

Sports agents: what market power?

Definition, origin and remuneration

The sports agent is an intermediary whose mission is made necessary by the fact that the sports labour market does not directly link supply and demand. This intermediary is mandated by a party concerned by the signing of the agreement, acts on its behalf and receives a commission indexed on the price of the transaction [Brocard, Rossi and Semens, 2019]. Athletes delegate to agents the negotiation of their transfers and salaries, expect legal, tax and financial advice to optimise their investments and assets and entrust them with the sale of their image to brands and the management of their social network activities. Clubs delegate some of their talent scouting and aim to minimise the cost of transactions and, seek to reduce the risk of recruitment errors because they have incomplete knowledge of the players' qualities.

Although the role of 'intermediary' has always existed, often in a hidden way, the activity of sports agents has developed in North America since the 1960s and in Europe since the 1980s [Poli, 2010]. The commercialisation of sport and the generalisation of fixed-term contracts during the 1990s led to very strong growth in the number and value of transfers. Then, from 1995 onwards, the date of the Bosman ruling by the European Court of Justice (ECJ), the removal of obstacles to the mobility of players, in accordance with the principle of the free movement of workers, further accelerated the pace of transfers. The evolution of the average annual number of international football transfers bears witness to this: a tripling between 2000 and 2010 (from 3,500 transactions to 10,000), then a doubling between 2010 and 2020 (from 10,000 to 20,000). So why should we be surprised that the number of agents in world football is well over 5,000?

Agents' remunerations are based on a percentage of the amount of the contracts they have signed on behalf of the athlete (on average from 10 to 12%). The lower the transfer, the higher the percentage of commission and vice versa. However, there is no standard commission. The 2016 transfer of Paul Pogba from Juventus to Manchester United is said to have earned his agent €27 million on a deal worth around €100 million, i.e., over 25%. Indeed, some agents have earnings comparable to the superstars whose careers they manage: Jorge Mendes' (GestiFute agency) annual earnings regularly reach €100 million, with Cristiano Ronaldo and José Mourinho amongst those under contract.

Strategic transfers requiring complex information: the lessons

The decisions of sports stakeholders regarding transfers are based on an assessment of the club's willingness to pay and the player's willingness to sign a contract. However, no standards are determining the amount of the transfer fee and the level of the salary, as negotiations are carried out by mutual agreement, except in the North American professional sports leagues with the Collective Bargaining Agreement.

By way of illustration, how can we justify the 222 million euros spent in 2017 by PSG to obtain the early termination of Neymar's contract with Barcelona and his five-year commitment to PSG? In addition to the transfer fee, on what economic model can the Brazilian footballer's annual salary of 37 million euros net be made profitable? In other words, what improvement in sporting and commercial performance can the club expect from the superstar's recruitment?

It is in this context that the information held by these actors on the positions of partners and competitors seems essential and that the imperfection of information creates a role for sports agents. For athletes, the choice of career path has a direct impact on their future career goals and their record of achievements. This is particularly true given that their career is short (6-8 years on average depending on the discipline) and uncertain (injuries, poor integration, disagreements with the coach, etc.). For the clubs, transfers have sporting stakes (competitiveness, results), accounting stakes (increase in assets on the club's balance sheet) and financial stakes (additional operating income).

Players find it difficult to determine their salary expectations because they do not know the salaries of other players and often do not know how to properly evaluate their own talent. In addition, they are unable to identify the clubs interested in their services, to know and analyse the financial health of these clubs or the quality of their management. At the same time, clubs face obstacles in identifying players who can fill their talent gap. Other important characteristics are also unknown to them: the player's condition, his ability to adapt, and his professionalism. As a result, sports agents, with their knowledge of the market and their multiple networks of relationships with players and clubs, are expected to disclose this private, hidden information to facilitate transactions.

The theoretical justification of sports agents: the analysis

Theoretically, the market is supposed to determine an equilibrium price when information is perfect, i.e., when the information concerning each party is available and known to all. In reality, the imperfections of the sports labour market necessitate intermediation

to reduce the information asymmetry between athletes and club owners or managers [Brocard, Rossi and Semens, 2019]. Information asymmetry refers to a situation where one individual has more information than another about a good or service. The less informed party is disadvantaged and may refuse to enter into a contract because they distrust the other party who could use their private information for their own benefit. Mutually beneficial transactions may not be concluded because of the information asymmetry, which is a source of inefficiency.

The principal-agent models of contract theory incorporate this asymmetric information context by describing bilateral relationships that take the form of contracts between parties: one party provides services (the principal) for the other party (the agent) in return for payment. Agency theory is established on the principal-agent model. It is based on two fundamental assumptions: limited rationality and opportunism. Limited rationality assumes that individuals are not able to have complete information in all situations and circumstances. Opportunism identifies the possibility for actors to serve their self-interests, as the principal cannot fully control the agent's behaviour, abilities and loyalty.

