
Betting on Tennis

Independent
Review
of Integrity
in Tennis

03

1. The Independent Review Panel (the “Panel”) sets out below its provisional conclusions in relation to the nature and extent of betting on tennis. This chapter covers: the legality and state regulation of betting on sport¹; the growth of interest in betting on sport²; betting on tennis in particular³; the sale of official live scoring data in respect of tennis events and its facilitation of in-play betting⁴; the practice of courtsiding⁵; the concept of unusual and suspicious betting patterns⁶; and the reporting obligations of betting operators⁷.
2. While regarded as inappropriate in many societies and cultures, and made illegal in some jurisdictions, betting on sport is here to stay. An understanding of how it operates in tennis is central to understanding how it impacts the behaviour of players and others.

Q 3.1 Are there other matters of factual investigation or evaluation in relation to the aspects professional tennis examined below that are relevant to the Independent Review of Tennis and that should be addressed in the body of the Final Report, and if so which, and why?

Q 3.2 Are there any aspects of the Independent Review Panels’ provisional conclusions in relation to those aspects of professional tennis that are incorrect, and if so which, and why?

¹ Section A paragraphs 3 to 37 below.

² Section B paragraphs 38 to 44 below.

³ Section C paragraphs 45 to 58 below.

⁴ Section D paragraphs 59 to 125 below.

⁵ Section E paragraphs 126 to 134 below.

⁶ Section F paragraphs 135 to 148 below.

⁷ Section G paragraphs 149 to 162 below.

A LEGALITY AND STATE REGULATION OF BETTING ON SPORT AND TENNIS IN PARTICULAR**(1) LEGAL AND ILLEGAL SPORTS BETTING****Defining ‘legal’ and ‘illegal’ sports betting**

3. Before embarking upon an analysis of betting on sport and tennis, it is important to note that there is no settled definition of what constitutes an illegal bet.
4. The Council of Europe Convention on the Manipulation of Sports Competitions⁸ (the “Macolin Convention”) defines illegal sports betting as “any sports betting activity whose type or operator is not allowed under the applicable law of the jurisdiction where the consumer is located”.
5. A review conducted by the Australian government into illegal betting⁹ adopts a similar interpretation of legality: “[the illegal wagering market in Australia] consists of operators who are not licensed in Australia to provide wagering services. However, many of those offshore wagering operators are legal and regulated in other jurisdictions internationally. The rigor and nature of these regulations varies from country to country. These operators, whilst legal in their ‘home’ jurisdiction, may nevertheless offer wagering products that are not legal in Australia, such as online in-play betting”¹⁰.
6. These definitions are not without their difficulties. There are jurisdictions, for example, where legislation is either silent about online gambling or predates online gambling, leading to a position where it is not always clear whether it is legal to place a bet online with a betting operator based outside of those jurisdictions. A detailed debate about what constitutes an illegal bet is outside the scope of this Independent Review of Integrity in Tennis (the “Review”). For these purposes, the Panel simply acknowledges this uncertainty and the Review, and any references to estimates of the size of the illegal sports betting market, should be read in that context.

(2) LEGISLATIVE APPROACHES TO SPORTS BETTING

7. The regulation of sports betting varies significantly from jurisdiction to jurisdiction. The Panel sets out below a brief overview of the different types of approach with some illustrative examples.

Prohibition

8. Some jurisdictions prohibit sports betting entirely (although this is becoming less common). This is typically done because gambling is not socially acceptable in the country in question. It is often suggested, however, that a prohibition of sports betting, or partial prohibition, may lead to consumers seeking out an illegal market. In these circumstances, the activity that the approach seeks to prohibit not only continues, but does so in circumstances where there is little regulatory control or oversight.
9. In the United States, for example, save for some limited exceptions in certain states, sports betting is prohibited by federal law under the Professional and Amateur Sports Protection Act 1992 (“PASPA”), a prohibition that is supported by legislation designed to curb attempts to engage in sports betting via the internet¹¹.

⁸ Council of Europe Convention on the Manipulation of Sports Competitions, Council of Europe Treaty Series – No. 215, Magglingen/Macolin, 18.IX.2014 (hereafter the “Macolin Convention”).

⁹ Review of Illegal Offshore Wagering, Report to the Ministers for Social Services and the Minister for Communication and the Arts by Lead Reviewer, the Hon. Barry O’Farrell, Australian government, 18 December 2015 (hereafter the “Australian Review of Illegal Offshore Wagering”), available at: https://www.dss.gov.au/sites/default/files/documents/04_2016/review_of_illegal_offshore_wagering_18_december_2015.pdf [accessed 9 April 2018].

¹⁰ Australian Review of Illegal Offshore Wagering, page 18.

¹¹ The Unlawful Internet Gambling Enforcement Act 2006 attempts to restrict online gambling by regulating the financial institutions and websites that facilitate such activity.

10. At 9 April 2018, PASPA is subject to a legal challenge brought by the state of New Jersey which is awaiting a decision by the U.S. Supreme Court¹². This challenge is accompanied by growing sentiment in the United States that prohibition has been ineffective, with the American Gaming Association estimating that in 2016 Americans illegally wagered approximately \$150bn on sports¹³.

