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UNINTENTIONAL ATHLETE DOPING AND THE PREVALENCE OF WADA PROHIBITED SUBSTANCES IN THE GLOBAL MARKETPLACE

BRAYDEN WILLIAMS*

1 OVERVIEW

The prevalence of supplements in sport has increased due to many factors, and some athletes will likely continue to take the risk of consuming supplements. In order to uphold the integrity of sport, athletes are bound by a strict liability principle regarding the violation of an anti-doping rule imposed by the World Anti-Doping Authority (WADA) under the World Anti-Doping Code (WADC).¹ Article 2.1 of the WADC makes it clear that intent, fault or knowledge of doping are not factors considered when deciding whether an athlete should receive a sanction for the presence of a prohibited substance in their sample.² WADA's strict approach helps protect sporting integrity, but in cases of *unintentional* doping, particularly from contaminated supplements, even reduced sanctions for no 'fault' or 'negligence' can still cause reputational harm and public consequences that undermine an athlete's wellbeing and dignity.³ To ensure athletes stay safe when consuming supplements, it is suggested that supplement manufacturing processes be heavily scrutinised and fall under an international standard, inclusive of mandatory third-party product testing. This commentary explores the perceived imbalance in accountability regarding unintentional doping, presenting extant research as part of this, to bring attention to this growing safety concern.

2 SITUATING THE PROBLEM

Supplements have become popular at all levels of sport due to their potential to increase performance, improve recovery, and address individual deficiencies.⁴ The doping standards imposed on all athletes are strict and follow a 'zero-

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¹ World Anti-Doping Agency, *World Anti-Doping Code* (1 January 2021) ('*World Anti-Doping Code*').

² *Ibid* art 2.1.

³ Scott McLean et al, 'Decoding Unintentional Doping: A Complex Systems Analysis of Supplement Use in Sport' (2025) 13(1) *Performance Enhancement & Health* 100317.

⁴ Louise Barker et al, 'Sports Supplement Analysis Survey for the Prevalence of WADA Prohibited Substances in the Australian Online Marketplace' (2025) 17(10) *Drug Testing and Analysis* 1857 ('Barker').

tolerance' policy when determining whether a rule violation has occurred, regardless of intent.⁵ Under the World Anti-Doping Code (WADC), intention is applicable when determining the severity of an athlete's period of ineligibility (sanction).⁶ Intention is defined in the WADC under Article 10.2.3 as a situation where the athlete knew their conduct could result in a rule violation, or knew there was a significant risk and clearly disregarded that risk.⁷ Unintentional doping is not expressly defined in the WADC, however, for the purposes of this discussion, unintentional doping refers to situations where an athlete did not intentionally use a prohibited substance and did not knowingly take a risk that could result in an anti-doping rule violation.⁸

Irrespective of an athlete's intention, the standards imposed by the WADC make it difficult for athletes to reduce or rebut a sanction in cases of supplement contamination.⁹ Considering both the severity of sanctions and the significant external consequences for athletes who unintentionally dope—such as reputational damage, financial pressures, and sponsorship loss—it is evident that they bear an unfair burden and risk in an under-regulated supplement marketplace.¹⁰ It is suggested then that the focus must shift towards making the supplement marketplace safer for athletes as amendments to code provisions regarding athlete responsibilities and consequences under WADC are unlikely to occur.

When it comes to supplement manufacturers, each country is responsible for its own regulation of supplements and manufacturing standards, thus creating inconsistencies in the global marketplace as to the quality of supplements available.¹¹ Given the ease with which supplements can be purchased online and from overseas, the absence of an international authority regulating supplement manufacturing poses a substantial risk to athlete safety.¹² This regulatory gap has created an imbalance between the stringent duties placed on athletes (that is, they are liable to sanction regardless of their intent) and the minimal accountability of supplement manufacturers.

⁵ Rakshan Pahwa and Manish Bharadwaj, 'Athletes' Rights vs Anti-Doping Regulations: The Balancing Act of Strict Liability' (2024) 7(3) *International Journal of Law Management & Humanities* 2333 ('Pahwa and Bharadwaj').

⁶ *World Anti-Doping Code* (n 1) art 10.2.3.

⁷ *Ibid.*

⁸ *Sport Integrity Australia v Jack* (Court of Arbitration for Sport, CAS 2020/A/7580, 16 September 2021).

⁹ *World Anti-Doping Code* (n 1) 71.

