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Stakeholder consultation process regarding specific amendments to the World Anti-Doping Code related to Code compliance and development of an International Standard for Code Compliance by Signatories

Context

- In 2015 and 2016, the World Anti-Doping Agency's (WADA's) independent [Pound](#) and [McLaren](#) investigations exposed major instances of non-compliance with the [World Anti-Doping Code](#) (Code).
- WADA and other Signatories applied consequences which were decentralized and varied between different Signatories, highlighting limitations with Code provisions related to non-compliance by Signatories.
- In addition to these instances, other situations arose, which highlighted that the current compliance framework can lead to potential gaps in anti-doping coverage when a Signatory is declared non-compliant and, as a result, is prevented from conducting its anti-doping activities.
- These limitations led to a global appeal by athletes, the Sports Movement, Governments, WADA and other stakeholders for development of a framework that outlines:
 - Code Signatories' rights and responsibilities;
 - the ways that WADA supports Signatories in achieving, maintaining and, where applicable, regaining Code compliance; and
 - a range of graded, proportionate and predictable consequences that could be levied in situations of non-compliance with the Code by a Signatory.
- In [November 2016](#), WADA's Foundation Board, which is composed equally of the Sports Movement and Governments of the world, endorsed a graded sanctioning framework for non-compliance that was put forward by the Agency's independent [Compliance Review Committee](#) (CRC).
- In [March 2017](#), WADA stakeholders attending the Agency's annual symposium in Lausanne informally identified development of this framework as the Agency's number one priority in order to ensure that a level playing field, which clean athletes are entitled to expect, is delivered everywhere, by everyone, around the world.
- WADA acted quickly and decisively to address this crucial request. On [18 May 2017](#), the Agency's Foundation Board approved the CRC's recommendation to:
 - amend a limited number of Code articles related to compliance; and
 - develop an International Standard for Compliance by Signatories (ISCCS) to support the revised Code articles.

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- Of course, while the eventual framework could ultimately result in sanctioning sports and nations for non-compliance; as the Leader of Clean Sport, WADA's focus will continue to be one of ensuring compliance.

Proposed Code Revision and International Standard for Code Compliance by Signatories

- As it relates to the Code, it is necessary to amend a limited number of current articles on Code compliance (Articles 12, 13, 20 and 23). These amendments should be quick to implement given that Code Signatories do not have to incorporate the Code provisions related to compliance into their own rules and/or legislation as per Article 23.2.2 of the current version of the Code.
- As it relates to the new ISCCS to support the revised Code articles, the Standard will detail the process for ensuring Code compliance by Signatories under [WADA's ISO-certified Code Compliance Monitoring Program](#), and for imposing consequences for non-compliance. The process will as much as possible mirror the process set out in the Code for ensuring Code compliance by individuals. In summary:
 - a) The first section of the draft ISCCS details the support and assistance that WADA offers to Signatories to help them ensure that their anti-doping rules and programs are compliant with the Code and the International Standards (analogous to the Code Article 18 provisions requiring Anti-Doping Organizations ("ADOs") to educate athletes as to their responsibilities under the Code).
 - b) The next section of the draft ISCCS details the means by which WADA monitors Code compliance by Signatories, including by means of questionnaires, audit programs, and analysis of intelligence collected or received from various sources (analogous to the Code Article 6 provisions requiring ADOs to conduct doping control of athletes and to have strong intelligence-gathering and investigative functions).
 - c) The next section details the process by which WADA will notify a Signatory of an instance of non-compliance, identify the corrective actions required to correct that non-compliance, and support the Signatory in completing those corrective actions (analogous, for example, to the Code Article 2.3 requirement that an ADO warn an athlete of the consequences of a failure to submit to testing).
 - d) The next section sets out how, if the non-compliance is not corrected, the matter is referred to the independent CRC to decide on next steps, including giving the Signatory a further opportunity to correct the non-compliance. If the Signatory still does not correct the non-

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compliance, then the CRC will recommend to the Executive Committee that it notify the Signatory that WADA considers it to be non-compliant, and specifying the consequences that the CRC considers should be imposed based on the seriousness of that non-compliance. (This is analogous to the Code Article 7 process by which there is a review of evidence of apparent non-compliance by an individual athlete or athlete support person, to determine whether there is a case to answer).