Monopoly

11. Some jurisdictions adopt a monopolistic approach to sports betting, where sports betting is permitted, but only with entities that are either directly state-run or indirectly controlled by the state.
12. This approach does allow those jurisdictions a significant amount of control and oversight. There are also financial advantages, including the ability to receive and redirect the profits. In Finland, for example, Veikkaus (a company wholly owned by the Finnish State)¹⁴ has a monopoly on all gambling activities, including sports betting. Profits derived from the operations of Veikkaus are used to promote sports, physical education, science, the arts and youth work¹⁵. According to the Ministry of the Interior in Finland: “a state monopoly is the most effective way of reducing the negative social and health effects of [gambling]”¹⁶.
13. In the People’s Republic of China, the Sports Lottery has a monopoly on sports betting on the Chinese mainland. The Sports Lottery is one of two limited exceptions to the general prohibition on gambling in China and is administered by the China Sports Lottery Administration Centre, which has the power to appoint agents to sell its lottery products provided those agents meet certain criteria.
14. In Hong Kong, the Hong Kong Jockey Club (“HKJC”) has a monopoly on the ability to offer sports betting services (currently limited to horse racing and football betting products). The HKJC, a non-profit organisation, is reportedly Hong Kong’s largest taxpayer and largest source of charitable donations¹⁷.
15. The success of a monopolistic approach is limited by the extent to which demand for sports betting can be channelled to the supply offered by those entities enjoying the monopoly. Despite China’s monopolistic approach to sports betting, the illegal sports betting market in China has been reported as the largest in the world, with the International Centre for Sport Security (“ICSS”) estimating that 85% of sports betting in China (worth a reported US\$600bn a year) is illegal¹⁸.
16. The HKJC also continues to battle the illegal betting market in Hong Kong, which is reported to be valued at over HK\$500bn¹⁹ (approx. US\$63.7bn). In the Financial Report of its 2015/16 Annual Report, the HKJC noted “the globalisation of illegal and unauthorised betting” as one of “a number of other factors [that] continue to impact on the [HKJC’s] long-term competitiveness and performance”²⁰.

¹² David Purdum and Ryan Rodenberg, ‘The odds of legalized sports betting: New Jersey vs. the leagues’ (ESPN, 3 March 2018), available at: http://www.espn.com/chalk/story/_/id/22605881/new-jersey-vs-leagues [accessed 9 April 2018].

¹³ Julian Morris and Guy Bentley, ‘A Bet Gone Bad: How the Professional and Amateur Sports Protection Act Harms Consumers, States and Sports’ (August 2017), page 6, available at: https://reason.org/wp-content/uploads/2017/11/sports_gambling_legalization_papsa.pdf [accessed 9 April 2018].

¹⁴ Further information regarding Veikkaus can be found at: <https://www.veikkaus.fi/fi/yritys?lang=en>. [accessed 9 April 2018].

¹⁵ Further information on gambling in Finland (including information as to the distribution of profits by Veikkaus) can be found at: <http://intermin.fi/en/police/gambling> [accessed 9 April 2018].

¹⁶ Footnote 15 above.

¹⁷ Joyce Lim, ‘Much at stake for HK govt in battle against illegal online gambling’ (The Straits Times, 11 October 2016), available at: <http://www.straitstimes.com/asia/east-asia/much-at-stake-for-hk-govt-in-battle-against-illegal-online-gambling> [accessed 9 April 2018].

¹⁸ James Porteous, ‘How China’s massive illegal betting industry threatens efforts to make sport key part of economy’ (South China Morning Post, 7 March 2016), available at: <http://www.scmp.com/sport/china/article/1920959/china-tries-make-sport-central-part-its-economy-its-massive-illegal> [accessed 9 April 2018].

¹⁹ Michael Cox, ‘How outlaw betting exchange Citibet is helping spur a HK\$560 billion illegal gambling market in China’ (South China Morning Post, 29 April 2017), available at: <http://www.scmp.com/sport/racing/article/2091738/how-outlaw-betting-exchange-citibet-helping-spur-hk560-billion-illegal> [accessed 9 April 2018].

²⁰ The Hong Kong Jockey Club, Financial Report - Annual Report for the Year Ended 30 June 2016, page 3, available at: http://corporate.hkjc.com/corporate/common/chinese/pdf/report-2015-16/HKJC_AR16_Full.pdf [accessed 9 April 2018].