¹⁰ Anna Baylis, David Cameron-Smith and Louise M Burke, 'Inadvertent Doping through Supplement Use by Athletes: Assessment and Management of the Risk in Australia' (2001) 11(3) *International Journal of Sport Nutrition and Exercise Metabolism* 365 ('Baylis et al').

¹¹ *Ibid.*

¹² *Ibid.*

3 STRICT STANDARDS IMPOSED ON ATHLETES

An athlete who competes under a national or international sporting body which are a signatory to the (WADC) is bound by the doping standards created by the World Anti-Doping Agency (WADA).¹³ Article 2.1 of the WADC states that any presence of a prohibited substance or its metabolites or markers in an athlete's sample constitutes a violation and carries consequence.¹⁴ Article 2.1 expressly states that intent, fault, negligence or knowledge of wrongdoing are not factors in considering whether a violation has occurred.¹⁵ This is widely understood as the legal principle of 'strict liability.'¹⁶ 'Strict liability' is a severe principle to adopt, and it essentially provides the base of WADA's 'zero tolerance' approach to doping.¹⁷ When it comes to contaminated products, Article 10.6.1.2 discusses the ability to reduce a sanction period in situations of no 'significant fault' or 'negligence' on behalf of the athlete. However, commentary within the WADC explicitly details the rarity of leniency for contaminated supplements.¹⁸

There are clear ethical concerns with this legal approach, particularly regarding fairness for athletes navigating what is considered to be a saturated and under-regulated supplement marketplace.¹⁹ For Australian athletes, Sport Integrity Australia (SIA) approaches these strict standards imposed on athletes by using annual education programs that, among other things, encourage athletes to adopt a 'food first' approach to fuelling their bodies.²⁰ A food first approach promotes a varied and nutritious diet for athletes to assist with recovery and performance rather than relying on supplements.²¹ However, SIA has also stipulated that unintentional doping through contaminated supplements is a continued risk in Australian sport. This indicates SIA's acknowledgment that athletes are likely to continue using supplements and that the supplement marketplace remains inherently unsafe.²² Additionally, the current international sporting landscape shows that the use of supplements is, indeed, becoming a

¹³ *World Anti-Doping Code* (2004) (n 1) art 23.

¹⁴ *Ibid* art 2.1.

¹⁵ *Ibid* art 2.1.1.

¹⁶ Pahwa and Bharadwaj (n 5).

¹⁷ *Ibid* 2334.

¹⁸ *World Anti-Doping Code* (2004) (n 1) p 71.

¹⁹ Marek Borecki, 'Legal and Ethical Analysis of Dietary Supplement Use in the Light of Anti-Doping Regulations' (Master's Thesis, No 58988, Nicolaus Copernicus University, 3 March 2025) ('Borecki').

²⁰ Sport Integrity Australia, *Supplements in Sport* (Web Page) <<https://www.sportintegrity.gov.au/what-we-do/anti-doping/substances/supplements-sport#:~:text=Consider%20food%2Dfirst%20and%20seek,checker%20before%20taking%20any%20supplement>>.

²¹ *Ibid*.

²² Sport Integrity Australia, *Annual Report 2024–2025* (Report, 23 September 2025) 53; Barker (n 4).

‘norm’ at all sporting levels.²³ An example of this is an increased number of elite athlete supplement ambassadors who influence younger athletes and amateur competitors to purchase supplements.²⁴

Having regard to these factors, and in the light of WADA’s ‘strict liability’ position, greater support for athletes could be achieved by establishing a set of international regulatory standards for supplement manufacturers.

4 SUPPLEMENT MANUFACTURING AND UNINTENTIONAL DOPING

A recent co-operative study between SIA and Human and Supplements Testing Australia (HASTA) found that, in a sample of 200 randomly purchased supplements from the Australian online marketplace, 35 per cent contained WADA Prohibited Substances.²⁵ The study indicates that athletes who purchase supplements from the Australian online marketplace have a one-in-three chance of consuming a product containing a prohibited substance. The results, when set against the WADC, highlight the complexity athletes face when arguing that they did not recklessly disregard the risk of an anti-doping rule violation.

Another study showed that almost 28 per cent of 3132 analysed ‘dietary supplements’ from the international marketplace posed a risk of unintentional doping.²⁶ In 2024, Polish tennis player Iga Swiatek tested positive to the prohibited substance trimetazidine, which was traced back to a contaminated supplement (Melatonin) to assist her with sleep and jet lag.²⁷ Despite a finding by International Tennis Integrity Agency that the violation was unintentional, Swiatek was required to forfeit tournament prize money and received a one month ban.²⁸

Evidently, then, there are concerns with supplement manufacturing regulations globally, as well as the risks to athletes when navigating the balance

²³ Borecki (n 19).

