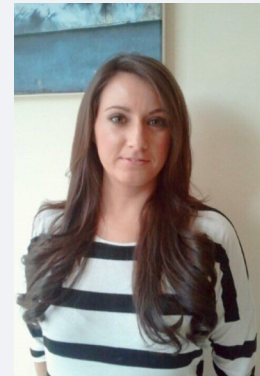


## Gender inequality in the football industry – Are current equality laws sufficient to achieve gender equality and what should football’s key stakeholders be force to do to tackle gender inequality within the industry?

### Introduction - Understanding the background

Football became a global pastime in the nineteenth century, used as a tool for displays of public masculinity, it reinforced cultural perceptions that sport was not for women, a societal norm that has sadly stood the test of time. Gender inequality in sport derives from a mix of complex societal attitudes and barriers, as well as medical opinion about how men are different from women. Men are considered physical and strong whereas women are weak and emotional, requiring protection. Governing bodies were traditionally reluctant to invest in anything perceived to be out of the ordinary and therefore, women’s football was dismissed as a result. It was these societal barriers that were felt across a wide range of sports and echoed by the founder of the modern Olympic Games, Pierre de Coubertin when he said: “*No matter how toughened a sportswoman may be, her organism is not cut out to sustain certain shocks*”<sup>1</sup> It was as a result of such views that many sports were male dominated with football, in particular, becoming a site for hegemonic masculinity<sup>2</sup> defending itself against feminism, a norm that continues to be passed down through the generations.<sup>3</sup> These stereotypes infected not only the sport organisations but the media outlets and commercial organisations too, effectively contributing to the lack of progress in the development of the women’s game.

One of the earliest women’s football match dates back to 1895 in London, England. During the First World War, the women’s game peaked in popularity. Women were working in heavy manual roles traditionally reserved for men, and which were in direct contrast to the traditional stereotypical perception of females. During this period, women formed a number of factory football teams including The Dick, Kerr Ladies whose match against St Helen’s Ladies, in 1920, most notably attracted a crowd of 53,000 to Goodison Park. The ladies team



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played around 2-3 games per week and travelled across the country as well as playing games abroad. Their success, both during and after the War, led to the formation of the English Ladies FA in 1921, and to this day they remain the most successful women's team of all time.<sup>4</sup> One of the team's star players, Lily Parr, broke a number of stereotypes during her career and according to the National Football Museum, she had a shot so hard she once broke the arm of a professional male goalkeeper. Further, Parr's performance record was equally as impressive as any man, having scored more than 1,000 goals during her 31-year-playing career, 34 of which came in her first season when she was just 14 years old.<sup>5</sup>

Following the war, despite the enormous success of women's football, women were being pushed back into domestic life and the old stereotypical assumptions raised their ugly head once more. In 1921, the FA outlawed women's football stating:

*“Complaints have been made as to football being played by women, the Council feel impelled to express their strong opinion that the game of football is quite unsuitable for females and ought not to be encouraged.”*

Women were banned from playing on all member club grounds and any men that engaged with the women's game, found themselves fined and suspended. Other bodies across the world followed suit in imposing their own bans (including Brazil, Germany and The Netherlands), the actions of which would quash the development of the women's game with damaging effect for years to come. It was not until fifty years later, in 1971, that the FA Council finally lifted the ban in England to allow women to play on the grounds of affiliated clubs. However, the damage to the women's game had already been done with the ramifications continuing to be felt across the globe today.<sup>6</sup>

Even in today's society, gender stereotypes are instilled in our children from nursery age. For example, tradition would have you believe that toy guns are for boys and dolls for girl. These stereotypes then transfer to the sporting arena where for example, football is considered for boys and gymnastics for girls. Issues surrounding female participation in sport begin in the playground. Sports are still heavily gendered with girls deterred from participating in sport that are not traditionally considered to be for girls. This, therefore, creates a social bias that continues from grassroots through to teenage sport and into the elite level. It creates a



psychological complex within girls that sport, and football in particular, is not for them. This causes difficulties for national associations to attract girls to grassroots football teams, especially those of mixed gender where teasing may be prevalent. As a result, a great deal of confidence is required in young girls to rise above teasing and feel comfortable playing football in such an environment.

In modern professional sport, progress is being made albeit at a very slow rate, with gradual increases in annual spending on women's sport. For example, 83% of sports now reward men and women equal prize money but in the ranking of the 100 highest paid athletes, there is only one woman ranked - Serena Williams<sup>7</sup> - whose sister Venus actively campaigned for gender equality in tennis, eventually leading to equal prize money at Wimbledon, in 2007.<sup>8</sup> Further to that, it was only in 2012 that women were able to compete in every Olympic Sport at the Games, with the inclusion of women's boxing.<sup>9</sup> Despite the achievements thus far, women are constantly forced to defend their right to equality. One example of this was Novak Djokovic's comments that men should be paid more than women in tennis, as they attract larger crowds and play for longer – also thrown in for good measure were comments concerning women's hormones “and different stuff”.<sup>10</sup>

With that background in mind, the purpose of this paper is to consider the gender inequality still faced by women in the football industry and whether current equality laws, across a number of jurisdictions, are effective in tackling the issues faced. Thereafter, an attempt will be made to identify actions that could be adopted by legislative bodies and football governing bodies in a bid to significantly close the gender gap that, this paper aims to prove, continues to exist in the football industry today.

### Current Gender Inequality Issues in Global Women's Football

Article 4 of the FIFA Statutes<sup>11</sup> strictly prohibits sex discrimination and states:

*“Discrimination of any kind against a country, private person or group of people on account of race, skin colour, ethnic, national or social origin, gender, disability, language, religion, political opinion, or any other opinion, wealth, birth or any other status, sexual orientation or any other reason is strictly prohibited and punishable by suspension or expulsion.”*



The rule specifically states that to discriminate as a result of someone's sex is an offence that is punishable by suspension or expulsion however, despite this prohibition sex discrimination exists to some extent across many jurisdictions and is experienced by players as well as coaching staff and women in executive roles. Yet sanctions for such breaches do not appear to be actively enforced.

Whilst sport, in general, has ongoing gender equality issues, it would appear that football in particular has been reluctant to accept women across a number of roles and this is demonstrated through legal disputes regarding remuneration, access to facilities/equipment as well as investment, media exposure and commercial opportunities. Hope Powell, former England Women's Coach, recently stated that female coaches are being discouraged and squeezed out of the women's game as jobs were more frequently given to men with less experience.<sup>12</sup> Those experiences are also evidenced in a FIFA 2014 survey of women in football (2014 survey) that found:

- 138 out of 177 member associations (MAs) have a women's football league
- 7% of all registered coaches are female
- 10% of all registered referees are female
- Women account for 8% of board members across the industry
- 45% of UEFA MAs consider that football is not a sport for women
- Of the MAs ranked in FIFA Women's Top 20, zero were of the opinion that women and football did not mix. This supports the contention that successful female leagues can challenge traditional social perceptions of women and football<sup>13</sup>

In December 2017, FIFPro (the world football player union) published its report on working conditions in professional women's football<sup>14</sup>. The report was published following a study carried out by the University of Manchester whereby 3,500 women footballers, playing at elite level, were surveyed. The study was one of the most detailed carried out into the women's game and covered areas such as salary, prize money, childcare and discrimination. Those surveyed played for their national team or in the top division of their national competitions including in leagues from England, France, Germany, Sweden and the USA. The statistics within the report make for very bleak reading and despite how far women's football has come since the 1920s, it is evident that much more work has still to be done to achieve gender parity. The report revealed that 50% of players surveyed received no salary, whilst two-thirds



of those who do receive a salary earn less than \$600 per month. Due to low financial rewards, 30% were required to supplement their football career with another job and 90% held the view that they may have to quit football early just in order to survive or start a family. On the topic of maternity and childcare, the study found that 8% of players received paid maternity leave and 61% of players did not receive childcare support, this was said to be another factor for leaving the industry early. In terms of contract stability, the statistics show general uncertainty regarding job security with the average contract length being only 12 months, whilst 47% of those surveyed had no employment contract at all.<sup>15</sup> A Telegraph report has also reported further statistics from within women's football in England whereby reportedly 88% of players in the Women's Super League earn under £18,000 per year and 58% of the competition's players are considering quitting for financial reasons. The maternity issues continue to ring out with reportedly only 1% of players in the Women's Super League having children, which suggests that perhaps more can be done to support those who have or who would like to have children.<sup>16</sup> It should be noted that the Women's Super League is currently undergoing restructure to allow the top tier to go fully professional (this will be discussed further in more detail, later in the paper).

It is difficult to determine how to close the gap without implementing binding regulations both at government level and by sport governing bodies. As matters stand, MAs are not obligated by FIFA to form a women's team – this is reflected by the fact that approximately half of all MA's have failed to enter a team in the qualifying rounds of the 2019 Women's World Cup. FIFA has attempted to take steps to address gender inequality by publishing recommendations and offering financial incentives to persuade MAs to develop the women's game but the effects thus far have been underwhelming.<sup>17</sup> The FA has also taken steps to encourage development by only permitting clubs entry to the top flight of the Women's Super League, from season 2018/19, who offer their female players a minimum of 16 hours playing contract<sup>18</sup> (this will be discussed in more detail further in the paper).