Regulation

17. Most jurisdictions do permit sports betting, subject to a regulatory framework. There are a wide variety of approaches adopted by regulators in each jurisdiction. The Panel briefly explores a selection of these different approaches below.
18. Australia, for example, has a regulatory framework that is relatively strict. Whilst land-based and online sports betting is legal in Australia, it does not permit online in-play sports betting. There is detailed regulation at both state and federal levels. In the state of Victoria, home to the Australian Open, there is currently only one licensed betting operator called the Totalisator Agency Board (“TAB”), which holds a 12-year licence (granted in 2012) to offer betting services. The TAB is controlled by the Victoria Commission for Gambling and Liquor Regulation (“VCGLR”) and operated by Tabcorp Wagering (Vic) Pty Ltd (“Tabcorp”).
19. Victorian State Law requires betting operators to enter into agreements with the governing bodies of the sports on which they take bets. These agreements commonly take the form of Product Fee and Integrity Agreements²¹, which allows a sport to control which markets are offered to bettors by betting operators in order to prevent markets being offered where the match or event in question is deemed open to manipulation.
20. The Victoria Police Sports Integrity Unit has been set up to monitor match-fixing in sport. In January 2018, this unit signed an agreement with the European Sports Security Association (“ESSA”) for ESSA to provide real time alerts of unusual or suspicious betting on sporting events in Victoria²².
21. France is another example of a relatively heavily regulated regime. La Française des Jeux (“FDJ”), a government entity and principally a lottery operator, has a monopoly on the ability to offer sports betting markets in land-based outlets²³. The sports betting products offered by FDJ are limited and include a small number of forecast games.
22. In 2010, the French government first permitted online betting and set up a new regulator, the Autorité de Régulation des Jeux en Ligne (“ARJEL”), to regulate the activity²⁴. Betting operators may offer sports betting products to French consumers only if they are licensed by ARJEL.
23. Moreover, France is one of the only jurisdictions that maintains a list of sporting events on which online betting is permitted (which includes tennis)²⁵. The list is managed by ARJEL and published on its website²⁶. The number of sports included on the list has increased from 15 sports in 2010 to 44 as of March 2018.

²¹ Statement of Ann West (Tennis Australia), Statement of Matt Sheens (formerly of the Victoria Commission for Gambling and Liquor Regulation).

²² Press Release, ‘International ties strengthened in fight against match-fixing’ (ESSA, 15 January 2018), available at: <http://www.eu-ssa.org/wp-content/uploads/SIIU-ESSA-press-release-Jan-2018.pdf> [accessed 9 April 2018].

²³ Pari Mutuel Urbain (PMU) holds a separate monopoly for land-based horse racing betting.

²⁴ Decree 2010-483 of 12 May 2010.

²⁵ T.M.C Asser Instituut / ASSER International Sports Law Centre, ‘The Odds of Match Fixing – Facts & Figures on the Integrity Risk of Certain Sports Bets’ (January 2015), pages 9 to 12, available at: <http://www.asser.nl/media/2422/the-odds-of-matchfixing-report2015.pdf> [accessed 9 April 2018].

²⁶ The published list can be found at: <http://www.arjel.fr/-Supports-de-paris-.html>.

24. ARJEL decides which sporting events to include on its list after consultation with the relevant sports governing body or the Ministry of Sports. The list of approved events is regularly revised, and before an event is added the following four criteria are considered²⁷:
- 24.1 The organiser of the sports event must be one that is recognised under French law;
 - 24.2 The rules governing the event must regulate how the event's results are published;
 - 24.3 The event cannot exclusively involve minors; and
 - 24.4 The event must be capable of attracting a sufficient volume of betting activity.
25. Once an event receives approval, ARJEL (again in consultation with the relevant sports governing body or the Ministry of Sports) then determines the types of bets that are permitted. Bets on the final result of a contest or on the result of phases during the contest are generally permitted. The following bets are not permitted: (a) bets that are separable from the final or interim results; and (b) bets on aspects unrelated to sporting performance²⁸. In terms of tennis events, betting operators are not permitted to offer bets on certain rounds of Roland Garros, such as the junior tournament, the qualification rounds and first-round doubles matches²⁹.
26. French law also imposes a number of requirements on betting operators that are not commonly found in other jurisdictions, such as a requirement that they: (a) obtain the permission of the event organiser; and (b) enter into a contract with the organiser, before offering a market on the event. The contract allows the organiser to control what the betting operator can and cannot do thereby supporting the preservation of the integrity of its event³⁰. In 2008, the Fédération Française de Tennis ("FFT") took action against a betting operator offering odds on Roland Garros without first seeking its permission. The Cour d'appel de Paris ruled in FFT's favour holding that the sports event organiser's proprietary rights include the right to decide which betting operators can offer markets on its events. This is referred to as the "betting right" and allows sports event organisers to generate income from entities seeking to commercially exploit its event(s)³¹.
27. Other regulatory requirements related to the preservation of sports integrity include:
- 27.1 A requirement that each sports governing body includes in its rules provisions preventing participants in that sport from directly or indirectly betting on the sport or communicating inside information to others³²; and
 - 27.2 A prohibition on certain situations that may lead to a conflict of interest, including a ban on players: (a) predicting the outcome of matches in programs sponsored by a betting operator and (b) holding a stake in the share capital of an approved betting operator offering bets on an event in which they are participating³³.
28. As with a monopolistic approach to sports betting, the success of stringent regulation is determined by the extent to which demand for sports betting can be channelled to regulated supply.

²⁷ T.M.C Asser Instituut / ASSER International Sports Law Centre, 'The Odds of Match Fixing – Facts & Figures on the Integrity Risk of Certain Sports Bets' (January 2015), page 10, available at: <http://www.asser.nl/media/2422/the-odds-of-matchfixing-report2015.pdf> [accessed 9 April 2018].

