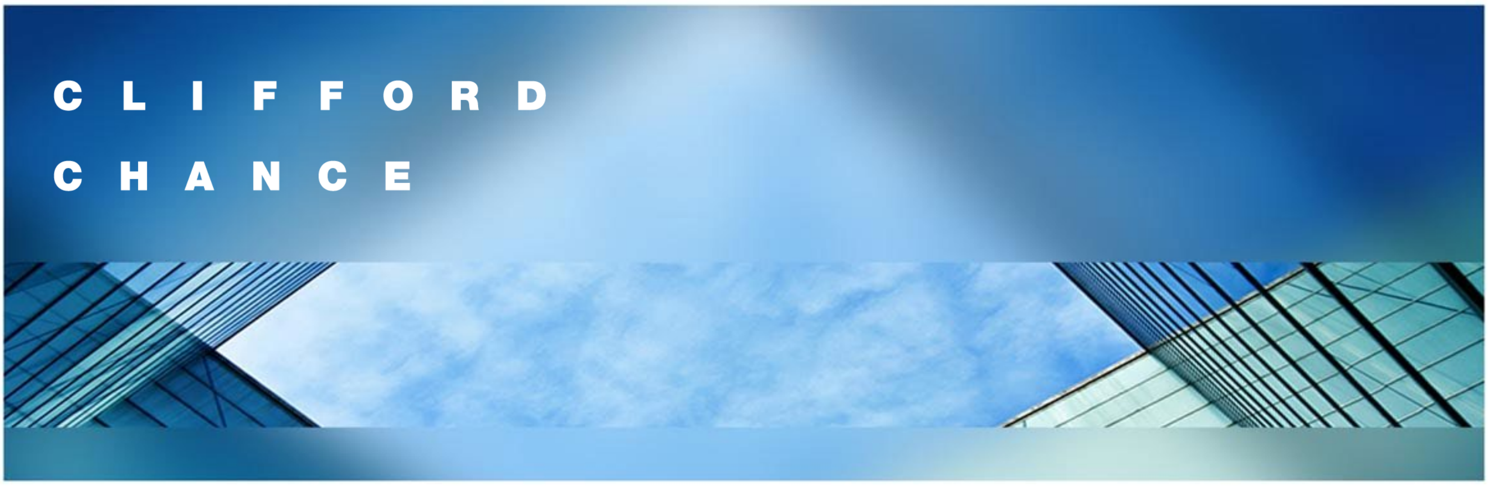

TRADITION AND COMPETITION: THE 50+1 RULE UNDER ANTITRUST SCRUTINY

The Federal Cartel Office published a preliminary antitrust assessment of the so-called 50+1 rule in German professional football on 16 June 2025. The authority has no fundamental concerns about the rule but sees a need for improvement in certain key areas.

Key issues

- The Federal Cartel Office still expresses no fundamental concerns about the 50+1 rule in German professional football.
- However, the authority sees a need for improvement to ensure legal certainty in the future application of the rule.

BACKGROUND

The 50+1 rule stipulates that only football clubs organised as registered associations ("eingetragener Verein", "e.V.") are permitted to participate in the Bundesliga and Bundesliga 2 competitions hosted by Deutsche Fußball Liga e.V. (DFL). If the professional football division is organised as a corporation, the parent club (e.V.) must hold 50 percent +1 of the voting rights. This rule gives German professional football a unique position in international association law.

The 50+1 rule limits opportunities for investing in Bundesliga clubs. It constitutes, in principle, a restriction of competition that requires justification under antitrust law. In 2018, the DFL initiated a review by the Federal Cartel Office to obtain legal certainty regarding the application of the 50+1 rule. In its preliminary assessment dated 16 June 2025, the Federal Cartel Office evaluated the 50+1 rule, particularly in light of recent sports-related antitrust decisions by the European Court of Justice (ECJ) from December 2023.

SPORTS-RELATED ANTITRUST DECISIONS BY THE ECJ

In the decisions "Super League", "ISU", and "Royal Antwerp", the ECJ clarified that sports associations with a dominant position must not abuse their market power. Rules that restrict competition, such as approval requirements for competing events, are only permissible if they are transparent, objective, non-discriminatory, and proportionate.