The next few sections highlight some of the disputes over working conditions and resources raised by a number of national women's football teams and women's leagues around the world:

*Case: The Republic of Ireland's (ROI) Women's Team*



The ROI women's team made headlines in April 2017 following a dispute with the Football Association of Ireland (FAI).<sup>19</sup> The players complained of poor working conditions and that they were effectively "out of pocket" playing for their country. The allegations were shocking but sadly reflect the extent of some of the issues faced by women in football. The players complained of being forced to change in airport toilets on the way to matches and the requirement to share tracksuits. Further, a number of the international team play in Ireland's amateur league and hold full-time jobs outside of football. This means that players require annual leave or unpaid leave to fulfill international duty commitments, which could see them away from employment for up to 40 days per year.<sup>20</sup> This is a requirement that many are unable to commit to due to no compensation from the FAI. Following a threat to strike for the team's match against Slovakia<sup>21</sup>, an agreement was reached for improved conditions, following involvement from PFA Ireland and a public backlash.<sup>22</sup>

#### *Case: Danish Women's National Team*

In October 2017, the Danish women's national team publicly complained of the poor working conditions imposed by the Danish Football Association (DBU). The players, who were runners up in this Summer's European Championships and earned the DBU €1m in prize money, are seeking employee status with the DBU as well as a basic monthly fee of less than €1,000. The team currently receives no compensation for the time they spend on international duty (on average, 70 days). Similarly to the ROI women's team, many of the Danish players do not hold professional contracts with a club, therefore international duty creates significant financial stress, given the time spent away from paid employment.<sup>23</sup> In late November 2017, the team negotiated a new four-year agreement including a total of 4.4m Danish Kroner (€700,000) in monthly allowances, match bonuses, health insurance cover, as well as better apparel and training facilities.

#### *Case: Dutch Women's National Team*

Like their Danish counterparts, the Dutch women's national team was able to negotiate a new agreement to increase their compensation significantly, four months after they won the 2017 European Championship. The agreement reflects the achievements of the team to date and is said to be an improvement on agreements reached by other national teams, across Europe. The previous financial compensation is reported to have been "multiplied" by the



agreement which consists of three parts: fixed compensation for national team duty, new performance bonus scheme as well as a new commercial agreement.<sup>24</sup>

#### *Case: Women's Football in Finland*

In March 2018, it was announced that the equality ombudsman, in Finland, had launched an investigation to determine whether the Football Association of Finland has been illegally discriminating against the women's national team. Legislation in the country states that national sport federations and organisations that receive state financial assistance must promote equality. It is reported that the women's national team players face inferior bonus pay and conditions compared to that of the men's team. A statement released by the ombudsman read: *"If men and women who have a similar position are rewarded differently, then there is a presumption of discrimination on the grounds of gender."* A decision is expected prior to the Summer.<sup>25</sup>

#### *Case: Women's Football in Chile*

In jurisdictions where the women's game is less developed, some teams struggle to even get off the ground. The Chilean women's team were deserted by their national association (ANFP) after they failed to qualify for the 2015 World Cup. The team were sitting 41<sup>st</sup> in the FIFA rankings but dropped to 128<sup>th</sup> after the federation failed to arrange any matches or training sessions for two years. Eventually, the Asociacion Nacional de Jugadoras de Futbol Femenino was formed (women's player association) in July 2016 and with support from the Minister of Sports and the Minister of Gender Equality, new energy is now being generated into women's football. The struggle, however, is also felt at domestic club level with a number of clubs disbanding their women's teams. Only two of the 25 teams in the top division are considered to be "professional" and have employment contracts. Players are put under significant financial stress with some clubs insisting players will have to pay to appear in matches, due to a lack of funds.<sup>26</sup>

#### *Case: Argentinian Women's National Team*

In September 2017, the Argentinian national women's team went on strike complaining of lack of payment and basic resources required to train and play matches. The women's national team is not considered professional, and only receive \$8 per training session. As like



other women's teams across the world, a number of the players hold jobs outside of football and struggle to meet the financial demands of playing for the national team. Some of the complaints include non-payment of stipends, lack of lockers and the requirement for a grass field to practice. At the time of writing, the dispute is ongoing.<sup>27</sup>

#### *Case: Women's Football in Brazil*

Women's football in Brazil was banned between 1941 and 1979 and even when the ban was lifted there were few resources allocated to the development of the women's game and many tournaments were eventually discontinued. In 2013, the national women's league was launched seeing Rio Preto Esporte Club, the most successful women's club thus far having won the national league in 2015 and crowned 2016 and 2017 winners of the Sao Paulo Championships. However, despite their success the team is still faced with significant difficulties: their training ground has holes in it due to ants nests and the team lives five to a room in a house provided by club owners.<sup>28</sup>

Concerns have also been raised in Brazil, where the women's national team publicly expressed their disapproval when coach, Emily Lima, was dismissed from her role in October 2017. Lima was the first female to coach the women's team when she was hired in 2016. The team also took the opportunity to express concerns with regards to the lack of opportunities for female players to progress into coaching roles as well as the lack of females represented in executive positions at the Brazilian Football Confederation (CBF). The group referred to FIFA reforms and called for the CBF to fall into line. The CBF reportedly has no women on its governing board and no meaningful pathway for former female players to obtain executive roles.<sup>29</sup>

#### *Case: U.S. Women's National Team*

One of the most staggering examples of gender inequality in football can be found in the USA with the US Women's National Team, who are number 1 in the FIFA Women's World Rankings.<sup>30</sup> Football's governing body in the US, US Soccer, employ both the men and women's team members. The women's team is reportedly paid \$99,000 per year whilst the men's team is paid \$263,320 per year<sup>31</sup>, the women also reportedly receive \$10 less per day in meal allowances than the men and earn \$750 less in sponsorship appearance fees. One would usually expect the defence for such gender pay gaps, in sport, to be founded on





market forces, ie. the men's game drives higher crowds and revenues. However, this case is slightly more complicated. The US women's national team is currently considered more successful than the men's squad with three World Cup Championships and four Olympic Championships under their belt. The women's team also enjoys larger crowds and more recently, has generated greater revenue (\$20m more than the men's team in 2015) with that trend continuing.<sup>32</sup> With that in mind, the women's team filed a complaint with the Equal Employment Opportunity Commission (EEOC) on the basis that they should be receiving equal pay for equal work. However, US Soccer has defended the claim on the basis that it is not equal work for in order to qualify for the Women's World Cup, five games are played in a single two week tournament, whereas the men's route to the World Cup is spread over a two year, 16 game slog across North and Central America as well as the Caribbean. US Soccer also points to the disparity in prize money generated by both competitions, the sums of which are controlled by FIFA and not US Soccer.<sup>33</sup> This case highlights the nature and extent of gender inequality experienced by women in football who despite enjoying great success both on and off the pitch, face an uphill struggle when faced with discriminatory conditions in a discriminatory market that favours one gender over the other regardless of success, and with no signs of significant change anytime soon. The US women's team reached a new agreement with US Soccer in April 2017 that narrows the gap in terms of equal pay but still sees the women earning less.

### *A collective voice for female professional football players*

The above case studies highlight the importance of female players being part of a union to collectively bargain for improved working conditions and salary. Collective bargaining refers to the negotiations that a players' union (or association) holds with the club or national association, on behalf of a group of players. Where those negotiations lead to an agreement, a collective agreement will be drafted confirming the improved terms and conditions. FIFPro, the world global union for players, currently has 63 member associations yet according to their website (which may be not be fully up to date), only 36 provide the opportunity for female professional players to join their association.<sup>34</sup> That said, any female players who require to raise concerns can turn to FIFPro, if they do not have an association that is able to assist them. It is essential that female players are provided with a voice to raise concerns and lobby for change. It is concerning that not all player associations offer advice and



guidance to female footballers who find themselves facing discrimination and poor working conditions. Amendment of player association statutes (which the author understands is being encouraged by FIFPro) and creation of female divisions would be welcomed across all player associations to ensure that female players' voices are represented and heard.

## Gender equality laws and jurisprudence across various jurisdictions

### *Great Britain*

2010 saw the implementation of the Equality Act 2010 (EA 2010) which provided significant changes to equality and anti-discrimination protection across England, Wales and Scotland. It supersedes over 100 separate Acts of Parliament and statutory instruments, and more than 2,500 pages of codes of practice and guidance. It was implemented to consolidate existing discrimination laws and provides for those as required under European law. It was generally acknowledged that the pre-existing law had failed to deal with complex challenges faced in modern society. Whilst attitudes to discrimination have largely moved on for the better since the 1960s/1970s, discrimination in the author's opinion continues to be largely institutionalised in a number of industries, including sport, and more can still be done to improve upon equality laws in force today.