²⁸ T.M.C Asser Instituut / ASSER International Sports Law Centre, 'The Odds of Match Fixing – Facts & Figures on the Integrity Risk of Certain Sports Bets' (January 2015), page 10, available at: <http://www.asser.nl/media/2422/the-odds-of-matchfixing-report2015.pdf> [accessed 9 April 2018].

²⁹ Supplementary Memo to the Interview of Jean-Francois Vilotte (July 2016).

³⁰ The contracts are reviewed by both ARJEL and the French Competition Authority to ensure that similar terms are offered to each betting operator.

³¹ Supplementary Memo to the Interview of Jean-Francois Vilotte (July 2016).

³² Supplementary Memo to the Interview of Jean-Francois Vilotte (July 2016).

³³ Supplementary Memo to the Interview of Jean-Francois Vilotte (July 2016).

29. The stringency of Australia's regulatory approach is thought to have contributed to the growth of its illegal sports betting market, particularly due to its ban on online in-play sports betting. Figures cited in a review conducted by the Australian government into illegal betting estimated the value of the offshore wagering market in 2014 to be AUS\$400m, which was predicted to rise to AUS\$910m by 2020³⁴.
30. The position in France is similar. The combination of market restrictions together with rigorous regulatory oversight is thought to have contributed to a significant proportion of sports betting demand in France being channelled through non-domestically regulated supply. A report produced by the European Commission and the French Institute for International and Strategic Affairs ("IRIS") estimates that the illegal sports betting market in France accounts for approximately 30% of all sports betting in that country³⁵.
31. In its 2016-17 Annual Report, ARJEL acknowledges the ongoing fight against illegal supply and concedes that the ease with which French consumers can circumvent prohibitions coupled with the considerable resources required to police compliance and enforce the regulatory regime mean that "the conditions of this combat are particularly unfavourable"³⁶.
32. The United Kingdom has a slightly different approach. The gambling industry in the UK is regulated by the Gambling Commission (an independent non-departmental public body sponsored by the Department for Digital, Culture, Media and Sports – a ministerial department of the UK government). All betting operators transacting with or advertising to consumers in the UK are required to obtain a licence from the Gambling Commission. These licences impose restrictions on what betting operators can and cannot do. They are required, for example, to report to the appropriate body where they consider that a crime or breach of a sport's rules has taken place. However, the regime does not include many of the restrictions set out above. It has a more outcome-focused approach that relies on licence holders' self-regulation and does not define in detail what types of market can be offered.
33. The UK's approach has had the effect of channelling a large proportion of sports betting demand to domestic supply, with the illegal sports betting market estimated to constitute approximately 6% of the overall sports betting market in the UK³⁷.
34. In Gibraltar, land-based and online sports betting is permitted. Gibraltar is recognised as a popular licensing jurisdiction, being one of the first to provide licensing frameworks for remote betting (first telephone and then online).
35. The licensing criteria³⁸ include a consideration of: (a) whether the betting operator has proven experience in the gambling industry; (b) the betting operator's conduct under similar licences granted in other comparable jurisdictions; and (c) whether the betting operator is of good repute. The stringency of Gibraltar's licensing framework is reflected by the fact that it has only granted 30 remote gambling licences to betting operators as of March 2018³⁹. Several of the largest betting operators base all or part of their operations in Gibraltar, including: Ladbrokes, Mansion, William Hill and BetVictor⁴⁰. A similar approach is followed in Malta.

³⁴ Australian Review of Illegal Offshore Wagering, page 49.

³⁵ European Commission and the French Institute for International and Strategic Affairs (IRIS), 'Preventing criminal risks linked to the sports betting market' Final Report (June 2017), Annex 3 (page 137), available at: http://www.iris-france.org/wp-content/uploads/2017/06/PRECRIMBET_2017_FINAL.pdf [accessed 9 April 2018].

³⁶ ARJEL, Annual Report 2016-2017, page 51, available at: <http://www.arjel.fr/IMG/pdf/rapport-activite-2016en.pdf> [accessed 9 April 2018].

³⁷ European Commission and the French Institute for International and Strategic Affairs (IRIS), 'Preventing criminal risks linked to the sports betting market' Final Report (June 2017), Annex 3 (page 140), available at: http://www.iris-france.org/wp-content/uploads/2017/06/PRECRIMBET_2017_FINAL.pdf [accessed 9 April 2018].

³⁸ Gambling Act 2005, Schedule 1, paragraph 3.(4). Applied to land-based and remote licence applications.

³⁹ <https://www.gibraltar.gov.gi/new/remote-gambling> [accessed 9 April 2018].

⁴⁰ <https://www.gibraltar.gov.gi/new/remote-gambling> [accessed 9 April 2018].

36. Other regulatory regimes have a lighter regulatory approach. Curaçao's licence conditions have, for example, a lighter focus on the preservation of sports integrity than France or Australia.
37. The Cagayan Special Economic Zone in the Philippines (Cagayan) is another such jurisdiction considered to have a lighter regulatory framework and is perceived as a hub for betting operators that wish to offer sports betting services in Asia. The two biggest betting operators in Asia, SBOBet and MaxBet, are reportedly licensed in Cagayan⁴¹.

