

CULTURE, TOURISM, EUROPE AND EXTERNAL AFFAIRS COMMITTEE

UEFA European Championship (Scotland) Bill

SUBMISSION FROM SCOTTISH POLICE FEDERATION

I refer to the above and thank you for inviting the Scottish Police Federation (SPF) to contribute to the Committee's considerations on this matter. I trust the Committee recognises the time pressures associated with the consultation on this Bill and will afford more time for further consultation with stakeholders prior to stage 2.

As a general principle the SPF is uneasy with the principle that large scale commercial events seem able to dictate that special provisions, underpinned by legislation ought to be applied to safeguard their financial gain. We consider that legislation deemed appropriate for protection of brand and image on a day to day basis ought to be of sufficient robustness to render additional restrictions meaningless. If there are deficiencies in current law, these ought to be addressed in their own right to ensure that smaller commercial enterprises, not able to rely on sheer power, are no less vulnerable to the risks presented by guerrilla or ambush marketing.

The SPF is unconvinced that the inclusion of applicability to the legislation to offences committed out with Scotland is practically enforceable. Indeed, and whilst we recognise the legislative intent to create Enforcement Officers, we consider it would be an exceptional decision for the Chief Constable to dedicate resources to this particular element.

Whilst the SPF recognises that the Bill is intended to protect the commercial opportunities for UEFA, and sets in place enabling provisions for subsequent advertising regulations, we consider there are some areas that ought to be explicitly exempted in the primary legislation; not least amongst them activities pursued in support of Article 9 rights. We also foresee potential difficulties with prohibitions on charitable activity.

The SPF recognises that Local Authorities have increased enforcement powers than was once the case. Where there is a distinct separation of roles and responsibilities, as well as lines of accountability, this is a development the SPF considers to be acceptable. However it is clear that this Bill proposes to create Enforcement Officers whose activities will blur the lines between activities generally performed by council employees with those performed by the police. This is particularly evident with proposed powers on the use of force, entry and search, and seizure and destruction.

Powers of this nature are rightly considered by the general public to be deserving of special oversight provisions. Indeed public expectations over the ability to hold the state to account over any acts that amount to intrusion or coercive control over its citizens are going in only one direction.

The SPF has a longstanding opposition to the extending of pseudo police powers to non-police officers, as this risks delegitimising the clear and distinct role society expects its police officers to perform, as well as undermining the standards it expects them to adhere to. Whilst we recognise that there are pragmatic reasons to create Enforcement Officers for a time limited period, we are concerned that given the intended range of powers to be

granted to them that Enforcement Officers ought to be subject to no less a standard of accountability than for police officers who might find themselves exercising effectively the same powers at the same time. Alternatively the easiest way of addressing this is not to provide Enforcement Officers with any powers that look and feel like police powers.

We consider that the provision of Section 16(2) (b) falls far short of what ought to be reasonably expected by the public. "Such other criteria" is very loose and may ultimately result in "no other criteria" being extended. The SPF considers it would be exceptional for neither Parliament nor Ministers to have a view on at least minimum standards to be met by those to whom this Bill will, if passed, extend considerable powers. The SPF is strongly of the view that in order to safeguard the rights of the public that Ministers ought to be obligated to set specific criteria for the appointment of Enforcement Officers (including qualifying and limiting provisions), and that these are either explicitly stated on the face of the Bill or are subject to specific additional consultation at regulation stage.

We consider it is not unreasonable to conclude that police officers would be the group called upon to provide "any other person as may be reasonably required for the purposes of taking action" under Section 17(4). This is anomalous as the enforcement powers are vested in persons who have not been subjected to any scrutiny by the public or by any body acting on behalf of the public. This creates the possibility of Enforcement Officers (appointed potentially by as simple an act as an ad-hoc designation) whose activities in seeking assistance in safeguarding private profit could potentially expose police officers to risk of harm. We have grave reservations about both principle and practice on this issue. If it is envisaged that 17(4) could see persons other than police officers being relied upon to assist, this creates a potential for a free for all with random citizens (subjected to potentially zero validation) able to exercise powers of entry and search, and seizure and destruction. The inherent risks in this approach ought to be self-evident.

We note that the only test that needs to be satisfied before the Enforcement Officer takes action is his own judgement on whether the action is "appropriate." This seems to ensure the Enforcement Officer is beyond reproach. This is in stark contrast with the position of a police officer, who must justify their actions before courts. This also creates the potential for irreconcilable conflict where a police officer takes a contrary view to the Enforcement Officer on either or both the merits of the supposed offence and proposed enforcement action.

We consider the powers to enter and search, without warrant, and without the need to satisfy judicial authorities to be extraordinary. Police officers have ability to enter and search without warrant in exceptionally limited circumstances and usually only in the most extreme, serious, or pressing of occasions. In our view it is impossible to regard the protection of any commercial interest as justification for the most invasive of activities. The SPF notes that powers of entry and search into homes are entirely limited to being undertaken in the presence of a constable (Section 21(2) (b)). We therefore see no material benefit in the power of search and entry into homes extending to Enforcement Officers at all.

The SPF also finds the provisions of section 19(2) to be extraordinary. If we consider for example that a laptop computer is believed (in the sole opinion of the Enforcement Officer) to be utilised for the commission of a Championship offence, this provision effectively opens up the unfettered and unregulated ability to interrogate that laptop without limitation. We

consider such an act would invariably be inconsistent with Article 6 rights and question whether this is the intention of this provision?

The SPF recognises that Section 20 is an attempt to place limitations on the use of force by an Enforcement Officer, or any other person authorised by him. Whilst that is a laudable intention we consider that the passing of the responsibility for authorisation for the use of force to a constable, is in itself problematic. The use of force is a well understood principle amongst police officers. It is considered almost exclusively to apply to the use of physical coercive control of another person, or for the ensuring of entry into premises. Sections 19 and 21 deal with premises but our reading of Section 17 draws us to conclude that use of force to secure compliance here invariably involves a third party. We consider there is an irreconcilable conflict here.

In conclusion the SPF considers that this bill seeks to create what looks and feels like a temporary policing type body whilst simultaneously trying to limit how far and to what extent the Enforcement Officers may rely on “police powers.” We consider this to be an illogical approach. If the intent of the bill is to limit commercial activities in designated areas to those vendors or sponsors approved by UEFA, it ought to be much simpler to state that and the powers required to enforce it.

I trust the foregoing assists your deliberations and as ever, should the Committee have any requests for further information, we will be only too happy to help.

Yours sincerely

CALUM STEELE
General Secretary