many German clubs have fan projects who play the role of an intermediary between the supporters, community, the club and other organisations. The Fanladen of FC St Pauli are one of the best known of these.

FC St Pauli play in the Bundesliga and hail from Hamburg and more specifically the Reeperbahn, one of Europes most infamous red-light districts. They are widely regarded as the most left wing club in world football (Montague, 2010). This political identity originates from the 1980's when local squatters, anarchists, prostitutes, punks and students began attending matches. At a time when football was embroiled in a battle with hooliganism the fans of St Pauli were launching anti-racism and anti-homophobia campaigns from the terraces. Ever since then FC St Pauli fans have used football as a platform to campaign on progressive issues, including organising a football tournament for refugees, organising an alternative world cup for unrecognised nations such as Tibet and playing a match against Cuba in support of Fidel Castro.

The fans have played an integral part in the survival of the club and in 2003 when the club was heavily in debt organised fundraising events such as 'Drink for St Pauli' where local landlords donated 50 percent of of the profit from each beer sold to the club. The role of supporters in the governance of the club is now significant and their representation ensures that no major decision is taken without their approval (Mujanovic, 2010). The recent success of the club and its promotion to the Bundesliga has led to an increase in the commercialisation within the club and it now sells £7.3 million worth of merchandise each year. The extent of this commercialisation is the source of some ongoing tension between the club and its fans who have protested against the introduction of a stadium currency forcing fans to buy refreshments using a pre-paid card, the sale of the naming rights to the stadium, sponsorship that they have deemed as sexist and against increasing ticket prices.

Life in the Bundesliga is proving costly and the continued success of the club may come at a price. The increasing need for commercial success is in contravention with the beliefs of many of the clubs core support. Holgar Stanislawski, the team coach has stated 'Some fans don't like it, merchandising [and other commercial considerations] and want us to play in the third league..... But if you want to play in the Bundesliga you must go this way, you must build a new stadium. We have €50 million for this season, everyone else has €80 million. But you must be St. Pauli too. And that's the difficult thing here' (CNN, 2010). For now St Pauli remains a prime example of a club that exists to serve its community.

11. Conclusion

The governance of football has seemed to be rarely out of the news over the past decade and issues such as ownership, corruption and financial mismanagement continue to grab the headlines. Football, run as it is currently is no longer sustainable and for this to change issues such as foreign ownership, leveraged buyouts, high levels of debt and soaring wages need to be addressed.

Before any model of governance is considered or implemented Football has to answer one question, for whose benefit should clubs be run, the shareholder or the stakeholder? In this instance it is submitted that the stakeholder prevails. Clubs that have been funded by the commitment of supporters and communities for generations and should respect this contribution. Football needs to realise its social responsibility and place significantly more emphasis on how it approaches stakeholder accountability. Whilst the global success of the Premier League is admirable it has become tainted by the rising costs of achieving this success and the resultant instability of many of the clubs.

To many supporters their local football club represents the heart of their community and have been a social and cultural focal point for over a century. To them, the fact that any of these clubs could face closure due to debts incurred by speculative new owners who may not have the best interests of the community at heart is appalling. In December 2010 the Culture, Media and Sports Committee launched an inquiry into the governance of professional football clubs. The inquiry will consider the case for strategic Government intervention in the administration of these clubs and in doing so will look at the scope for enhancing supporter involvement in decision-making processes and consider whether current regulatory processes – including fit and proper persons tests – are adequate (Parliament, 2011).

The business of football is fundamentally different from most other commercial organisations in that many clubs aim to maximise utility over profit. But if football is to become sustainable there is little doubt that clubs will they will have to align sporting success with financial stability. Private ownership worked reasonably well for the most of the last century but may not be the way to go given the current crisis facing football. The mutual structure appeals to many because of the inclusive opportunity it presents to supporters, but like any ownership model needs to be properly implemented. The failure of the model in the English game was evident at Notts County FC whose Supporters Trust held a 60% stake in the club. The trust's failure to manage the club efficiently resulted in them voting to gift their majority stake to Munto Finance, the special purpose acquisition company of a Middle East backed investment fund based in Switzerland and Registered in the tax-haven British Virgin Islands, in an effort to get the club on a sound financial footing (The National, 2009).

The symbiotic relationship of club and supporter suggests that it would be beneficial for both parties for supporters to play a greater role in the management of their clubs. If this is not the case and supporters become further alienated by clubs and their owners then they always have the option to vote with their feet. If this happens the Premier League may find it difficult to sell television rights to games played in empty stadiums.

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