⁴¹ European Commission and the French Institute for International and Strategic Affairs (IRIS), 'Preventing criminal risks linked to the sports betting market' Final Report (June 2017), page 48, available at: http://www.iris-france.org/wp-content/uploads/2017/06/PRECRIMBET_2017_FINAL.pdf [accessed 9 April 2018].

B THE GROWTH OF INTEREST IN, AND VALUE OF, BETTING ON SPORT AND TENNIS IN PARTICULAR**(1) THE GROWTH OF INTEREST IN BETTING ON SPORT**

38. Notwithstanding the limitations on accurately quantifying of the global sports betting market (described below), it is clear that in recent years there has been a significant growth of interest in sports betting. The following factors are credited with having contributed to that growth:
- 38.1 Economic growth and an increase in disposable income, especially in developing countries;
 - 38.2 An increase in live sport broadcasts, on terrestrial television, satellite, cable and the internet;
 - 38.3 Proliferation of the use of smartphones;
 - 38.4 Proliferation of internet and mobile banking, which facilitates the mass-market adoption of online gambling;
 - 38.5 Significantly increased advertising of gambling, especially around sporting events; and
 - 38.6 An improvement in data feeds (which has in particular facilitated an increase in live betting demand). Betting operators suggest that the majority of bets for certain sports, including tennis, are now placed in-play.
39. The following estimates demonstrate the significant growth of interest in sports betting:
- 39.1 A report by the Australian government estimated that expenditure on sports betting in Australia increased by 500% between 2001-2014, from below AUS\$100m to a sum exceeding AUS\$600m. The report also estimated that the number of active online sports betting accounts increased fourfold between 2004 and 2014, to over 800,000⁴².
 - 39.2 A report published by the European Gaming & Betting Association noted that the gross gambling yield (GGY)⁴³ of the licensed and regulated global betting market was forecast to reach \$70bn in 2016, representing an increase of approximately 30% from the 2007 figure of \$48.7bn⁴⁴.

(2) DIFFICULTIES IN QUANTIFYING THE GLOBAL SPORTS BETTING MARKET

40. Accurately quantifying the value of the global sport betting market at any point in time is an inherently difficult exercise for the following reasons (amongst others):
- 40.1 A significant proportion of the data required is not publicly available. Some betting operators operate in jurisdictions where they are subject to a lower degree of regulatory oversight and/or less prescriptive reporting obligations⁴⁵. Moreover, there is no way of accurately quantifying the volume of bets being placed on the illegal betting markets.
 - 40.2 There are hundreds of different betting operators and jurisdictions to consider. Even if they were all subject to comprehensive reporting requirements, collating all the information would be challenging.
 - 40.3 The online sports betting market is growing at such a rapid rate that even the more reliable estimates become outdated very quickly.

⁴² Australian Review of Illegal Offshore Wagering, pages 41 and 47.

⁴³ Sometimes referred to as gross gambling revenue ("GGR"). Both measures equate to stakes minus pay-outs.

⁴⁴ European Gaming and Betting Association, 'sports betting: commercial and integrity issues' (2014), available at <http://www.egba.eu/media/Sports-Betting-Report-FINAL.pdf> [accessed 9 April 2018].

⁴⁵ Australian Review of Illegal Offshore Wagering, page 32.

40.4 The statistics and figures that are available often attempt to quantify slightly different things. For example: (a) some statistics are limited to sports betting, but most include other forms of gambling, such as lotteries and casino games; (b) some only cover online gambling; and (c) some conflate important details such as profit, revenue and the sums staked. Furthermore, often the source does not make clear what its estimate relates to and how it has been calculated.

(3) QUANTIFYING THE GLOBAL SPORTS BETTING MARKET

41. Subject to the limitations set out above:

41.1 The value of the sports betting market worldwide is estimated to be US\$96.6bn⁴⁶; and

41.2 The value of the online sports betting market worldwide is estimated to be US\$27.6bn⁴⁷.

42. As is noted above, certain regulatory approaches do not effectively channel sports betting demand to regulated supply. The ability to do so has become exponentially more difficult following the proliferation of online sports betting, which allows domestic consumers to circumvent national laws and regulation with, in most cases, relative ease.

43. The executive summary of a report by University Paris 1 Panthéon-Sorbonne and the ICSS⁴⁸ (the “Sorbonne-ICSS Integrity Report Executive Summary”) noted the transformational impact the internet has had on the sports betting market, and in particular the illegal sports betting market. In discussing the proliferation of new betting operators on the internet, the Sorbonne-ICSS Integrity Report Executive Summary noted that “more than 8,000 operators offer sports bets in the world. Most of these operators – roughly 80% - are established in territories applying a low rate of tax and few inspections... most of these operators offer their bets all over the world, often without obtaining the national authorisations required in the countries of their clients making them illegal operators in these countries”. The Sorbonne-ICSS Integrity Report Executive Summary estimated at the time of its publication that “80% of bets on the global sports betting market are illegal”.