The EA 2010 aims to ensure that people are treated equally in the workplace by prohibiting employers making general assumptions with regards to a person's ability, based on their gender. The Act defines direct discrimination under s.13 whereby A discriminates against B if, because of a protected characteristic (such as gender), A treats B less favorably than A treats or would treat others. The key sports case, in the UK, with regards direct sex discrimination is *Nagle v Fielden* [1966] 2 QB 633 where the claimant was an experienced racehorse trainer who had repeatedly applied to the Jockey Club for a trainer's license but had her application for a license refused time and time again. The Jockey Club was, however, content with granting a license to the claimant's male employees. The case was heard by the Court of Appeal who held that the Club's policy of not granting a license to a person on the grounds that she was a woman was unlawful and required to be amended. The case pre-dates the EA 2010 but the decision still applies under s.13 and s.53 (which applies to qualification bodies).<sup>35</sup>



Another example of sex discrimination concerned the dispute between the former Chelsea physiotherapist, Eva Carneiro, Chelsea Football Club and then manager, Jose Mourinho. Carneiro claimed that during her employment there was a lack of action over sexually explicit comments made at away games, lack of changing facilities and a failure to provide her with an official suit. Further, there was also an incident whereby Mourinho was alleged to have called her a “*filha da puta*” (translated as daughter of a whore) in response to Carneiro running onto the pitch to help an injured player, and thus effectively stopping the flow of the game. Carneiro argued that this amounted to sex discrimination. Mourinho had argued that he did not refer to Carneiro as the above but stated “*filho da puta*” (meaning, son of a bitch) and the exclamation was not discriminatory, in nature. Ultimately, the case settled out of Court with Chelsea FC reportedly providing Carneiro with a significant sum of compensation. However, had the case proceeded to a full hearing, the decision would likely have turned on whether the Tribunal accepted Chelsea’s defence that Carneiro’s claim was a tactical move and Mourinho’s exclamation mere profanity rather than discriminatory in nature.

Equality legislation recognises in very limited circumstances, cases where different treatment based on a protected characteristic does not equate to unlawful discrimination. An example of this can be found in the EA 2010 which provides an exemption for “gender-affected activity” under s.195:

*“...a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitors in events involving the activity.”<sup>36</sup>*

Despite the essence of the Act being to prevent discrimination based on generalisations about one gender’s ability to perform an activity, legislators have allowed an exemption in the case of sport. Rather than forcing sporting bodies to assess eligibility on the basis of someone’s ability and skill, regardless of gender, the exemption instead reinforces conservative social views that have plagued women in sport since the Victorian era. Segregation in sport can prevent female athletes from testing out their skills at the best and highest levels, whether that be against male or females.<sup>37</sup> In other jurisdictions, such



segregation in certain circumstances has been ruled unlawful by the Courts, as in the case of Canadian ice hockey (discussed below).

Section 195(4) provides that where children are concerned, it is appropriate to take into account their age and stage of development, when considering whether the activity they participate in should be “gender-affected”. Grassroots sport, in the author’s opinion, is of particular importance when tackling social barriers and mixed gender sport should be encouraged from a young age, to allow girls to build self-confidence to allow them to feel comfortable in a football environment.

The EA2010 does not apply to employers only, or those considered to be employees, it also applies to sport clubs/associations and any organisation providing goods, facilities or services to members of the public. Sport and leisure services will include amateur football clubs as well other sport clubs, leisure centres, swimming pools, ice rinks, adventure centres and so on. The legislation applies whether services are provided for a fee or free of charge, e.g. free football training sessions – the activity is still covered regardless. Organisations may be considered a sporting club and/or an association. Provisions on associations will apply if a club has 25 or more members and membership is regulated by a set of rules.

Where associations are concerned, the relevant protected characteristics apply once again as well as the usual types of prohibited discrimination: direct discrimination, indirect discrimination, harassment and victimisation. Prior to 2010, clubs which were genuinely private were able to have discriminatory membership categories and prices between men and women. However this changed with s.101 of EA2010, which extends protection against discrimination where gender is concerned and at its time of implementation was estimated to significantly affect approximately 3,000 working men’s clubs<sup>38</sup>. The protection bars clubs whose members are male and female from restricting access to women to certain days or certain facilities etc. An example was provided in explanatory notes of the Act whereby a gentleman’s club will be guilty of direct discrimination when it charges a person a higher subscription because he is a Muslim or, a private members’ golf club is not permitted to allow its female members to play golf on certain days in contrast to the men who can play whenever they wish. This protection also applies to guests of members of private clubs under s.102. However, as above, there is yet another exception to the rule that appears to



accept the cultural barriers that have formed over the centuries. Schedule 16 of EA2010 permits associations to restrict their membership to those who share protected characteristics, including sex and therefore same-sex clubs are still permitted. It should be noted that the exception to restriction of membership does not apply to persons of a particular colour.

### *Canada*

In Canadian ice hockey, significant progress has been made to close the gap in gender equality which has seen exponential growth of the women's game, in Canada. For decades, ice hockey was considered a masculine sport and with the demand for ice and time greatly outweighing the supply, men were traditionally given first refusal over women wishing to use the facilities. However, there was a turning point in the 1970s when young girls became frequently more interested in participating in ice-hockey leagues. With the formation of female leagues across the country, many female players found themselves frustrated that they were unable to push themselves to fulfill their potential as the most challenging environment was to be found in the men's only leagues. It was this frustration that led to one of the most important sports law cases in Canada. In 1985, a 12 year old girl, Justine Blainey, raised an action against the Ontario Hockey Association (OHA)<sup>39</sup> who had rejected her application to participate in an all-male league. Blainey argued that her goal was to develop her skills to the best of her ability and in order to do that she needed to play at the highest possible skill level which was to be found in the Metro Toronto Hockey League – an all-male league. Blainey relied on section 15 of the Canadian Charter of Rights and Freedoms that guarantees equal treatment for all Canadians. However, the OHA attempted to rely on Ontario's Human Rights Code on the basis that gender discrimination was allowed in sports under ss. 19(2) of the Code. The Trial Court at first instance agreed with the OHA. Blainey appealed to the Court of Appeal and argued the ss. 19(2) of the Code violated s. 15 of the Charter. The Court agreed and held that section 19(2) of the Code was inconsistent with the Charter of Rights and Freedoms and should be stricken from the Code. The Court held that rules prohibiting women from playing in male leagues were discriminatory, and in violation of the Charter. Once subsection 19(2) of the Code was deemed unconstitutional, Blainey was able to pursue her claim again and was awarded damages. The *Blainey* case had a significant effect on sports governing bodies in Canada who are now required to accommodate any female who possesses the necessary skills and capability to play in all-male leagues. In reality, however, once female players reach adult age and an elite level, given the nature of ice hockey (and per other contact sports) most are not able to withstand



the physicality of the game and many revert to all-female leagues. However, as a result of mixed gender sports during school years, the competitive level of all-female sport is now greater as a result of females being able to develop their skills against male competitors, to the best of their ability until they are no longer physically able to do so.

The formation of all-female ice hockey leagues also highlighted disparities in the access and use of facilities between male and female leagues. In 2000, a group of female ice hockey players from the University of Saskatchewan filed a legal complaint<sup>40</sup> based on the Saskatchewan Human Rights Code (S.S 1979, c. S-24.1). They argued that the University was favouring male players over females in relation to funding, coaching and athletic awards. The Canadian Court of Appeal upheld the players' complaint and the University was forced to take steps to rectify the inequality in the men and women's hockey programmes, a decision that would affect all sport programmes in Canada. Requirements included increased funding for the women's team, the hiring of a top-level coach, and equity in the distribution of funds for athletic awards. As a result of these legal developments, a sport that was once the sole preserve of men is now accepted as equally appropriate an activity for women.<sup>41</sup>

### *United States of America*

In the US, the 1970s was a significant decade for gender equality. Title IX of the Education Amendments Act was implemented in June 1973 and "*served through the 1970s as a legal threat to the male bastion in school sports.*"<sup>42</sup> The legislation provides that "no person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." The legislation only applies to educational institutions and places an obligation to ensure that both sexes' interests and abilities are accommodated and that they are provided with equal distribution of federal funding, equal access to coaching, equipment and training facilities as well as equality in the scheduling of games and practice times. The legislation allows for sex-segregated teams where selection is based on competitive skill or where the sport is a contact sport. However, an institution must still provide equal opportunity to play for members of both sexes.<sup>43</sup> Within the first ten days of the legislation coming into force, over 100 complaints were received against universities alone.



In the early 1980s, Title IX was subject to significant interference from the Supreme Court in the case of *Grove City College v Bell* 465 U.S. 555 (1984). Grove City College was a small private college which received federal funding in the form of education opportunity grants (similar to student loans for fees). The funds were terminated on the basis that one of the college's sporting programmes had failed to comply with requirements under Title IX. The College challenged the decision on the basis that they received funds through students and the department receiving the funds was not sports related. The Court at First Instance held that the grants constituted federal financial assistance and whether the assistance reached the college indirectly or directly was irrelevant. That decision was also upheld by the First Circuit Appeal Court. However, the College appealed to the Supreme Court who overturned the ruling. The Court agreed that the way in which federal funds were received was irrelevant but interpreted the provisions of Title IX to be "program-specific" and not "institution wide". The grants were used for the College's financial aid programme and not for any sport programme – therefore the Court ruled that the funds could only be withheld if there was found to be discrimination in the specific programme in which the funds were being used. The fact that there may be discrimination in other programmes does not justify the withholding of funds. The decision was significant and effectively removed nearly every university sporting program from the reach of Title IX as well as extinguishing any outstanding discrimination claims unless the sporting program received federal funding, which most of them did not.<sup>44</sup>

In 1987, the Civil Rights Restoration Act remedied the effect of the *Grove City College* case by applying the 'institution wide' rule to Title IX. As a result from 1988, when determining a discrimination claim consideration must be given to: the athletic interests and abilities of male and female students and whether they are accommodated; the level of sports and competitions on offer to both genders as well as general institution enrollment numbers for males and females. It has been stressed by the US Courts that financial constraints will not be a defence for a failure to comply with Title IX.<sup>45</sup> The new "institution wide" rule resulted in a number of institutions revising their athletic programs and the reinstatement of a number of dropped women's teams.

