



INTERNATIONAL CYCLING UNION

President

USADA
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Sent by email only tt@usada.org

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Ref: Presidency

Dear Travis,

Thank you for your letter dated July 6, 2012.

I hope that USADA nor you suffered from what you call the events in Colorado Springs and I sympathise with those who did.

Travis, let there be no doubt that UCI and I personally share the aim that you describe in the second paragraph of your letter. But bear in mind also that the sport you are talking about is cycling and that UCI is the international federation of cycling. In addition I noted that USADA claims to handle this case under the rules of the UCI.

Remember also that this case started with the email of Mr. Floyd Landis to USA Cycling dated 30 April 2010. In that email a UCI license-holder informs a national federation of the UCI that he discovered factual elements that, if proven, constitute the basis for an anti-doping rule violation. Therefore the authority for results management lies with the UCI (article 10, 1st par ADR) and not USADA, even when UCI had several national federations – including USA Cycling who delegates to USADA – conduct an investigation. As the anti-doping organization having authority for results management UCI is entitled to receive the complete file of the case and make the consideration whether or not an anti-doping violation has occurred and disciplinary proceedings should be opened (article 232 ADR). I point out that in this respect USADA and WADA have a right of appeal (article 233). UCI was aware that USADA was conducting an investigation but did not ask USADA to take over results management. In addition UCI assumed that USADA would investigate US license holders only. UCI asked the national federations of all those who were named in the Floyd Landis mail of 30 April 2010 to conduct an investigation as well. It would have been only fair and correct that if USADA's investigation was going to touch other license holders that USADA would inform UCI of that.

Also where the accusation refers to test results, the UCI is the only test results management authority as these are UCI tests.

However it is not UCI's intention to suggest that it will decide not to go forward with the case. That will depend on the evidence available and that evidence is not available unless you forward the file to the UCI.

You will tell me – or even would love to make public - that I support the arguments of Lance Armstrong in his court case against USADA but that is not the intention. The intention of the UCI is not to stop the case (which would not be possible in view of article 233) or to let it drag on. The evidence in the file will tell what it tells and the UCI shall act accordingly.

Yet you must accept that several questions asked by Lance Armstrong are relevant, especially in view of the fact that no more information has been made available to the UCI and the respondents who, whatever the facts may be, are entitled to fair process.

You can say that the respondents will be entitled to all rights of defense before AAA and, where applicable, CAS but there is also the right not to be dragged into disciplinary proceedings unless there are solid grounds for that.

You may say that you know that there are solid grounds, but USADA is the only one that has the file. The respondents have not had the chance to defend their position before USADA or USADA's Review board as they have not been given access to the evidence that is supposed to underlie the accusations against them and that was to be assessed by the Review board. It is not even known what information was submitted to the Review board. In such conditions it is difficult not to see the intervention of the Review board as a mere formality: how can the respondent take position on the evidence in the file if that evidence is not made available? How can the respondent have his/her say on issues like jurisdiction and the statute of limitation which may be elements that prevent proceedings from being opened by USADA? If the respondent is invited to take position on the issue of whether there is enough evidence the least that can be done is to provide the respondent with the evidence. And how can it be justified then that the respondent has only the choice between accepting a sanction or accepting a disciplinary proceedings the solidity of which he was prevented from contesting before the body that was asked to check the solidity?

UCI does not feel comfortable with that, especially if such things which it finds problematic in terms of due process and even in terms of ethics are pushed through by pleading the rules of the UCI.

This is particularly worrisome in this case because it is said to be based on witness statements only. UCI has no other information than that potential witnesses were approached by USADA and that advantages were promised in return for incriminating statements. This is problematic as well.

The UCI requests that USADA provides UCI with the case file of the matter, including the file of the investigations that you say are still ongoing and may lead to other decisions by USADA. The UCI wants to be informed and to exercise its role as results management authority before the cases against the respondents are taken further. This applies also to the investigations that you say are ongoing.

It is important that all parties concerned can have confidence in the process, including the results management process and a process such as the one that USADA's Review board is supposed to conduct.

The UCI is well aware that Floyd Landis has made statements against the UCI and that these statements are part of the file.

The UCI does not want to judge such statements itself neither does it want to be seen to judge such statements or to judge the respondents in this case.

The UCI wants that the whole case file with all the evidence is assessed by an independent panel who shall then decide if the respondents have a case to answer. This is what should have been done by USADA now that the case is based, as it seems, upon statements that were actively called by USADA. This should be done in a way that all respondents have access to the evidence and can take an informed position. We can discuss the modalities for setting up such panel and assuring their independence.

This is more appropriate than your proposal to meet and inform UCI in an informal way. In fact it is the only appropriate way. It is the respondents in the first place that have to be provided with the evidence.

I agree with your conclusion that the sport should be clean and be cleaned but the means to achieve that goal should be clean as well.

And unless UCI is given full access to the file UCI is entitled to be in doubt about that.

In fact it is for clean athletes in the first place that it is necessary that they may be confident that fair and transparent procedures are in place that may prevent them from being dragged into disciplinary proceedings without sufficient basis, for example in terms of evidence, jurisdiction or statute of limitation. However such procedural guarantees may not be denied either to athletes that you may be convinced to be guilty.

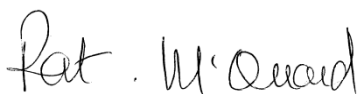
Compare with the results management process for whereabouts requirements: although a single whereabouts failure is no anti-doping rule violation but only a potential element of such a violation, the athlete has the right to be confronted with the evidence, to justify himself/herself and thereafter to ask for an administrative review. If ever an anti-doping rule violation is found to have been committed after the disciplinary proceedings the sanction is a period of ineligibility between one and two year.

In this case USADA alleges the most serious violations based upon witnesses, the statements of which are unknown and have been collected in unknown circumstances and USADA requests a life ban. Don't you think that in this case the respondents are entitled at least to a review where they can comment upon the evidence?

So the UCI insists that USADA provides it with the case file and refrains from proceeding with the disciplinary actions until the file has been examined in a review process by an independent body and where the respondents have the opportunity to see the evidence and comment on it in front of that body before disciplinary proceedings are opened. Please inform UCI also on the investigations that you say are still ongoing.

I thank you for your attention and trust that USADA will accept UCI's request.

Best regards,



Pat McQuaid
President

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