(4) QUANTIFYING THE GLOBAL TENNIS BETTING MARKET

44. Quantifying the value of the global tennis betting market is even more problematic. Where betting operators are subject to reporting obligations, they often do not distinguish between tennis and other sports. Notwithstanding these difficulties:

44.1 The value of the tennis betting market worldwide is estimated to be US\$1.27bn⁴⁹; and

44.2 The value of the online tennis betting market worldwide is estimated to be US\$920m⁵⁰.

⁴⁶ This is an estimate produced by Regulus Partners. Regulus Partners have, where possible, taken into account (i) reports and statistics published by national regulators and (ii) reports and accounts published by betting operators. Where this data is either not available, or only partially available, for a particular jurisdiction, Regulus Partners has relied on its own estimate. “Value”, in this context, refers to revenue which is defined by Regulus Partners as stakes less prizes and free bet promotions, but including any direct gambling duties. Using the same definition as the International Financial Reporting Standards, Regulus Partners has made adjustments to other forms of reporting and alternative definitions where necessary.

⁴⁷ Footnote 46 above.

⁴⁸ University Paris 1 Panthéon-Sorbonne and the International Centre for Sport Security (“ICSS”), ‘Protecting the Integrity of Sport Competition – The Last Bet for Modern Sport. An executive summary of the Sorbonne-ICSS Integrity Report’ (May 2014), available at: http://www.theicss.org/wp-content/themes/icss-corp/pdf/SIF14/Sorbonne-ICSS%20Report%20Executive%20Summary_WEB.pdf [accessed 9 April 2018].

⁴⁹ Footnote 46 above.

⁵⁰ Footnote 46 above.

C BETTING ON TENNIS**(1) TYPES OF BETTING OPERATORS**

45. Betting operators can be categorised in various ways. The first distinction is the way in which they take bets; operators typically either do so (a) through a physical establishment, (b) online or (c) a combination of both. The majority of betting operators now only take bets online.
46. The second key distinction is the types of betting offered. Betting operators typically offer one or more of the following:
- 46.1 Fixed odds betting: A fixed odds bet is a bet where the odds are fixed at the time the bet is placed. The majority of betting operators offer their customers the opportunity to bet on a particular contingency at fixed odds that are set by the betting operator in question. The betting operator itself assumes the other side of the bet and is at risk should the bet win. In other words, should the customer win the bet, the betting operator pays the customer the winnings itself.
- 46.2 Betting exchange: A betting exchange does not set the odds, but rather provides a platform on which individuals can offer odds by backing or laying an outcome that other individuals can accept if they wish. It allows individuals to bet with odds set by another individual. The betting exchange has no interest in the outcome of the event; the losing individual pays the winning individual. The betting exchange makes a profit by taking a commission from the winner of each bet.
- 46.3 Spread betting: A spread bet is a bet where the profit or loss is based on the accuracy of the bet, rather than by the binary outcome achieved by a fixed odds bet. For example, a betting operator may predict that there will be ten double faults served by a player competing in a match. The bettor can bet that the total number of double faults served by that player will be either above or below ten. For example, if the bettor bets £1 on there being more than ten double faults served by the player (referred to as buying the bet), he will win £1 for every double fault served above ten. However, his risk is that he will owe the betting operator £1 for every double fault served below ten. Should the number of double faults amount to ten, then the betting operator keeps the stake (i.e. £1).
- 46.4 Tote betting (sometimes referred to as pari-mutuel or pool betting): A form of betting where all stakes are placed together in a pool. The profits are then calculated by sharing the pool amongst all the winning bets (less the betting operator's commission). Whilst the betting operator may offer odds as a guide, the profit is not known until after bets have been placed and the size of the total pool is known.
47. The third key distinction is the way in which the betting operator is regulated. This is addressed in Section A above.

(2) TYPES OF BETTORS

48. Just as the types of betting operators vary, so too do the types of bettors.

Recreational bettors

49. A high number of individual members of the public bet regularly in small amounts (often for entertainment rather than in any expectation of earning substantial sums of money). Recreational bettors are generally unsophisticated, with limited information as to the outcome of the event and are likely to accept the odds offered by betting operators (online or at physical betting outlets). Occasionally, the individuals will bet significant sums.

Professional gamblers and syndicates

50. On the other hand, there are professional gamblers, either operating alone or as part of a "syndicate":
- 50.1 Professional gamblers have extensive knowledge of the betting markets and of the sports upon which they bet. Professional gamblers and syndicates may on occasion face difficulty in staking bets and may be restricted by betting operators as to the betting markets upon which they can bet.
- 50.2 Syndicates operate much like businesses and make investments on betting markets to generate profit. Syndicates are sophisticated and sufficiently resourced to monitor sporting events and the betting markets and have good knowledge of the betting markets. Bets are placed where the best odds are offered, and the stakes are often substantial.

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50.3 Many mainstream betting operators are keen to limit or avoid the stakes of professional gamblers (or even shrewd individuals), which creates an incentive for these groups to find alternative supply (often less heavily regulated) and/or to conceal their behaviour (such as by breaking up large positions into a number of small bets); these behaviours have obvious implications for monitoring suspicious betting activity.