Title IX has achieved significant success in addressing gender equality in sport as well as shifts in cultural attitudes. Maguire J.S suggests that this can be demonstrated by popular 1970s U.S. TV series (produced following the enactment of Title IX), such as Charlie's



Angels, Wonder Woman and The Bionic Woman, all of which depict stronger physical female characters.<sup>46</sup> Further, the effect of Title IX on women's football is difficult to ignore. The enactment of Title IX has been a key factor in the explosion of women's soccer, in the US, over the last three decades with many educational institutions offering successful soccer programmes to female athletes who wish to develop their skills in a sport that, in the US, was not traditionally dominated by men.<sup>47</sup> As a result, the number of female athletes, teams and coaches has increased decisively.<sup>48</sup> This contention is supported by the findings of FIFA's 2014 survey that almost half of the 4.8m female players registered are from the USA & Canada.

### The Gender Pay Gap

In the UK, the legal framework for equal pay can be found under the EA 2010. The first hurdle, for any female athlete, in bringing a successful claim is that she must be employed. This is likely to create a barrier for female footballers due to a lack of professional contracts, as described above. Secondly, there is no concept of "equal pay" available to players when they are competing in separate competitions. Therefore, it is practically impossible to mount such a claim as the female player requires to point to a male counterpart and prove that he is paid or treated differently for work carried out that is equal or of equal value ( s.64 and s.65). As discussed, this presents numerous hurdles as there could be different entities employing the male and female teams, and the male counterpart will be playing in a segregated male team, with different schedules and in different competitions (e.g. US women's team). Therefore, the legislation is of little use to female players unless mixed-gender professional teams become a reality (which is unlikely) or there is complete equity across the competitions as well as training and game time. Female football players, therefore, may not benefit from these provisions because of the way sport is organised.

Under s.69, salaries are permitted to be determined by market forces (the material difference of which is not supposed to be due to gender). This means that even where a female athlete can show that she is an employee and that the work she is undertaking is equal and/or of equal value to that of her male counterpart, the employer may still have a defence if they can show that the disparity arises as a result of the market for men's football (which currently generates significantly larger revenues) and not because of sex/gender. However, the author would argue that the vast difference in the market for men and women's football is directly related to gender and traditional social norms about women and football – which results in a





reluctance to commercially invest, promote and broadcast matches and in turn, failure to generate regular large crowds. The defence afforded under section 69 (and under equality laws across the globe) is unjust on the basis that it creates an impossible barrier for female players to overcome as the market relied upon is inherently discriminatory due to social norms that have been entrenched through a history of discrimination, prejudice and prohibition against women in sport.

As of April 2017, organisations with employees of 250 or more are now required to publish information, annually, about the size of their gender pay gap under The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017. Information required to be disclosed includes the difference in mean and median pay between male and female employees, as well as the difference in bonuses. In a sporting context, many football clubs will escape the public scrutiny of such disclosure due to the size of their organisation<sup>49</sup> but larger sport governing bodies are likely to be caught. Reports are to be published by April 2018. As we approach the cut-off date for the first annual reporting, a number of sport governing bodies have published their gender pay gap reports and the results are disappointing but not surprising. The Football Association's (FA) report<sup>50</sup> revealed that men were paid 23.2% more than women (mean figure with median of 12.1%) - one of the lowest gaps across all sport organisations, in the UK. Men dominated all salary quartiles as well as the five most senior positions – women accounted for only 34.6% of all FA staff members. In terms of bonuses, 55% of men received bonuses compared to 50% of women, with a 16.4% mean gap (the results factor into account England teams' success at tournaments). However, there were worse results elsewhere in sport. The England and Wales Cricket Board released their gender pay gap report<sup>51</sup> in March 2018 which revealed that the average hourly rate for a male worker was 38% higher than that for a woman, equating to £62 for every £100 that a man earned. Notwithstanding that, 88% of the top-level salaries were earned by men. The disparity was explained by the governing body as being a result of the ratio of men to women at all levels as well as a historic trend towards employing ex-players in senior management, coaching and operational roles as well as all first-class umpires being male. The results are not much better over at the Lawn Tennis Association (LTA)<sup>52</sup> where the average hourly rate for a female was 31% less than males as well as a 55% bonus gap. The LTA recognised a significant gender imbalance in very senior roles as well as a higher percentage of females being attracted to part time roles due to the flexibility offered in lower paid roles.



In terms of hard law, it is only Iceland that has taken that extra step by becoming the first country to force employers (who have 25 + employees) to prove that they pay employees, in the same role an equal salary, regardless of gender. Organisations who fail to meet the requirements will face significant fines.<sup>53</sup> The law came into force on 01 January 2018 and requires organisations to have a certificate showing that they pay everyone in the same roles equally, regardless of gender, sexuality or ethnicity. The measure aims to eradicate the gender gap by 2022.<sup>54</sup> The country also has legislation that requires companies with 50 employees or more to have a quota of 40% women on their boards.<sup>55</sup> In a study, by the World Economic Forum, of global gender equality, Iceland was ranked number one, a position that it has held for eight years<sup>56</sup>. The Football Association of Iceland has also mirrored the progressive attitudes of its Government by taking the decision to award the women's national team with the same bonuses as the men's team. The move means that the women's team receives a significant increase on their current pay, in terms of performance bonuses. The President of the Association echoed the sentiments of the Icelandic Government by saying that the board was unanimous in taking the decision to award equal bonuses and that they aim to be progressive and consider it encouraging for football in Iceland.<sup>57</sup>

Those sentiments have also been echoed elsewhere in the football industry. Most recently, the Norwegian FA implemented equal pay for its men and women's national teams. It is an unprecedented move that has been applauded across the globe and the hope is that it will set the blueprint for many other MAs going forward.<sup>58</sup> Likewise in 2017, East Sussex football club Lewes FC, became the first football club (not professional) to pay its women's team the same as its men's team as part of a groundbreaking initiative called Equality FC. The club has set out a number of objectives to achieve a level playing field for women in football. These include raising and setting equal playing budgets for both men and women, providing equal resource for coaching & technical staff, upgrading equipment and facilities, and investment in grassroots programmes to drive equal participation.<sup>59</sup> The move has seen the club's spectator numbers grow for the women's team, attracting almost 1,000 fans to their recent match against Everton Ladies in the 6<sup>th</sup> round of the FA Cup. One fan recently commented: *"I can't claim to know the offside rule or even be able to name players for a fantasy football team, but hearing about Equality FC (paying females the same as males) has really sparked my interest in football."*<sup>60</sup> The initiative also attracted sponsors to the club with Lewes securing one of its latest partnerships with Brighton & Hove Buses whose Managing Director stated:



*“I applaud Equality FC for tackling outdated stereotypes and that very much fits with our ethos at Brighton and Hove Buses. As a company we’ve still got a long way to go and a lot to learn. Customers already see a number of women bus drivers but there’s plenty of room for more. Partnering with an organisation that is tackling these – still –very difficult questions is going to help us move forward with our own efforts.”<sup>61</sup>*

(Further benefits enjoyed by Lewes FC as a result of their equality campaign can be found in the commercial chapter of the paper)

### **The changing landscape of women’s football**

It is difficult to pinpoint an exact figure as to how many professional female football players there are across the globe as not all associations record the figures but a recent survey by sporting intelligence considers a realistic figure is 1,287 which equates to 0.93% of professional players, worldwide. That figure also includes semi-professional female players. Despite male players significantly outweighing their female counterparts (it is estimated that for every 100 male players, there is 1 female), there is an appetite for change. The top women’s football leagues across the globe consist of Division 1 Feminine (France), Frauen Bundesliga (Germany), FA Women’s Super League (England) and the National Women’s Soccer League (USA). Although the wage gap is still significant to that of the men, players who play in the above leagues are likely to be able to earn a living full-time. In Division 1 Feminine, players have the ability to earn some of the top wages across all of women’s football with two of the best clubs, being Lyon and PSG. Since the 1980s, Lyon’s president has worked tirelessly to ensure that both the men and women’s squads are successful, by injecting significant funding into both teams. Lyon are currently the best paid women’s football team in the world and very successful, having won the Champions’ League four times, along with FFC Frankfurt, who play in the Frauen Bundesliga. Club interest and investment in France has seen a spike as a result of the country winning the bid to host the Women’s World Cup in 2019. Consequently, other clubs in the French league are now looking to invest further, to boost France’s position in the national game, as well as the domestic game.



