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Senate Commerce Committee

Testimony of Travis T. Tygart

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Mr. Chairman, members of the Committee, good morning. My name is Travis T. Tygart, and I am the Chief Executive Officer (CEO) of the United States Anti-Doping Agency (“USADA”). I want to thank this Committee for its interest in “Athlete Safety and the Integrity of U.S. Sport” and for the invitation to appear before you today to discuss how we can better protect the rights of athletes and the integrity of competition. I commend your efforts on these critical issues, and I look forward to continuing to work with you all in the coming months, especially as the sports world prepares for this summer’s Olympic Games in Tokyo, Japan.

It is an honor for me to be here representing the USADA Board, our small but talented professional staff, and clean athletes from across the United States for whom we advocate every day. It is also an honor for USADA, a 501(c)(3), not-for-profit, incorporated in Colorado, to be a part of such an important discussion. We also greatly appreciate the ongoing support of Congress and the President’s Office of National Drug Control Policy (“ONDCP”) in our efforts to protect the health, safety and rights of clean athletes to a fair and level playing field.

Over the past several years, we have been at a critical juncture for the soul of sport – a time of truth, if you will. And today, I want to speak to the Committee about not only the significant and on-going threats facing clean athletes and fair play, but also about the sound solutions to these problems.

First, the challenges: fairness, respect for the rules and integrity in athletic competition hang in the balance. These principles have been abused and are currently under attack. If we don’t act soon to renew our commitment to protect the rights of clean athletes and to preserve a level playing field – both here in the United States and around the world – we will be committing an unacceptable injustice to all of those who believe in, and invest in, fair and clean competition. If we do not act, we also risk shattering the dreams of tens of millions of young kids from around the world.

As an independent anti-doping organization, athletes are our guiding light, our North

Star. Their inspiration gives us hope, they remind us of our purpose, and they provide us the fuel to continue to fight for their right to clean and fair competition.

But, we need to be honest with ourselves. How many more athletes will we allow to be taken advantage of by state sponsored doping systems? How many more podium moments stolen from athletes like U.S. Olympians Alysia Montaño, Katie Uhlaender and Adam Nelson? How many more medals will be handed over years after a competition — before we finally accept the responsibility to ensure clean sport and fair competition?

Russia's widespread, state-supported doping system that corrupted and defrauded international sport has exposed the soft underbelly of the global anti-doping system. The astounding lengths to which Russia's corrupt system went to deceive the world, anti-doping officials and other athletes, was in many ways, a nightmare realized -- shadow laboratories, tampering by Russian intelligence officers, samples swapped and passed through a hole in a wall under the cover of darkness, male DNA in female samples, and emails to and from the Russian Ministry of Sport determining which doped athletes the system would protect, and which ones it would sacrifice. This corruption was orchestrated and supported by the Russian government and sport officials within the Russian system, spreading across 30-plus sports, lasting from at least 2011 to 2015.

At the end of the day, despite mountains of evidence and vocal opposition from athletes, democratic governments and anti-doping groups — ourselves included — the International Olympic Committee (“IOC”) chose not to stand up for clean athletes and against state-sponsored doping. The IOC allowed Russia into the 2016 Rio Olympic Games and then put in a farce of a consequence by suspending the Russian Olympic Committee for only a few weeks and allowed over 160 Russian athletes to compete in the 2018 Winter Olympic Games.

Sadly, four years later, it's “ground hog's day” for clean athletes. Despite an agreement by the Russians to provide the World Anti-Doping Agency (“WADA”) the laboratory information necessary to attempt to serve justice, the Russians went to great lengths to cover-up and manipulate the very evidence they agreed to turn over -- in an attempt to continue to

deny their fraudulent scheme and to actually pin the responsibility on a whistleblower - the former Moscow laboratory director, Grigory Rodchenkov.

The IOC President has recently stated that Russia will suffer no consequences until the Court of Arbitration for Sport decides the case, which we understand will not be in time to avoid tarnishing this summer's Tokyo Games. The IOC President has also recently stated that any athletes who protest during the Games will be subject to harsh penalties. The message is obvious - the Russian case will not be complete before this summer's 2020 Olympic Games in Tokyo and the IOC President's shot across the bow toward athletes standing up for their rights is as clear as it is ineffective.

Certainly, history will not judge any of these decisions kindly.

However, out of the Russian doping scandal, two silver linings have emerged. The first: more than ever before athletes are mobilizing, voicing their opinions and fighting for a level playing field. And second: We have a once-in-a-lifetime opportunity to break through entrenched positions for the good of clean athletes and the future of sport.

