

Australian Greens Dissenting Report

Australian Sports Anti-Doping Authority Amendment Bill 2013

1.1 The Australian Greens place a high value on sport and the integrity of sport in Australia. Recent developments, including the doping scandals that rocked the cycling community and recent allegations affecting the major football codes, have raised some serious concerns about whether the integrity of Australian sport is under threat. The Australian Greens therefore considered the merits of the Australian Sports Anti-Doping Authority Amendment Bill 2013 very carefully in this context.

1.2 During the course of the inquiry into this bill numerous concerns were raised with its provisions. The new powers this bill would grant to ASADA were described as “broad” and “sweeping” in nature and were greeted with scepticism by many in the legal fraternity including the Victorian Commercial Bar Association which described the provisions granting coercive powers as “unwarranted”, “an unjustified infringement of the athletes’ human rights” and “an unacceptable grant of unfettered powers to the CEO of ASADA”.

1.3 The Australian Greens also note concerns from the Scrutiny of Bills Committee, the Parliamentary Joint Committee on Human Rights and others around issues such as privacy, the reversal of the onus of proof, the potential to compromise a fair trial, and the unprecedented nature of coercive powers to investigate matters that do not generally involve criminal activity.

1.4 The Australian Greens share many of these concerns. It became clear during the course of the inquiry that this bill represents an unprecedented expansion of ASADA’s powers and overturns some fundamental legal principles. As such it would significantly reduce the freedom of Australian sportspeople. The question then hinges on the benefits to the integrity of sport that would accrue from these coercive powers. No clear evidence was presented to the Committee that this would have a measurable impact on the integrity of Australian sport.

1.5 Furthermore, no evidence was given to suggest there are fundamental weaknesses in the Australian anti-doping system. The inquiry made it clear that Australia is already considered a world leader in anti-doping, noting that an Australian is current head of the World Anti-Doping Authority, and that Australia already meets all requirements under the WADA testing and investigation protocols.

1.6 Witnesses who gave evidence on behalf of Australian athletes suggested that these new powers could have the perverse effect of decreasing cooperation with investigations by making the relationship between athletes and ASADA more adversarial.

1.7 Some evidence also made it clear that testing alone is not a sufficient deterrent or detection mechanism when it comes to controlling doping in sports. The Australian Greens support an investigative approach into tackling the problem of doping in

sports. The Authority and police agencies should be adequately resourced to conduct investigations. However it is not clear that granting these new powers will materially impact the effectiveness of current investigations.

1.8 Noting the above concerns the Australian Greens cannot recommend the Bill in its current form.

Recommendation 1

That the bill not be passed.

**Senator Richard Di Natale
Australian Greens Senator for Victoria**