The Frauen Bundesliga, in Germany, packs its own might both in a sporting and financial context. Since the women's champions' league began in 2001, German clubs have been the most successful, with FFC Frankfurt enjoying joint success with Lyon as the most successful club. There are currently 278 professional women players playing in the league with all clubs allocating money to girls' youth development and employing full time general managers as well as head coaches, as per current league rules.<sup>62</sup>

### *England - The Restructure of the FA Women's Super League*

In 2017, the FA announced the restructure of the Women's Super League (WSL), a move that was criticised by some but that the author considers will change the face of women's football for the better and set a precedent, moving forward. The restructure will see the top tier of the WSL go fully professional from season 2018/19 and will include up to 14 teams (it currently has 10, half of which are not professional). The restructuring is designed to develop the domestic game whilst improving the form of the national team, all the while keeping those players in England and out of the hands of foreign leagues. Notwithstanding that, the new plans also aim to double participation as well as spectators by 2020. Clubs must apply for entry into Tier 1 and are required to meet strict requirements such as: offering players a minimum employment contract of 16 hours, thereafter rising to 20 hours, commitment to invest a minimum sum into the women's team, delivery of elite performance environments to include medical and player welfare measures, strength and conditioning and performance preparation as well as a detailed commercial and marketing strategy. Further, clubs in Tier 1 will be expected to commit to the FA's female coach scholarship scheme which will provide work placements and increase further opportunities for females in the industry.<sup>63</sup>

As discussed, the current top tier presently includes 5 teams who are not professional and it is inevitable that some of those clubs may not be able to meet the conditions for entry into the new Tier 1. As such, those teams will have to play in one of the lower leagues, possibly Tier 2, the criteria for which will remain the same. Extra support will be provided by the FA for clubs in Tier 2 to allow them to make an easy transition to Tier 1, as and when they are in a position to do so.

The decision to fully professionalise the top tier of the WSL was not welcomed by all but the FA recognised the need to capitalise on the growing momentum that women's football has



recently enjoyed and force the change through, rather than waiting for it to materialise naturally when all clubs are ready (or willing) to do so. With the fan base growing and increased media interest, the FA has taken the opportunity to improve the competitive balance and produce a more exciting product in the hope that the reforms result in greater exposure, attracting increased commercial opportunities. The FA will be supporting clubs in both tiers, through the changes, with increased funding of up to £120,000 for Tier 1 and £61,500 for Tier 2.<sup>64</sup>

Going forward from 2018/19, the FA will operate a promotion and relegation system for the first time across the entire women's football pyramid, including the lower divisions out with the WSL.

### *Grassroots – London Leopards*

The initiatives don't stop at the professional level but continue down to grassroots as well as consideration for the future capacity of the female workforce. Recently the London FA announced their new project, the London Leopards coaching programme. The association is offering 100 sponsored level 1 coaching places for women across the London area, with a goal to build participation and the capacity of the future workforce. The 100 chosen coaches will thereafter assist in delivering introduction to football sessions for 1,000 girls aged 7-11 in London, with seven professional club community trusts also assisting the coaches in delivering the sessions. Clubs signed up to the project include Arsenal, Chelsea, Millwall, Queens Park Rangers, Tottenham Hotspur, Leyton Orient, Charlton Athletic and AFC Wimbledon. The association took action after statistics revealed that 11% of girls aged between 5 and 9 play football, compared to 52% of boys. This particular age group is considered key in tackling gender stereotypes and building confidence in young girls so that they can thrive in a football environment.<sup>65</sup>

### *Irish FA (IFA) – Education programme with Ulster University*

In a bid to develop the women's game in Northern Ireland, the IFA launched a new girls' and womens' football academy with Ulster University. The association was faced with a lot of parents not allowing girls to pursue a career in football as there was a general worry that it would hamper their studies and future career. For those who did pursue a career in football, many were moving to the United States to study on a scholarship basis. This



meant that Northern Ireland was losing its best talent for 3-4 years at a time. As a result, following consultations and research, the academy was born with a view to encouraging players to stay at home to develop their skills whilst receiving an education from Ulster University, on a scholarship basis (there is no requirement to choose a sport related subject). The vision is that this will strengthen both the international and domestic teams, whilst gaining the trust and support from parents. As well as providing access to a first class education, the academy also provides extra coaching and fitness training at Ulster University's world-class facilities as well as input from first class sports scientists and coaches from Northern Ireland and further afield.<sup>66</sup>

### *Scotland – Role models & the future development of a professional league*

Role models are particularly important in growing participation and crowds. Currently, there appears to be a lack of sports women or female footballers who young girls can look up to because our women's teams are not being promoted and commercialised, to their fullest potential. This lack of exposure will no doubt be contributing to low levels of participation, as a result. The Scottish FA recognised this and as a result in 2017, created 28 dedicated Girls' Soccer Centres across Scotland. Each of the Soccer Centres are named after members of the Scottish national women's team with individual team members appointed as ambassador for the centres within their home regions, providing a visible female role model for the participating girls. The Soccer Centres are aimed at ages 5 to 12 and are run in partnership with local authorities and clubs to deliver weekly active sessions for girls in a relaxed and friendly environment. The Centres strive to perfect girls' football skills whilst growing their self belief and confidence which as described above is all so very important if girls are able to integrate in mixed gender football environments, as well as succeed at elite level. Some of the ambassadors engaging with young participants include Joelle Murray, Kim Little, Lisa Evans, Leanne Ross, Jane Ross and Jo Love. There are plans to potentially extend the concept of Soccer Centres in the future to ages 13 and above, as well as adults.<sup>67</sup>

Plans are also underway to develop the top flight of women's football in Scotland, the Scottish Women's Premier League, into a semi-professional level within the next three years, and reaching full professional level earmarked for the future. Over the last few years, the league has been re-branded and new commercial models implemented by the association, Scottish Women's Football, that resulted in the likes of SSE and Scottish Building Society offering increased sponsorship opportunities. As a result of the increase in sponsorship, the



association was in a position to cut entry fees into the Cup competition which allowed more clubs to enter which in turn, increased the level of competitiveness. The commercial model also has a strategy on broadcasting and social media, with live streaming having been offered since 2015 as well as having deals with local TV. Since the re-branding and increased commercial success, attendances and fan engagement has spiked – a trend that is only set to continue with further commercial opportunities set to capture audiences in the pipeline.<sup>68</sup>

### *The female face of the FFF*

Gender equality policies in France, in general have developed since the 1970s and represent a comprehensive legal framework covering a wide range in social, political and economic life. The country has a longstanding tradition of legislating in favour of gender equality and fares 57.1 points on the Gender Equality Index of the European Institute for Gender Equality (EU average is 54).<sup>69</sup> It is perhaps against this backdrop that The French Football Federation has been described by some as a “venue for revolution”, with 40% of its current workforce made up of females with no role “seemingly out of reach”.<sup>70</sup> The Federation’s Vice President is female as is the CEO, who was also the first woman on UEFA’s Executive Committee and is currently looking to double the quota of women, arguing that it should not be seen as an “obligation”. Like England, women’s football in France was also banned following World War 1 and thereafter, the ban was lifted in 1970. Revolutionary steps are being taken on a regular basis in an attempt to address the gender equality issues that exist in the country with French Club, Clermont, becoming the first club in a major European league to appoint a woman as manager of a men’s team.

However, whilst the positive gender equality images appear to be reflected in executive positions, there is still a general struggle with traditional French media with a recent study (as of September 2017) revealing that out of 1,327 news pages with a focus on football only 2.1% were reporting women’s football. Of the 2.1% who do report on the women’s game, sexist language is often used, drawing on stereotypes, and using inappropriate language.<sup>71</sup> This attitude may be reflected by legislation not yet reaching media and gender stereotypes, an area of which is very much an emerging domain and may be a focus for future legislation. This lack of media coverage is despite the fact that the French Women’s League, *Division 1 Feminine*, is arguably the best paid women’s league in the world (broadcast by M6 and CanalPlus) hosting the best two teams in Europe, *Lyon* and



PSG. France is set to host the 2019 Women's World Cup and it is yet to be seen, however, whether the tournament will spark national newspaper interest. The games are due to be aired free to viewers, in France, which will therefore expose the women's game to a wider audience and hopefully influence young girls to participate. The all French, Women's Champions League Final, was watched by 2.7m people live on French national TV and therefore, it is evident that the audience is there if the product is promoted appropriately.

### *Women's football in Australia*

Australia is currently ranked sixth in FIFA's world rankings for women's football and the Football Federation Australia (FFA) has taken bold steps to develop the women's game over the last couple of years, leading to an increase in spectators by 32%. The key parties for women's football, in Australia, are the Matildas (the national team) and the W-League (the domestic league), which is also run by the FFA. The league is sponsored by Westfield and players are able to transfer to another club at the end of each season, by a free transfer. Notwithstanding that, in a bid to make sure that players were not 'paying to play', the FFA introduced a minimum wage of \$10,000 for participation in the League.<sup>72</sup> A figure that can, of course, be improved but is evidence of change being forced through.

The FFA is aiming to target younger athletes and spectators and in a bid to do so, secured federal government support to allow them to tender for the Women's World Cup in 2023. Notwithstanding that, the federation has revised its marketing strategy and has achieved an increase in televised matches from 14 to 21 and the W-League logo is now included on media passes for all FFA events, whilst included in A-League (men's league) marketing campaigns, in an attempt to raise brand awareness. The increase in televised matches is aimed to address concerns that fans are unable to follow the progress of their teams, other than via live updates on Twitter.