(3) TYPES OF BETS IN TENNIS

51. A very wide range of bets can be placed on the various contingencies arising out of a tennis match.
52. The contingencies available vary significantly. At its most obvious, one contingency is which player wins: the final result of the match. The contingency may then be refined further. It is possible, for example, to bet on the total number of sets or games in a match. This might be a bet that a player will win in straight sets, or 2 sets to 1, or that a player might win 6-4, 6-4 for example. Beyond the final results of the match, each tennis match offers a wide range of contingencies, permitting betting on numerous interim results.
53. By way of example, the screen shot below was taken from Bet365's website during an ITF tennis match in Argentina between Gonzalo Villanueva and Facundo Juarez on 4 December 2017⁵¹. The following bets were available:
 - 53.1 "To Win": The contingency is which player will win the match. Odds of 11/8 are being offered on Gonzalo Villanueva to win the match.
 - 53.2 "Point Winner – Point 6, 22nd Game": The contingency is which player will win the 6th point in the 22nd game. Odds of 5/4 are being offered on Gonzalo Villanueva to win that point.
 - 53.3 "22nd Game Winner": The contingency is which player will win the 22nd game. Odds of 2/7 are being offered on Gonzalo Villanueva to win the 22nd game.
 - 53.4 "Set 3 Score": The contingency is what the score will be in the third set. For example, odds of 11/1 are being offered on Gonzalo Villanueva winning the third set by 7 games to 5.

⁵¹ There is no significance in the selection of this particular match or the particular betting operator. The example is purely illustrative of the contingencies on offer.

Chapter 03

Gonzalo Villanueva v Facundo Juarez		Game 21 - Gonzalo Villan...
🔔 Match Alerts		
To Win		
Match		
Gonzalo Villanueva	11/8	
Facundo Juarez	8/15	
Point Winner - Point 6, 22nd Game		
Facundo Juarez (Svr) 4/7	Gonzalo Villanueva 5/4	
22nd Game Winner		
Facundo Juarez (Svr) 5/2	Gonzalo Villanueva 2/7	
22nd Game to Deuce		
Yes 6/4	No 1/2	
22nd Game Score		
	Facundo Juarez	Gonzalo Villanueva
to 15		5/4
to 30		13/5
to 40	5/2	13/2
23rd Game Winner		
Gonzalo Villanueva (Svr) 4/11	Facundo Juarez 2/1	
1st Point Winner 23rd Game		
Gonzalo Villanueva (Svr) 8/13	Facundo Juarez 6/5	
23rd Game to Deuce		
Yes 9/4	No 1/3	
23rd Game Score		
Set 3 Race to		
	4	5
Gonzalo Villanueva	8/11	5/6
Facundo Juarez	1/1	5/6
Set 3 Score		
	Gonzalo Villanueva	Facundo Juarez
6-2		8/1
6-3	13/2	8/1
6-4	7/1	12/5
7-5	11/1	9/1
7-6	13/2	7/1

54. In most sports, including tennis, bets can be placed before a match begins (in some contexts referred to as ante-post bets), or they can be placed during the match (“in-play”). In-play betting may still be on the final result (informed by the current state of play), or it may be on individual contingencies that arise during the course of the match (such as the winner of the next game). It is estimated that approximately 80%⁵² of betting on tennis consists of in-play bets.
55. The following additional terms are relevant to betting on tennis:

Accumulator Bets

- 55.1 An accumulator bet is a bet that combines multiple⁵³ selections into a single bet. The success of an accumulator bet is dependent on the success of each selection within a bettor’s chosen combination.
- 55.2 Accumulator bets combine the odds of each of a bettor’s selections to create a single bet with longer odds and the potential for greater profit, as compared to isolated single bets on each selection. By way of illustrative example, consider the following accumulator bet comprising four “To Win” selections:
- 55.2.1 Selection 1: Player A to beat Player B at 2/1;
- 55.2.2 Selection 2: Player C to beat Player D at 4/1;
- 55.2.3 Selection 3: Player E to beat Player F at 4/1; and
- 55.2.4 Selection 4: Player G to beat Player H at 7/1
- 55.3 The success of this accumulator bet depends on the success of each of the above four selections (i.e. Players A, C, E and G must win their respective matches).
- 55.4 On the assumption that each of the four selections above is correct, this accumulator would return £6,000 to a bettor based on a stake of £10, calculated as follows:
- 55.4.1 Selection 1: The £10 stake returns a total £30 (£20 profit plus the £10 stake).
- 55.4.2 Selection 2: The £30 total return from Selection 1 becomes the stake on Selection 2. Therefore, the new £30 stake returns a total of £150 (£120 profit plus the £30 stake).
- 55.4.3 Selection 3: The £150 total return from Selection 2 becomes the stake on Selection 3. Therefore, the new £150 stake returns a total of £750 (£600 profit plus the £150 stake).
- 55.4.4 Selection 4: The £750 total return from Selection 3 becomes the stake on Selection 4. Therefore, the new £750 stake returns a total of £6,000 (£5,250 profit plus the £750 stake).
- 55.5 Contrast this with an alternative scenario where the same bettor splits the initial £10 stake into isolated single bets of £2.50 on each of selections 1-4 above (at the same odds). On the basis of Players A, C, E and G all winning their respective matches, these isolated single bets would only return a total £47.50 to the bettor (i.e. £37.50 profit plus the four £2.50 stakes). The benefit to the bettor in this scenario, however, is that the success of each isolated bet is not dependent on the success of the other three.

