



As indicated, currently, there are nine ACB teams that have never paid the ACB fee; and were they to be relegated, they would only have to pay an updated amount, much lower than the actual ACB fee.

As to the promotion and relegation fund, the SCA has held it to be disproportionate too. Its lack of proportionality is two-fold and results from the way it is financed and the use of the funds. Contributions to the fund come only from newly promoted clubs and the funds are earmarked to compensate the ACB for the loss represented by the relegation of an ACB team. At present, as many as nine ACB clubs, out of a 17-team competition, benefit from the cover that the fund provides to the league while not having contributed to it because they were already participating in Spain's first basketball division when the promotion and relegation fund was introduced. The SCA has been clear in its decision and has stated that in order to improve the proportionality of the fund and ensure its compliance with competition law rules, all ACB clubs should contribute to the financing of the fund. All in all, it can be claimed that the efforts of CB Tizona and the SCA's decision have paid off. This is illustrated by the series of meetings between the ACB, the FEB and Spain's Secretary of State for Sports, the governing body for sports in Spain that kicked off on 8 June 2017. In the framework of the meetings scheduled these stakeholders will discuss, amongst other things, the organisation of professional basketball in Spain in light of the SCA's decision.

#### NEWS IN BRIEF

## Chinese FA introduces 100% tax on player transfers made by loss-making clubs

The Chinese Football Association ('CFA') published a notice on its website on 24 May 2017 announcing the introduction of a 100% tax on transfers of players made by clubs that make a financial loss, meaning that fees are effectively doubled for affected transfers. According to the notice, the CFA has brought in the tax "to limit the professional football club in pursuing short-term results, blind comparisons, high price signings, and driving up the price behaviour," with media sources reporting that the tax has been introduced to specifically tackle the exorbitant transfers of foreign players to the Chinese Super League ('CSL').

The resulting fees from such transfers are to be reinvested in youth development in Chinese football, as the CFA states that it is "highly concerned about the local players, especially local youth player's development space." Alex Norman, Associate in the Asia Pacific sports team at Bird & Bird, comments that struggles to prioritise youth development in football is not a unique issue. "The major challenge for China's overall football strategy is harnessing the growth of the CSL to drive grassroots football and, ultimately, the success of the Chinese national team on the international stage," said Norman. "This problem is not unique to China. England, for example, has had well publicised struggles with similar issues."

Professor Shixi Huang, of Shandong University, notes the misconception that the tax only applies to transfers of foreign players. "Foreign football players play an important position in the CSL, and the majority of the clubs' spending goes on foreign players," said Prof Huang. "However, some Chinese football players also have high salaries and have had expensive transfer fees in recent years, so the CFA's aim was not specifically intended for foreign players."

There is concern among experts that the changes will do little to deter Chinese clubs from continuing to pay significant amounts for players, as some believe clubs might respond by taking measures such as inflating sponsorship revenue to supplement the increased fees. Dr Hermann Lindhorst, Partner at Schlarmannvongeysso, fears that the changes will have little long-term effect on the CSL. "The market will cool down a little bit, pause, and then come back," said Dr Lindhorst. "After some months it will perform at the same level as where it was before the announcement." Norman adds that the financial incentive for foreign players will likely remain. "It is stated as being a tax on transfer fees rather than on player remuneration, meaning that a move to China may still continue to be attractive for foreign players in terms of the remuneration packages they can command," explains Norman.

Whether the tax, which will come into effect on 19 June 2017, will succeed at suppressing the amounts involved in player transfers and aid the development of grassroots football in the CSL remains to be seen. "The show will go on," concludes Lindhorst, "the fact that these new regulations were required once again demonstrates how powerful and popular football is, especially in China."