KEY ASPECTS OF THE FEDERAL CARTEL OFFICE's ASSESSMENT

The Federal Cartel Office has no fundamental concerns about the 50+1 rule, also when considering the 50+1 rule in light of the recent ECJ rulings, but sees a need for improvement in three key areas:

CLUB CHARACTER

According to the Federal Cartel Office, a competition law exemption could be considered particularly due to the public interest objectives pursued by the 50+1 rule, which aims to ensure participatory opportunities in professional football for the general public. However, the preliminary assessment of the authority indicates that the DFL has not consistently ensured that all clubs in the

Bundesliga and Bundesliga 2 actually grant all interested individuals access to an ordinary, voting membership. For instance, RasenBallsport Leipzig e.V., which holds 1 percent of the shares but the required 50 percent +1 of the voting rights in RasenBallsport Leipzig GmbH, limits its membership to (currently) 23 voting members (who are all employees of the Red Bull Group or closely related to the group) and other (more than 1000) so-called supporting members without voting rights.

NO EXCEPTIONS

The Federal Cartel Office also holds that the 50+1 rule must be applied equally to all clubs without exception. According to the Federal Cartel Office, it should therefore in future also apply to clubs like Bayer 04 Leverkusen and VfL Wolfsburg, where the corporations Bayer and Volkswagen still control the clubs' divisions of professional football. Up to this point, these clubs have benefited from so-called "benefactor exemptions" granted by the DFL, which were historically justified because the corporations have significantly supported the clubs for over 20 years.

According to the preliminary assessment of the Federal Cartel Office, the recent ECJ rulings, however, do not allow for a long-term protection of the status quo of clubs which have been granted a benefactor exemption. Instead, uniform and non-discriminatory competitive conditions must be ensured for all clubs in the future.

VOTING PROCESS

The DFL must further ensure that internal decision-making processes of the DFL members, i.e. the clubs, reflect the dominant position of the parent club. This was not guaranteed in the voting by the end of 2023 on the participation of financial investors in the DFL's media revenues. There was no possibility to verify whether the actual votes cast by club representatives at the DFL's Members Assembly corresponded to a prior instruction from the parent club. Furthermore, there was no discussion on possible consequences for non-compliant voting behaviour. The Federal Cartel Office believes this constitutes an inconsistent application of the 50+1 rule within the DFL's committees, which could jeopardise the overall justification of the antitrust exemption.

OUTLOOK

The DFL and involved investors are now given the opportunity to comment on the Federal Cartel Office's preliminary assessment. Subsequently, the authority intends to communicate its final recommendations for action to ensure legal certainty in the future application of the 50+1 rule, and then conclude the proceedings initiated by the DFL.

The recommendations of the Federal Cartel Office neither entail an obligation to implement nor specific time limits. It is the responsibility of the DFL to respond to the results of the review. In a first statement issued on 16 June 2025, the DFL already gave an outlook: The DFL remains committed to the 50+1 rule and intends to use the authority's assessments as an opportunity to revise internal regulations, in particular regarding the corporate law requirements a club must meet in order to obtain a licence to participate in Bundesliga competitions, as well as the regulations for internal decision-making processes within the DFL.

Regardless of the Federal Cartel Office's review results and their implementation by the DFL, it cannot be ruled out that market participants could use particularly these now identified criticisms as a basis to initiate legal proceedings and a judicial review of the compatibility of the 50+1 rule with applicable antitrust law.

CONTACTS

Dr. Paul Hauser
Partner

T +49 69 7199 1410
E paul.hauser
@cliffordchance.com

Prof. Dr. Moritz Keller
Partner

T +49 69 7199 1460
E moritz.keller
@cliffordchance.com

Marc Besen
Partner

T +49 211 4355 5312
E marc.besen
@cliffordchance.com

Olga Hamama
Counsel

T +49 69 7199 1590
E olga.hamama
@cliffordchance.com

Dr. David Stadtfeld
Associate

T +49 69 7199 1212
E david.stadtfeld
@cliffordchance.com