- e) If the Executive Committee agrees with the CRC's recommendation, WADA would then notify the Signatory that WADA considers it to be non-compliant, and specify the consequences that WADA considers to be warranted. The Signatory would then have the option either (i) to accept the asserted non-compliance and the consequences specified, and to start to work towards reinstatement; or (ii) to dispute the asserted non-compliance and/or the consequences specified (e.g., on the ground they are disproportionate in all the circumstances of the case). (This is analogous to the Code Article 7 process by which an ADO charges an athlete or athlete support person with an anti-doping rule violation and proposes consequences that the athlete or athlete support person may then accept or dispute).
- f) If the Signatory elects to dispute the asserted non-compliance and/or the consequences specified for that non-compliance, then the matter would be referred to the Court of Arbitration for Sport (CAS) to determine whether the Signatory is non-compliant and (if so) what the consequences should be. (This is analogous to the Code Article 8 process for a disputed allegation of non-compliance by an individual athlete or athlete support person and/or the proposed sanction for such non-compliance to be referred to an impartial panel for determination).
- g) Once there is a final decision, if it is that the Signatory is non-compliant and consequences are imposed for that non-compliance, that decision shall be recognized and enforced by all Signatories (by analogy with Code Article 15.1, which requires all Signatories to recognize and respect final decisions imposing consequences on individual athletes and athlete support persons).

- For more information, please visit the [Code and IS Review Process](#) section of WADA's website.

Stakeholder Consultation Process

- Given the urgency expressed by WADA stakeholders, on 18 May the CRC recommended and the Foundation Board endorsed that WADA act quickly and decisively while ensuring adequate

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stakeholder consultation. In keeping with article 23.7 of the Code, WADA initiated a stakeholder consultation process to receive and respond to recommendations; and, to facilitate review and feedback from athletes and other stakeholders.

- The stakeholder consultation process involves:
 1. review of a limited number of World Anti-Doping Code (Code) articles related to Code compliance; and
 2. a new International Standard for Code Compliance by Signatories (ISCCS).

[Note: These documents are available in English only.]

- The consultation process is overseen by the CRC with updates to, and approvals by, the WADA Executive Committee and Foundation Board at relevant times.
- In terms of [the timeline](#):
 - On 1 June 2017, WADA launched a two-month stakeholder consultation asking for response by no later than 31 July 2017.
 - Starting 1 August 2017, second drafts were developed based on stakeholder feedback.
 - As from 1 September 2017, stakeholders are being invited to comment on the revised drafts as part of a second consultation phase that will run through 14 October 2017.
 - If, following review of comments, it appears that there is sufficient consensus to proceed without a further round of formal consultation; third drafts will be developed for circulation to WADA's Executive Committee and Foundation Board on 31 October 2017 prior to being presented to the Committee and Board for approval on 15 and 16 November respectively.
 - If so approved, the Code changes and the new ISCCS could enter into effect in the first half of 2018.

To submit comments via WADAConnect

- Stakeholders are asked, to the extent possible, to draw on their practical experiences and submit comments that will benefit the fight for clean sport worldwide.
- To submit comments, stakeholders must visit [WADAConnect](#), the Agency's online consultation platform.

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- Easy to use, WADAConnect prompts users to create an account and input comments regarding aspects of the Code review and/or ISCCS that are of particular interest.
- It should be noted that, in the interest of transparency, WADA will publish all comments on its website at the end of each phase of the consultation process; and that, stakeholder credentials -- such as user name, organization and organization type -- will be posted along with the comments unless WADA is otherwise notified.
- For more information related to WADAConnect, please refer to the simple [user guide](#).