²⁴ Ibid 14.

²⁵ Barker (n 4).

²⁶ Vanya Rangelov Kozhuharov, Kalin Ivanov and Stanislava Ivanova, ‘Dietary Supplements as Source of Unintentional Doping’ [2022] (1) *BioMed Research International* 8387271 (‘Kozhuharov et al’).

²⁷ Borecki (n 19); ‘Iga Swiatek Sanctioned for Doping, "Accepts One-Month Suspension" from Tennis Following August 2024 Failed Drug Test’, *Olympics.com* (Web Page, 28 November 2024) <[²⁸ ‘Polish tennis player Iga Świątek accepts one-month suspension under Tennis Anti-Doping Programme’, *International Tennis Integrity Agency* \(Web Page, 28 November 2024\) <<https://www.itia.tennis/news/sanctions/polish-tennis-player-iga-swiatek-accepts-one-month-suspension-under-tennis-anti-doping-programme/>>.](https://www.olympics.com/en/news/iga-swiatek-doping-sanction-2024-suspension-failed-drugs-test#:~:text=The%20bronze%20medallist%20at%20Paris,%2Dcompetition%20anti%2Ddoping%20test.&text=Iga%20Swiatek%20failed%20a%20drugs,Tennis%20Integrity%20Agency%20(ITIA).>”.></p>
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of performance and safety in sport. In Australia, supplement regulation is dependent on categorisation. If a supplement is categorised as a therapeutic good, it will fall under the Therapeutic Goods Administration (TGA)—a national government authority responsible for regulating therapeutic goods, including medicines.²⁹ A supplement categorised as a sports food or energy formulation falls under the Australian and New Zealand Food Authority (ANZFA).³⁰ Ultimately, a supplement's categorisation determines the level of scrutiny it endures. Worldwide, the TGA and ANZFA are highly respected regulatory bodies, yet unintentional doping still occurs in Australia. The US has even more relaxed manufacturing standards for supplements which creates concerns for online and imported supplement purchases.³¹

Any inconsistencies between country standards creates a regulatory gap and an overwhelming task for athletes to understand which products are a risk—both in store and online internationally. One solution would be to create an international regulatory standard, whereby supplement manufacturers must comply with international manufacturing policies and compulsory third-party testing processes to ensure that supplements are uncontaminated and safe for athlete consumption.³²

5 CONCLUSION

All competitive athletes operate under 'strict liability' conditions whereby they have the sole responsibility to understand and control what goes into their body.³³ Strict liability is required to keep sport fair, clean and safe. However greater consideration must be given to athletes who are caught unintentionally doping due to a contaminated supplement. The modern-day supplement market is unsafe and under regulated globally, creating a minefield for athletes who are not intentionally trying to cheat.³⁴ If the global supplement market were reliable for producing non-contaminated supplements, then the onus on athletes to comply with a 'strict liability' rule is far more reasonable. In reality, even where an athlete receives the most lenient sanction under the WADC, significant extra curial consequences remain for athletes, including reputational harm, and loss of sponsorship. Thus, in an Australian context, in addition to current efforts by SIA to educate athletes of the risks of unintentional doping, more is needed to

²⁹ Baylis et al (n 10) 377; 'Therapeutic Goods Administration (TGA)', *Department of Health, Disability and Ageing* (Web Page) <<https://www.tga.gov.au/>>.

³⁰ Ibid.

³¹ 'Dietary Supplements', U.S. Food and Drug Administration, (Web Page, 1 October 2024) <<https://www.fda.gov/food/dietary-supplements>>; Baylis et al (n 10).

³² Borecki (n 19); Pahwa and Bharadwaj (n 5).

³³ Borecki (n 19); Pahwa and Bharadwaj (n 5).

³⁴ Kozhuharov et al (n 26).

increase prevention. Meaningful prevention can only occur if there is a greater focus on systemic issues relating to global supplement manufacturing standards.

If the rule for athletes is ‘zero tolerance’, then the global supplement marketplace needs to be trusted to provide uncontaminated supplements. A set of international manufacturer standards, inclusive of a mandatory third-party supplement testing regime,³⁵ ought to be implemented on a global scale to protect athletes from contaminated supplements.

³⁵ Ibid.