In 2015, Football Federation Australia (FFA) and the Professional Footballers Association Australia (PFA) announced a four year 'Whole of Game' collective bargaining agreement that delivers affordable increases in player payments and improved conditions for players across the Australian men's and women's national teams, as well as the men's A-League. The PFA has also committed to provide improved player contract security, as well as





increased incremental investment in player welfare and development programmes over the term.<sup>73</sup>

### Commercial Opportunities for Women's Football

Modern sport is a big business industry and is now a 'product' in its own right. Licensing, merchandising, commercial exploitation of image and sponsorship rights are all money-spinners – there is no reason why women's football should not be able to take advantage of that. According to a report on commercial opportunities in women's sport, only a tiny percentage of sponsorship and broadcast expenditure is invested, thousands of times less than men's sport. In relation to the UK's total sponsorship expenditure, women's sport receives less than one percent. The share of broadcasting fees is even less.<sup>74</sup> This pattern was also evident in FIFA's 2014 survey that found only 29% of MAs have a women's football sponsor. However, it would be ignorant to suggest that the reason for that is because of a lack of public interest in women's football. The recent Women's World Cup match fixture between England and Germany, at Wembley, attracted a crowd of 55,000<sup>75</sup> and 2.5m viewers tuned in to watch the team's 2015 semi-final fixture against Japan. The figures continue to be impressive at league level with 1.5m tuning in to watch the SSE Women's FA Cup Final, with a live crowd of 32,912 at Wembley.<sup>76</sup> Currently, despite the growing numbers, only 4% of sport media content is dedicated to women's sport and only 12% of sport news is presented by women. Long gone are the days where the reason for such inequality and lack of broadcast can be blamed on the absence of an audience or disinterested public, as demonstrated by the numbers above. The audience is there and if football's stakeholders are willing to invest and the media plays their part, the women's game could enjoy unprecedented success.

The first point that should be addressed with potential commercial partners when it comes to women's football is that it is a completely different product from the men's game with a different type of audience with different interests to those who attend every Saturday to watch men's football. The product does not exist as a comparison to that of the men's game and therefore should not be sold as such – a different strategy is thus required to sell the product. There are a number of key selling points that can be used to entice potential commercial partners. For instance, in the UK, it is the most popular sport for women and this is likely to be the case further afield, it is also played at a slower pace than the men's game,



emphasising the technical skills on display. For lifestyle brands, it is also not as aggressive as men's football and the live viewing experience has a much more family friendly feel to it.

Women's football in particular presents a new unsaturated market for broadcasters and sponsors to invest in with more affordable and cost-effective rates than those on offer in a significantly saturated men's football market. Notwithstanding that, women's football provides a new audience and opportunity for brands, broadcasters and rights holders to engage in creative marketing when showcasing their product. It is the perfect opportunity for brands that have not traditionally sponsored men's sports to take their strategy in a new direction, as well as for clubs to partner with brands out with the alcohol and gambling industry.

At a time when female empowerment and women's sport is high on the agenda, brands are becoming aware of the fact that women are growing increasingly intolerable of being represented by unrealistic stereotypical images and they are only too aware that they must take the responsibility to represent women for who they really are rather than the stereotypical role that they were once historically boxed into, by men, during what was a very misogynistic time in society. It is, thus, the perfect opportunity for associations and brands to take advantage of this shift in social attitudes, as the use of women's sport in brand marketing is the perfect solution to capture, empower and influence the targeted audience.

The opportunity for brands to become involved in equality initiatives, through women's football, and in turn meet their corporate responsibility goals should not be underestimated. There are already examples of this playing out in the football industry. If we take the example of Lewes FC again, the club recently secured an endorsement deal with athletic-wear brand, SKINS, after the company purchased a life ownership share in the club (50% paid by SKINS with the remaining 50% paid by its staff and global partners). The new relationship will see the club supported in encouraging more opportunities within women's and girl's football both domestically and abroad, whilst its initiative Equality FC will be promoted by SKINS across "all territories and specifically with partners and consumers across the world." As part of the endorsement deal, SKINS will provide an equal share of technical products for the club's men and women senior teams.<sup>77</sup>



Further examples of creative marketing fusing with gender equality issues can be found in campaigns from Avon (the sponsors of Liverpool Ladies) and Electric Ireland (the sponsor of the Northern Ireland women's national team). In April 2017, Liverpool Ladies Football Club announced a new shirt sponsorship deal with beauty and cosmetics brand, Avon, for a three year period. The move saw Avon become the first independent shirt sponsor to grace the front of the ladies' shirt and the first time a female-focused brand had sponsored a premier ladies football team. In announcing the deal, Avon remarked that what had attracted them to the team was the opportunity to empower women and help break down social barriers and challenging stereotypes. Roll on six months, and a joint gender equality campaign entitled "I can be" was launched by Liverpool and Avon following a survey that revealed nearly one third of women believe that their gender has held them back due to social barriers and stereotypes placed on being female. The campaign has its own dedicated website, a hashtag for social media conversations (#ICanBe), as well as 'Fiercely Feminine' - a short film featuring members of the ladies football team all of which aim to tackle gender stereotypes and provide much needed role models to young girls. The campaign encourages other women to share their stories of gender stereotypes and whether they feel they have been held back as a result. More initiatives will be added to the campaign during the course of 2018.<sup>78</sup>

It is particularly important that associations and clubs take the steps to try and increase their media coverage of the women's game through their own social media channels (the content of which they can control). Using athletes/players on social media channels as well as on their own social media to create content and engage with followers will increase exposure and in turn, sponsorship and endorsement opportunities. Keeping a record of coverage as well as hits and impressions can provide strong evidence of the value of the rights an organisation can provide to brands. As discussed above, the women's game has to be marketed in a different manner to that of the men's game. Stories of equality, the empowerment of women and the increased growth of the game both in terms of participation and spectators will all be of interest to brands as well the family audience and values that are inherent in the game.

It is particularly important for rights holders who have both men's and women's teams to give careful thought as to how commercial rights are presented and sold. Historically, many organisations have been tempted to sell the rights as a package: if brands want a slice of the



men's pie, then the women are part of the package – it's a buy one get one free, so to speak. However, this is not the most effective way of achieving the best results as brands will naturally be attracted to putting all their time and effort into the men's game as currently that is where the most exposure is to be gained – this, in turn, blocks opportunities for the women's game. As discussed above, as a club or association there is a creative opportunity to tailor what you can offer to a brand's objectives. For instance, utilities company, SSE sponsors the Scottish Women's Cup, as well as the FA Women's Cup and has pledged a commitment to supporting women at every level, from helping local clubs to get girls playing, right up to sponsorship at semi-professional/professional level. The sponsorship is not additions to the men's game but unique to women's football. The company tapped into data that they had collected when exploring new opportunities for the brand. Research they had carried out confirmed that only 20% of fathers would encourage their daughters to play football. This led to the SSE dads and daughters campaign which aims to get more young girls to start playing football with the support of their dads. It celebrates fathers around the UK who have played a major part in encouraging their daughters to get involved in sport, in general. The message is more positive and stronger as a result of brand objectives being in line with those of the women's game. Likewise, in Northern Ireland, utilities company Electric Ireland chose to sponsor the women's national team and launch their equality initiative, Game Changers. The company did not see the women's game as a pathway to the men's market and instead considered it was the perfect outlet to achieve their own objectives. The initiative seeks to break down the perceptions that exist around women's football and celebrate female football talent as well as boost participation beyond the 10,000 who currently play football each week in Northern Ireland. The utilities company was the official sponsor of the UEFA Women's U-19 Championship that was held in Northern Ireland in 2017, and which sparked great interest in the women's game on the island of Ireland as a whole. Electric Ireland also sponsor the Girls' Post Primary Schools Football and Schools Cup as well as the Women's Challenge Cup.

In November 2017, UEFA announced that it was going to unbundle the rights to the Women's Champions League which had originally been sold as a package, along with the men's Champions League. This move is very much welcomed for the reasons described above and kickstarts a very exciting time for the commercialisation of women's football. The European governing body is to start from a blank canvas and is already holding consultations with various brands to discuss what it is they are looking for from sport sponsorship. The goal is to grow the number of girls playing football across Europe and establish it as the number 1



sport for women. For UEFA, there has never been a better time to do so with more flexibility in the women's game, more access to opportunities and less restriction on broadcasting. However, it will take time and long term investment is key. The governing body also has a focus on its own social media accounts to grow the women's game and has seen Facebook followers increase from 8m to 9m in the space of one year.<sup>79</sup>

It is, however, important to remember that women's football continues to be at risk of sexualisation from sponsors and broadcasters. Clubs should be mindful of this when exploring commercial opportunities – the most recent example comes from adidas who caused outrage when they chose to promote the women's Colombia shirt using an ex Miss-Colombia model rather than one of the female players<sup>80</sup>. Sponsors who have discovered the positive returns that women's football can drive include the likes of Avon, Disney, Nike, Save the Children and SSE.<sup>81</sup>

### Women in executive positions in football

Perhaps one of the most difficult roles for women, in football, to break into are executive positions. FIFA's 2014 survey found that out of all executive positions, only 8% were filled by women (which equates to 1.1 female per MA). This figure serves as a stark reminder of the difficulties that women face in securing senior positions in the football industry. Sepp Blatter hit the nail on the head when he openly remarked: *"Football is very macho. It's so difficult to accept women in the game. Not playing the game, but in the governance. It's easy in basketball, it's easy in volleyball, it's easy in athletics. It is no problem. But in football, I don't know. There's something very reluctant."*<sup>82</sup> However, this attitude is not exclusive to the sports industry as women are under-represented in corporate leadership, across all industries. As such, steps are being taken at government level to address this in a number of jurisdictions.