To get there... the road to reform starts with independence. I've had the privilege to speak to Congress several times before about the "matrix of effectiveness" for anti-doping programs, about the elements of an effective anti-doping program – one armed not just to say there is "drug testing" for sport brand value purposes but to actually win the battle for clean athletes. In the U.S. and in many countries around the globe, these key elements such as, ensuring year-round, no-notice, out-of-competition testing for both blood and urine and conducting robust intelligence gathering and investigations, have been implemented and proved successful. Clean athletes can succeed when the current rules are implemented with determination and will to win for clean athletes.

Yet, the problems which currently plague the global anti-doping system are even more basic. The most vital principle of an effective anti-doping system is that it must be free from the influence of sport governing bodies. It must be independent and serious about protecting clean

athletes.

Since our founding in late 2000, we at USADA have advocated for a clear separation between those who promote sport and those who police it. To do so otherwise, we believe, is to encourage the fox to guard the henhouse. No matter how well intended it might begin, it simply does not work. The conflict of interest is too great and clean athletes will always lose out.

To be clear, the threat of doping is a global problem. And, as a nation of laws established on the ideals of justice, fairness and equality, the United States must lead the way and ensure we are doing everything we can do to protect our United States athletes so that their decision to compete by the rules is upheld and that they can be the true heroes that they are when competing here at home and representing our great nation in competitions around the globe. They in many ways are the best example of our American values and the importance of our principles when they compete and win the right way.

And, Senators Moran and Blumenthal, this is precisely why your introduction of the “USADA Re-Authorization of 2020” is so vitally important – so we can ensure that the great strides we have made on behalf of clean athletes since USADA was founded, almost twenty years ago this year, are reconfirmed and allowed to further blossom in an independent way to allow U.S. clean athletes to win. With your leadership and that of the U.S. Congress, we can continue to be an example of fighting the good fight with the right structure, resources and determination to win this battle for the good of sport and its fundamental values. Passing the reauthorization bill before the beginning of the Tokyo Games this summer would send a strong signal to the rest of the world on the United States’ commitment to clean sport. We thank you for your support.

We are extremely humbled when we hear from U.S. athletes, coaches (and we frequently do) that they believe in the independent model; that they have been prevented and deterred from doping here in the U.S.; and, that they now have hope that they can not only compete but also win the right way – all of this in thanks to our government’s commitment to clean sport and an independent anti-doping agency.

Additionally, I can promise that while the burden is enormous and the responsibility is great, this independent model established by Congress is a light to many others around the world that competing clean is the ONLY WAY and that there exist independent organizations that will take a stand even when tough to do so, even when involving a global icon or high profile sport sponsor- to ensure that the injustice, the inequality of doping does not win the day.

In fact, the two Russian whistleblowers, Yulia and Vitaly Stephanov, saw this example and were inspired by it. They saw firsthand the efforts of the U.S. and others to truly root out cheating and dangerous doping fraud. Vitaly's email to USADA sent on his departure from the corrupt Russian Anti-Doping Agency ("RUSADA") in March 2011 stating that he wished "RUSADA was as committed to doping fighting and open as USADA" as confirmed by him a belief that the U.S. and others were actually doing it right and an important signal from our great country that fairness, the rule of law and healthy sport does matter.

This matter of independence is without question the most important issue facing global anti-doping efforts today. In fact, it's likely the entire Russian state-supported doping scandal would have been exposed much sooner by the many good men and women staffed at the global oversight body for anti-doping in sport — the World Anti-Doping Agency (WADA) — had its governance not been hamstrung by its own lack of true independence.

We know now that WADA and the IOC had compelling evidence, from whistleblowers Yulia and Vitaly Stephanov and others, about systematic Russian cheating for several years prior to the 2014 Sochi Winter Olympic Games. Yet, action to protect clean athletes only happened after the whistleblowers – frustrated by inaction – took their story to the media. Even then, however, it took persistent lobbying by clean sport advocates, including some within WADA's own internal staff, to finally convince its leaders to open up the initial Russian investigation which began in January 2015.

The good news is that WADA's conflicted governance model could be easily solved by removing sport leaders from the WADA leadership and implementing a proper conflict-of-

interest policy which prohibits governing members from simultaneously holding a governing role within a sports organization under WADA's jurisdiction. WADA has recognized the need for more independence and is in the process of adding two independent positions to its Executive Committee. But while they acknowledge the importance and benefit of independence with this change, it still does not allow for true independence as the WADA Executive Committee is filled and controlled by those on the sport side with a collective interest in the outcome of its enforcement decisions. This must change. As the single largest financial contributor to WADA (other than the IOC) with no seat on the Executive Committee, the U.S. must act to ensure change. We were happy to see the Senate Appropriations Committee include report language last year requiring an analysis from ONDCP on these issues concerning WADA's governance model.

The fix for the IOC – which has experienced significant backlash from clean athletes in the wake of its inaction and poor handling of this horrid affair since its inception in 2014 – is just as simple. In fact, we've said publicly on numerous occasions that if the IOC really wanted to put clean athletes and fair play first, they could. We believe that they could do it today.

