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CHIEF EXECUTIVE

Our Ref: 13/19849
Your Ref:

Mr Stephen Palethorpe
Committee Secretary
Senate Rural and Regional Affairs Transport Legislation Committee
Australian Parliament House
Canberra
ACT 2600

Dear Mr Palethorpe

**Inquiry into the Australian Sports Anti-Doping Authority Amendment Bill 2013
Australian Crime Commission Submission**

The Australian Crime Commission (ACC) welcomes the opportunity to make a submission to the Inquiry into the Australian Sports Anti-Doping Authority Amendment Bill 2013.

This submission is unclassified.

The ACC is the national criminal intelligence agency with special investigative capabilities. We are a niche, complementary agency that delivers specialist law enforcement intelligence analysis and investigative capabilities to its partners. We also provide a unique and valuable understanding of serious and organised crime, including its activities, methodologies and emerging areas of influence.

The recent "Organised Crime and Drugs in Sport" report, produced by the ACC under Project Aperio, identifies widespread use of performance and image enhancing drugs (PIEDs) by professional athletes across a number of sporting codes in Australia. The ACC has demonstrated through this report that the threat posed by the PIEDs market and related criminal activities to the integrity of sport in Australia, and organised crime attempts to infiltrate the professional sports sector in Australia, is current, crosses sporting codes and is evolving.

This submission is reflective of the close working relationship realised between the Australian Anti-Sports Doping Authority (ASADA) and the ACC over the past 14 months. During this time our two agencies have worked collaboratively and exchanged intelligence and evidence within the confines of our respective legislative frameworks. In November 2012 the ACC and ASADA entered into a Memorandum of Understanding focussing on the exchange of intelligence and information including access for ASADA to unclassified reports in the Australian Criminal Intelligence Database (ACID) system.

ACC HEADQUARTERS
44 Mort Street Canberra ACT 2601
GPO Box 1936 Canberra ACT 2601
Tel: (02) 6243 6613 | Fax: (02) 6243 6679 | Internet: www.crimecommission.gov.au

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Intelligence obtained through the use of the ACC's coercive powers can, in some circumstances, be lawfully disseminated to ASADA, however there are legislative restrictions on the use of this intelligence in proceedings for possible breaches under the Australian Sports Anti Doping Act 2006 and on ASADA's capacity to conduct follow-up investigations and gather its own evidence for use in these non-criminal proceedings. ASADA investigations would benefit substantially from the extension of its own powers to gather information and evidence rather than being solely reliant on the conduct of drug tests for banned substances.

The use of the coercive powers in Project Aperio enabled the ACC to gather significant evidence and intelligence relevant not only to serious and organised criminal activity but also to associated use of World Anti-Doping Agency (WADA)-prohibited substances contrary to the non-criminal anti-doping rules administered by ASADA. It was able to do so in circumstances where persons of interest could not effectively frustrate the progress and direction of the inquiries. However, the ACC's inquiries are ultimately, and properly, limited by the statutory requirement that they relate to serious and organised crime. Pursuit of the alleged breaches of the anti-doping rules is a matter for ASADA.

At present, ASADA has no power to compel persons to answer questions or to produce documents. This places it at a significant disadvantage when dealing with persons who have a vested interest in concealing their activities. The amendments proposed in the Bill will eliminate this disadvantage and ensure that ASADA is equipped to pursue the non-criminal issues of concern to Australian sporting codes that have been identified by Project Aperio.

The ACC, therefore, supports measures to extend ASADA's investigation function by providing the Chief Executive Officer (CEO), or a delegate, with the power to issue disclosure notices as set out in the Australian Sports Anti-Doping Authority Amendment Bill 2013.

The ACC considers that the provision of immunity from use of answers given, or information, documents, materials or things gathered under a disclosure notice in civil or criminal proceedings achieves an appropriate balance between compelling the production of information and the protection of an individual's rights and reputation.

Should the Committee decide to hold a public hearing on this matter the ACC would be available to appear and give further evidence in support of this submission.

Yours sincerely

John Lawler ~~AM APM~~
Chief Executive Officer
22 February 2013

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