In Scotland, the Scottish Government has taken steps to try and address the gender gap on boards with the introduction of its 50/50 by 2020 programme.<sup>83</sup> Public, private and third sector organisations are encouraged to set voluntary targets of 50/50 on boards by 2020. sportScotland, the national agency for sport, is just one of the many organisations to have set and met their target of 50/50 in February 2017.<sup>84</sup> Further, the UK Government's organisation for directing the development of sport, UK Sport, introduced a Code for Sports Governance in 2016 that sets out criteria that sport organisations, seeking government and



national lottery funding, must meet in order to receive funds. One requirement is to have 30% of each gender on the board.<sup>85</sup>

In Norway, legislators have introduced positive discrimination quotas obligating organisations to ensure that women fill at least 40% of seats on boards. At the time of implementation, in 2004, the law was heavily criticised as being impractical and risking inferior experience on boards. However, evidence suggests that the caliber of women on boards is just as high if not higher than men and had the quota not been introduced, the gender gap on boards would have remained vast.<sup>86</sup> In a 2016 study carried out by Harvard Law School, Norway was the only country to have achieved an average of over 40% of women on boards and in terms of general gender equality it remains second in the world, behind Iceland.<sup>87</sup> Whilst societal attitudes are likely to remain the most effective route for closing the gap, it is clear that hard laws have a significant impact on increasing gender diversity in the boardroom.<sup>88</sup>

### **Moving Forward – What measures should be implemented to address gender inequality in the football industry, globally?**

Gender inequality exists to some extent in most occupational industries but it is difficult to pinpoint another industry where the deficit is so vast, than that of sports. Despite inequality being present in parliament, the clergy, and industries such as technology, medicine and the space industry, the statistics continue to be much more appealing than those seen in sport, and football in particular. As discussed, hard laws and positive discrimination have a significant impact in tackling gender inequality. Whilst progress is being made in football, the rate in which the gender gap is closing is underwhelming and failure to implement specific regulations, with positive discrimination in mind, will only maintain the status quo that we have come to know only too well. With that in mind, can legislators take further steps to effect much-needed change and could football's world governing body (and its confederations) force the change that will effectively shape the social perceptions of future generations to come.

**Proposals at Government level (with fines to be imposed for non-compliance):**

#### ***Prohibition of gender segregated sports at grassroots level***

Legislation should be introduced to prohibit segregated gender sports until it becomes unsafe to do so or there is a clear imbalance in physical ability, in that women are unable to compete. Such steps will assist in the fight to eradicate the social norm that football is not for



women but it also allows young girls to develop their skills and continue to develop those at a level suitable to them, allowing them to reach a professional elite stage.

***Equity in school and university athletic programs similar to Title IX***

Introducing such provisions will provide female athletes greater access to sport and equal opportunities to participate and develop their skills, allowing females to realise their potential in any given sport, regardless as to whether it was traditionally considered to be for men.

***Positive discrimination quota for women in executive roles - 50/50 by 2023***

Attacking societal attitudes and barriers regarding women is key to effecting gender parity. It is true that attitudes have largely evolved since the 1960s/1970s but many continue to linger in traditional sport. Without forcing change, it is likely that men will continue to dominate the board rooms for decades to come.

***Enforcement of equal pay legislation***

Despite the enactment of equal pay legislation in many jurisdictions, women continue to be paid less than men for work of equal value. It is therefore evident that legislation alone, without significant sanctions, fails to deter employers from favouring men on the pay scale. If change is to be effected, organisations must be regularly audited and certified as paying equal wages for work of equal value. If organisations fail such an audit, daily sanctions will be imposed until the disparity is addressed.

***Enactment of legislation that requires publication of gender pay gap in public domain***

As has been recently seen in the United Kingdom, implementing a measure that requires an organisation to publish their gender pay gap information can also act as a deterrent to employers who may be thinking of favouring a male employee over a female, in terms of pay. The publication of information that highlights significant disparities can be a public relations disaster and spark public outrage. This, in turn, effects business opportunities as well as the relationship between an employer and its employees.

***Companies obligated to undergo independent equality reviews and commit to action plan to address any gender inequalities and/or pay gap identified***

Introducing stringent measures on employers can result in significant pressure in relation to time and resources on an organisation. Implementing reviews and action plans can provide organisations with vital support when addressing any gender equality issues, whilst ensuring that any disparities are addressed effectively and as quickly as possible.



***Mandatory requirement for publicly-funded broadcasters to air equal share of each gender's fixtures***

The promotion of women's sport, in general, is key to its development. As described above, there is evidence that there is an audience to capture, if the product is marketed and promoted effectively. However, the media has its part to play also and must be seen as a positive partner to work with in the promotion of women's sport. For that reason, if a broadcaster is to receive public funds it should be giving an undertaking that it will commit itself to air an equal share of both men's and women's sport.

Proposals for FIFA and Confederations (non-compliance will result in expulsion from FIFA competitions and monetary sanctions):

***FIFA & Confederations to increase investment in women's football by 30% by 2020***

Football's governing bodies and stakeholders will have to disproportionately invest in the women's game to allow for greater development and growth. When faced with an inherently discriminatory market, it is essential that stakeholders are not allowed to sit back and wait until the game generates its own revenues and crowds before taking an active interest. In order to allow member associations to meet the following targets, financial support will be required for many to allow them to put effective programmes into place. Further funding can be provided to the game through further redistribution of men's tournament money as well as a larger percentage of revenue gained from corporate sponsorship of the men's game being redistributed for the development of the women's game.

***Any financial support provided to Member Associations must be caveated***

It is essential that if MAs are to receive funds designated for the women's game that it is provided with a caveat that states that existing women's budgets have not to be 'adjusted' following receipt of the funds. It is essential that any funds received increase the budget and evidence should be provided by associations to confirm that that is in fact occurring. Audits and transparency are key to prevent 'creative accounting'.

***All MAs to form a women's domestic league and national team by 2025***

It should be mandatory that all member associations aim to have a women's domestic league and a national team by 2025. It is evident (as detailed above) that successful women's





leagues and teams can challenge social perceptions. Realistic role models are required to influence the younger generation of females and having a league and national team in place not only provides that but increases awareness of the women's game as well as challenging social perceptions in specific jurisdictions, inspiring young girls whilst boosting their self-confidence and sparking local media interest.

***All MAs to create a women's football department by 2022 comprising 60% full time roles and 40% part time roles***

A dedicated team is required for the effective development and management of the women's game. Associations without a dedicated women's football department will not achieve the same results as their counterparts, as more time will naturally be given to the men's game. As discussed above, the women's game is an entirely different product to that of the men's and therefore requires a different strategy. A dedicated women's football department will recognise that and establish goals and strategies of benefit to the women's game.

***All MA board members to be comprised of 40% women by 2023***

One of the most difficult positions for women to break into, within the football industry, are executive positions. Women have experienced a real reluctance to allow them to take up positions within boardrooms with FIFA's ex-President openly agreeing. In order to achieve significant growth of women in executive positions, a quota should be imposed by FIFA and the Confederations not only on themselves but across all MAs, to have at least 40% of board members being female by 2023. The hope is that naturally once this quota is achieved, organisations will naturally progress to an equal representation of both genders on their boards.

***Independent gender equality audits to be carried out at every MA and MA clubs by 2020, with any subsequent action plan to be met by 2023***

Introducing stringent measures on associations and clubs can result in significant pressure on resources, with many clubs already struggling to keep their heads above the water. Implementing reviews and action plans, via equality expert groups, can provide associations and clubs with vital support when considering any gender equality issues present, whilst ensuring that any disparities are addressed effectively and as quickly as possible.

***FIFA & Confederations to aim for 50% of all coaches in women's football to be female by 2023***



A study in 2014 revealed that only 7% of coaches worldwide are female. This statistic highlights that coaching is not a role that females consider they can engage in either because of lack of opportunities or as a result of the working environment they may be faced with. There have also been reports that women coaches are being “squeezed” out of the game, as described above. Implementing a quota will force stakeholders to positively address this statistic by implementing tailored coaching programmes and actively recruit female coaches, narrowing the gender gap.

***Specific training programme for female referees to be implemented with goal to increase number globally by a further 20% by 2023***

Again the 2014 study revealed that only 10% of all registered referees are females. Why is that? It could be for a number of reasons but again it is likely that lack of opportunities, access to training and lack of confidence in the environment faced will all play a significant part in the statistic. Specific training programmes that build on confidence, skills and fitness will attract more women to the game through further access to the sport, whilst focusing on the key factors that deter women in the first place.

***FIFA Confederations to require clubs to form women’s teams and allow access to same (or equal) facilities and equipment by 2025. Failure to do so will result in refusal of license to enter confederation competitions such as UEFA Champions/Europa League.***

Again, as above. It is evident that successful women’s teams can challenge social perceptions. Realistic role models are required to influence the younger generation of females and having a league and national team in place not only provides that but increases awareness of the women’s game as well as challenging social perceptions in specific jurisdictions, inspiring young girls whilst boosting their self-confidence and sparking local media interest. It is important that failure to implement a women’s team is heavily sanctioned and refusal of entry to confederation competitions where many clubs earn their revenue, will hopefully force clubs to actively develop their women’s teams.

***Confederation member clubs who have women’s teams to carry out survey into the fans of those teams by 2020: For example, where are they from; what are their interests and activities outside of sport.***

As discussed above, the women’s game allows for creative marketing strategies and provides an opportunity for clubs to reach new audiences and brands, particularly in the lifestyle industry. Carrying out such surveys will allow clubs to engage with fans, influence



marketing campaigns and effectively pitch for commercial opportunities, all of which will generate further funds for the game.