One of the aims of contract theory is to find incentive systems, which ensure that the agent acts in the direction desired by the principal. Both parties have an interest in collaborating, but they seek to appropriate the result of this collaboration. The purpose of the model is to identify contractual clauses that maximise the 'surplus', i.e., the *raison d'être* of the contractual relationship. The adoption of a non-cooperative point of view, where only situations resulting from individuals freed from any social attachment and driven exclusively by self-interest are admitted, places this theory in the neo-classical movement [Guerrien and Gun, 2012].

A principal-agent relationship exists when a professional athlete (the principal) calls upon a sports agent (the agent) to take on a job that he or she is unwilling or unable to perform. The sports agent provides this service to the athlete by knowing the situation better than they do and by possessing 'private information'. Both parties are aware of this information asymmetry. If the objectives of the athlete and the agent (profits, utility) diverge, two types of behaviour appear: anti-selection and moral risk. Anti-selection occurs when the agent misleads the athlete by overestimating his or her level of skill or training. The athlete may engage with an agent who is not able to provide the expected services. The athlete receives incomplete information about the salaries paid to players of comparable talent and experience. Furthermore, the agent has more knowledge of the negotiation process and market conditions than the athlete does.

Moral risk arises when the agents do not act fully in the interest of the athlete, either because the latter is less well informed than they are and cannot verify the entirety of their services; or because the contract is incomplete by not taking into account certain eventualities. For example, an agent may quickly reach an agreement with a club when a less profitable solution for the agent would have been favourable to the athlete, who is harmed by this opportunistic behaviour.

Agency theory proposes two types of solutions to reduce these failures as much as possible. The implementation of monitoring mechanisms can help to provide information on the knowledge, skills, behaviour, efforts and performance of agents to reduce the information asymmetry. Performance-based contracts can be an effective deterrent by using a system that makes the agent's remuneration dependent on the results obtained by the agent, whose commission increases in line with the athlete's performance.

The abuses

The imperfections of information are all reasons for the existence, legitimate from a theoretical point of view, and debatable from a factual point of view, of the function of sports agents in the transfer market. The question is whether the growing weight of sports agents in transfers does not give them excessive market power. The more opaque the market, the more favourable the agent's position [Gouquet and Primault, 2006].

The reduction of information asymmetry by sports agents may not be satisfactory for clubs and players alike: unjustified additional costs for transfer fees paid by clubs; considerable amounts of money in commissions paid to agents (800 million euros annually for European football, 1.6 billion euros for all team sport worldwide); alteration of the fairness and competitive balance of competitions by excessive rotation of players and concentration of the best talents in a few clubs; endangering the financial management of clubs; exacerbating conflict situations within clubs to destabilise players under contract in order to provoke transfers, and thus secure a new commission, without necessarily prioritising the interests of the player; conflicts of interest with the double mandate of player/club or the mandate of players engaged in clubs that the agents own; canvassing of competing clubs to raise the stakes; trafficking in young players; kickbacks; nominees; tax fraud; false invoices; illegal work; false passports; money laundering; capital evasion into tax havens; match-fixing and a lack of transparency on the real beneficiaries of commissions.

Essential market regulation

Sports agents, who are supposed to improve the functioning of the market, are thus the source of perverse effects. The International context tends to deregulate the status of sports agents, with the Fédération Internationale de Football Association (FIFA) having decided to open up the agent market on the 1st of April 2015, by removing barriers to entry, in particular, the requirement to obtain a FIFA licence. The aim is to encourage hidden agents to declare themselves and thus make the financial flows between clubs, agents and players more transparent. The international body has left each national federation or country free to decide whether or not to regulate the profession.

An initial assessment drawn up in November 2017 by the main stakeholders in European football (European Football Association, UEFA, players' union, leagues and clubs) stigmatises the negative effects of this deregulation: a sharp increase in the number of intermediaries in all countries; amplification of player mobility; unbridled search for ever younger players; lack of improvement in the transparency of financial transactions; decline in the average quality of services provided to clubs and players; lack of a slowdown in the inflation of compensation paid to agents and a disproportionate growth of commissions compared to services rendered.

Because of the extent of such failures, FIFA has decided to regulate the activity of agents once again, starting with the 2020/2021 season, with the re-establishment of a licence issued by each national federation; a limit on their commissions (10% of the transfer fee for the agent of the selling club, 6% of the player's remuneration, 3% of the remuneration for the agent of the buying club); a compulsory transit of agent's commissions by a clearinghouse managed by FIFA; a limit on international loans of players by a club to foreign clubs to eight in 2020/21, seven in 2021/2022, and six in 2022/2023.

This critical assessment shows how far the actual practices of sports agents are from the theoretical justification for their role, namely the reduction of information asymmetries, which are the source of market imperfections! More radical reforms of the talent market will have to be envisaged to properly remedy these abuses: limiting the number of transfers, limiting the number of players under contract, regulating the system of player loans, supervising agents' commissions and even abolishing transfers themselves.

For more information:

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Bernard GUERRIEN et Ozgur GUN, *Dictionnaire d'analyse économique*, 4^{ème} édition, collection Grands Repères, La Découverte, Paris, 2012.

Raffaele POLI, *Le marché des footballeurs. Réseaux et circuits dans l'économie globale*, CIES, Peter Lang, Berne, 2010.

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