Since this Russian sport corruption was exposed, at least 37 National Anti-Doping Organizations ("NADOs") from around the world, with the support of athletes and others have put forth a series of specific proposals designed to reform and strengthen the global anti-doping model. The reform principles below were also agreed to in October 2018 by a strong coalition of democratic governments, athletes and NADOs from around the world who convened at the request of the White House.

The path forward is outlined in what has been called the "Copenhagen Reform Declaration" of 2016 and the 2018 White House Declaration -- the reforms are simple yet effective and include:

- Remove the fundamental conflict of interest that exists when anti-doping decisions are controlled by sport organizations.
- Strengthen WADA through improved independence, transparency, and increased

investment.

- Increase and make clear WADA's ability to investigate, monitor compliance and impose sanctions, so that countries and organizations which engage in state-supported doping are held accountable.
- Provide the opportunity for athletes who have been robbed by doping to have significant and meaningful recognition and celebration, including the swift reallocation of any medals.
- Increase support and protection for whistleblowers around the world.

The failure of sport to do the right thing in confronting institutional fraud through doping and the refusal of sport to implement meaningful reforms has directly led us here today. Since sport has failed to make the basic reforms necessary to ensure this type of corruption never happens again, governments of the world that value fair play and that do not want to see athletes or corporations defrauded by criminals, dictatorships or kleptocrats should step up and fight back. The status quo is doomed to fail, and we support efforts by governments and others to ensure that clean, true sport prevails.

We appreciate the work of the Helsinki Commission and Chairman Wicker to specifically enact ways to protect the U.S. financial investment in international competition; stop corrupt actors that organize and facilitate doping fraud; compensate clean athletes who have been defrauded; and protect whistleblowers and clean athletes.

We whole heartedly support S.259, the "Rodchenkov Anti-Doping Act of 2019" and the goal of ensuring corrupt organizations and enterprises that defraud athletic competitions like what the Russians did never happens again. The Act, which is mimicked after other current federal statutes, like those used successfully to prosecute corruption in the FIFA soccer case out of the Eastern District of NY, protects athletes as well as our country's financial investment in international sporting competitions.

Can you imagine the loss of value of a sports sponsorship knowing over 100 samples had positive tests after the completion of the 2012 London Olympic Games – a fact that came

to light when the Russian state sponsored scheme was revealed and the IOC was forced to re-test samples collected during those Olympic Games. What right minded company would want to invest in these corrupt competitions in which athletes are robbed and abused? What right minded broadcaster would spend a dime on airing a deceptive outcome in sport? And, let's not forget, the 2014 Sochi Olympics were the worst of the worst as they were tarred with the state Russian system that covered up doped athletes and knowingly allowed cheaters to prevail—an injustice that remains today in many individual cases. With the shocking revelations of the Russian state sponsored scheme and the lack of meaningful sanctions from international bodies, it is not surprise that the Rodchenkov Act has gained universal support from a wide range of organizations, including athletes' groups, National Governing Bodies and the major pro leagues.

As you all know, the United States hosts the Olympic Games in 2028 in Los Angeles. We must not allow this type of corruption and destruction of the values of sport to invade our Games. The Act will work and the Senate should quickly pass it, as has been done in the House, where it was passed unopposed on October 22 last year. Once thing we can all agree on is that fraud, deception and robbery of athletes should not happen on our home turf during the Games we are hosting. I know several members of this Committee have already cosponsored the bill, and we thank you for your support. Let's pass the USADA Re-Authorization and the Rodchenkov Act and make the 2028 L.A. Olympic Games a pageantry of true and clean sport.

We feel confident that making WADA independent as discussed above will preserve the many effective parts of the global system and that, combined with the passage of the Rodchenkov Anti-Doping Act of 2019, these changes will work to go a long way in curing the problems that allowed state supported fraud to remain secret and then go unpunished for so long. Likewise, as mentioned above, we and our international partners support greater protection for truthful “whistleblowers” to encourage and incentivize them in speaking up and making it easier for them to obtain access to safe and secure living as well as to end any retaliation against them. The Rodchenkov Act allows for this to happen.

Mr. Chairman, members of the Committee, for those of us who value the rights of clean athletes and the preservation of a fair, safe and healthy playing field – this is our moment. As a

global community that deeply cares about athletes' rights and health, we must merely find the resolve and the courage.

The personal well-being of the next generation of clean athletes hangs in the balance. This is not just about elite Olympic athletes -- this is about every kid on a playground who has an athletic dream and asks "what do I have to do to make my dreams come true?" And the truth is, if we don't push, if we don't win, we will likely find ourselves back in this same position, years from now, staring another state-supported doping system in the face – one that has abused its athletes, and robbed another generation of clean athletes in the process.

And, we will all be wondering why we didn't do more when we had the chance.