***Implement minimum employment and legal standards across all women's top tier leagues, to include minimum requirements for employment contracts, maternity support, childcare support and access to dispute resolution services whether a player is considered professional or semi-professional.***

The recent FIFPro study highlighted some worrying trends across women's football but very helpfully narrowed down the key issues that female players consider would make them leave the game early. These included contract instability, poor working conditions and lack of maternity and childcare support. Losing the game's best talent whilst at their peak is detrimental to the game and has the potential to halt its development, just when the momentum is growing. The FIFPro website also highlights that in some jurisdictions, female players may not have access to a players' association and therefore it is imperative that players have access to a dispute resolution service where grievances can be voiced and thereafter resolved, independently. It is essential that players have access to justice. Implementing minimum standards can go a long way to addressing the concerns raised in FIFPro's study, if they are policed effectively, and keep female players in the game.

***Dedicated women's whistleblowing service***

Women must be confident that they can report grievances and trust that their complaint will be dealt with sensitively and without victimisation. This is particularly so where harassment and sexual harassment is concerned. Given that, a dedicated robust whistleblowing service would be welcomed.

***Training compensation scheme tailored for women's game to be implemented***

Provisions for training compensation and solidarity mechanism are currently not available for the women's game. The rationale behind this is that FIFA considers it would hamper the development of the game. In a decision rendered by FIFA's Dispute Resolution Chamber, it was confirmed that training compensation did not apply to female players. It was concluded that the system of training compensation encouraged the training of young players and creates stronger solidarity among clubs by awarding financial compensation to clubs have invested in training young players. The DRC unanimously agreed that the *'reality of women's football significantly differs from that of the men's game. The budgets, expenses and costs*



*currently involved in each are certainly not comparable ... the system of training compensation currently provided for by the Regulations was established to serve the reality of professional men's football, however, not to be applied in an environment still in a developing phase status of the women's game.'* In the author's opinion, there is no reason why a tailored training compensation system could not be applied to women's football. The budgets, expenses and costs involved are, of course, very different to that of men's professional football, however, the financial position in many jurisdictions out with the top 5 leagues differ starkly and they still require to pay training compensation, and are also eligible to receive it. Further, the argument that the women's game should be exempt because it is at a developing stage is also not totally robust from argument. The idea of training compensation is to award the training of young players and encourage development. Financial compensation appears to be a significant incentive for clubs to become involved in the training of female footballers where there is arguably a lack of interest from some clubs as well as a shortage of significant pools of players, and many jurisdictions without a professional league where clubs are training players only to have them shipped to other jurisdictions where professional, full-time, careers are an option. Training compensation would provide those clubs with financial remuneration (much needed, in some circumstances) in return to encourage further development of the women's game. However, that said, it is recognised that training compensation does come with its own drawbacks and can serve as a hindrance to players when signing their first professional contract. Even in the men's game, clubs can be put off signing players if training compensation also requires to be paid.

### **Potential challenges for associations/clubs implementing gender equality measures**

It would be ignorant to suggest that the above measures could be easily implemented with great success. It is inevitable that in imposing such stringent measures governing bodies will be faced with backlash and criticism – and for good reason as many will be struggling to stay out of the red without the financial burden of attempting to develop women's football. Unfortunately, a great number of national associations (and they are probably in the majority rather than the minority) do not have the wealth of resources available to them like some of their counterparts and to force through certain proposals (without adequate support from FIFA and/or the Confederations) would be financially crippling. In order to make the decision to invest long-term in the women's game, many clubs/associations will have to be financially



sound and have money to spare. For a number of clubs, across the globe, the imminent strategy will naturally be on making it to tomorrow as a result of being in the trenches. However that said, a number of associations (including those with limited resources) have recognised the opportunity to attract a different kind of fan base to the women's game and are working tirelessly to implement various initiatives at grassroots level. Support from Confederations will be heavily relied upon, by associations with limited resources, in order to develop women's football both at grassroots and elite level.

Notwithstanding general finances, some associations are faced with other burdensome circumstances that would make the development of the women's game challenging. For instance, requiring that national associations form professional women's leagues in jurisdictions where the men's leagues are not at that level either would be near-impossible. Jurisdictions may find themselves faced with such a situation due to a number of complex issues faced in that country, as well as competing sports. For example, Northern Ireland is a region where citizens love football but their allegiances are often focused on clubs elsewhere in the UK. For instance, many of the NI League's potential fans will actively support Celtic and Rangers, based in Glasgow, instead of regularly attending domestic fixtures for the likes of Linfield and Cliftonville. Likewise, there is also a large contingency of fans who would pledge their allegiance to clubs in the Premier League such as Manchester United and Liverpool, rather than Glenavon and Crusaders. The issue for associations faced with this particular set of circumstances is persuading the fan-base to stay at home for the local clubs rather than going elsewhere – a problem faced by some in the men's game before one even considers the women's game.

Additionally, implementing gender equality measures in certain jurisdictions may prove particularly challenging due to significant difficulties already faced in their cultures/society. For example, FIFA and Confederations such as the AFC and CAF would likely run into obstacles in attempting to impose a number of the above proposals in certain jurisdictions that lack gender equality laws, in everyday life. Take the Middle East, for example, despite having a women's international football team, Iran recently arrested 35 women simply for attempting to attend a live football match as spectators, the match of which was also attended by FIFA President, Gianni Infantino. Iran barred women from attending football games in 1979, following the Iranian Revolution and women have been protesting their rights, ever since but to no success thus far.<sup>89</sup> The ban also extends to volleyball matches.



However, progress has been made in Saudi Arabia where in January 2018, women were permitted for the first time to watch live football matches in a stadium, albeit in a segregated area from the men. The country has been slowly granting rights to women over the last months, following increased calls from activists, and also recently hosted its first women's squash tournament as well as introducing a women's basketball tournament for universities. The plans for gender reform are part of the Saudi Government's Vision 2030 programme, led by Crown Prince Mohammed bin Salman. However, there are still many activities that women cannot carry out without permission from the men in their family. Those include: applying for passports, travelling abroad, getting married, opening a bank account, starting up certain businesses, getting elective surgery, and leaving prison.<sup>90</sup> The struggle, however, does not stop in the Middle East as there are a number of countries that have been identified as having poor gender equality laws including Egypt, Mali, Morocco and Chad.<sup>91</sup> In Gambia, the women's game lacks money as well as infrastructure. Teams are forced to play on sandy pitches with goals with no nets. The majority of the population is Muslim with a tribal society. There are many cultural barriers faced by females in society including female genital mutilation and child marriages and as a result, there are a lot of challenging issues when it comes to the development of the women's game. However, despite that Gambia has a women's football league and the sport is continuing to grow in participation amongst girls, whilst challenging the social perceptions within the country. It is a work in progress but one that shows great promise.<sup>92</sup>

## Conclusion

In the author's opinion and where sport is concerned, equality laws that have sought to change cultural barriers and end discriminatory practices have not had their intended effect and has constantly failed to protect women, in sport, from sex discrimination. Evidence, from across the globe, suggests that sex discrimination is still present in a number of industries and whilst sport is certainly attempting to tackle it, the sport industry continues to be one of the worst offenders. Domestic stereotypes and responsibilities continue to be a barrier for women pursuing a career in the football industry and more should and can be done to address that. The market force defence continues to be a barrier to women pursuing careers in the football industry. The market faced by female footballers is inherently discriminatory due to multiple cultural barriers and stereotypes that result in gender inequality across the industry. Further guidance for associations and clubs can and should be implemented with sanctions for offenders.



Showcasing the sport alone, without equality measures in place, is not enough to increase participation in football. FIFA and the Confederations are in a unique position to effect global change and change a future generation's social perceptions, even influencing cultural change in some of the most challenging countries, if they choose to carefully implement policies with gender equality in mind and enforce their position regarding sex discrimination under Article 4 of the FIFA Statutes, with stringent sanctions. As discussed, the biggest challenge for women's football is attacking societal attitudes that have sadly become the norm and caused a reluctance to invest. Huge funding disparities between the men and women's game result in fewer opportunities for females to play, inadequate coaching and facilities, as well as early retirement due to a lack of financial rewards. This, in turn, affects the quality of the product. Whilst opportunities for women to make a career in the football industry appear to be improving, there is still much work to be done to achieve gender parity. This is supported in a 2016 Women in Football survey that found 90% of women considered more could be done to improve opportunities for women in the football industry.<sup>93</sup>

It should not be considered idealistic for football stakeholders to try and address societal attitudes through the game of football. Instead, taking action should be considered as a means to reap further benefits for the football industry by attracting new audiences and commercial opportunities. There is, of course, also a wider community benefit by opening the game up to more people in terms of participation and spectators. If we are to build and develop the game there must be a sustained commitment from football stakeholders to develop, market and promote the women's game, with the injection of disproportionate investment. In the author's opinion, growth can be achieved through the use of hard law at government level as well as binding regulations from football's governing bodies, coupled with sanctions for non-compliance. Only then will we achieve the goal of accelerated growth and gender parity in women's football. Women have too much to offer, both on and off the pitch, to be kept on the sidelines.

*"If we build it, they will come"*

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