⁵² Statement of David Lampitt (Sportradar).

⁵³ Accumulator bets generally comprise bets that involve four or more selections. Single bets comprised of two selections are commonly known as ‘doubles’, and single bets comprised of three selections are commonly known as ‘trebles’. Notwithstanding the different terminology, double, treble and accumulator bets operate in the same way.

Arbitrage Betting

55.6 Arbitrage betting involves a bettor placing bets on every outcome of a contingency, at odds that guarantee a profit regardless of the outcome. This is possible because either (a) there is a discrepancy between the odds being offered (for example, where two betting operators price a market differently) or (b) because the odds change over time. For example:

55.6.1 Bookmaker A is offering 1.4 on Player X to win and 3.8 on Player Y to win;

55.6.2 Bookmaker B is offering 1.53 on Player X and 2.8 on Player Y.

55.6.3 If £100 were successfully bet on Player X with Bookmaker B at 1.53, the return would be £153.

55.6.4 If £40.26 were successfully placed on Player Y with Bookmaker A at 3.8, the return would also be £153.

55.6.5 Accordingly, in this example the sum of £140.26 has been staked, with a guaranteed return of £12.74.

55.7 Arbitrage betting in tennis is very common because (a) there are only two outcomes to a match and (b) the prices fluctuate enormously during a match, presenting a large number of potential arbitrage opportunities.

D SALE OF LIVE SCORING DATA TO DATA SUPPLIERS AND BETTING OPERATORS

56. In-play betting depends on live scoring data, and the increased availability and dissemination of such data has proliferated in-play betting in tennis. As set out above, it is estimated that in-play betting accounts for approximately 80%⁵⁴ of all betting on tennis.

(1) LIVE SCORING DATA

57. In the context of tennis, live scoring data consist of real-time information relating to the score of a match (such as the game or set score). It may also include other granular items such as the occurrence of faults or aces, as such contingencies may be the subject of bets.
58. The provision of live scoring data allows in-play markets to range from main markets (such as the match and set betting markets) to derivative markets (such as those that revolve around particular points in a game). The number and type of markets on offer will vary among betting operators and are often impacted by the type or popularity of an event.
59. Outside of the context of in-play betting markets, live data encompass a wealth of other information. Pre-match live data can include adverse weather conditions and the winner of a coin toss. In-match live data can include ball changes, code violations, toilet breaks and changes of attire.

(2) MECHANISMS FOR THE PROVISION OF LIVE SCORING DATA

60. Live scoring data are collected and processed in real-time in order to facilitate onward supply that is as quick and accurate as possible.

Official Live Scoring Data Collection and Dissemination

61. The live scoring data collected by those engaged by an International Governing Body is referred to as 'official' live scoring data. Supply agreements concerning such data may be exclusive or non-exclusive in nature.
62. The International Governing Bodies have each sold official live scoring data rights to their respective tournaments or competitions on an exclusive basis.
63. Under the official live scoring data agreements currently in force, data are collected in-venue by chair umpires using mobile technology loaded with software designed specifically for this purpose⁵⁵. This is currently considered the fastest and most accurate method of data collection. The mobile technology utilised is that of a Personal Digital Assistant ("PDA"), otherwise known as a tablet computer.
64. The costs associated with purchasing the requisite technology (and the costs of implementing the technological infrastructure generally) can be borne by either party to the official live scoring data supply agreement, and this will be reflected in the value of the agreement.
65. Chair umpires receive training on how to use the technology. In some cases, umpires' data input performance is measured against set criteria that relate predominantly to the speed and accuracy with which umpires collect the data.

⁵⁴ Statement of David Lampitt (Sportradar).

⁵⁵ By way of example, Sportradar utilises its "ITFScorer" technology to collect data pursuant to its agreement with the ITF.

66. Official live scoring data collection is said to provide “a secure and reliable data feed that enables bookmakers to offer betting and manage their risk”⁵⁶. Further, it is said to have “made betting on tennis more secure and reliable for bookmakers and bettors alike”⁵⁷ as it helps disrupt the activities of unofficial live scoring data providers who “have limited or no controls over quality or reliability of output (potentially leaving bookmakers open to risk or market abuse)”⁵⁸ and “made the practice of courtsiding more difficult thereby ensuring that bettors have fair pricing in the markets and are not open to market abuses via betting exchanges”⁵⁹.

Unofficial Live Scoring Data Collection and Dissemination

67. Live scoring data are also collected on an ‘unofficial’ basis.
68. Unofficial live scoring data may be collected by scouts, namely individuals who are at the venue and collect live scoring data utilising their own data collection technology. Others collect the data via a live stream or broadcast feed. The latter is often subject to a delay, sometimes deliberately so as to increase the value of and to protect the official live scoring data.
69. Many sports data companies engage in both official and unofficial data collection⁶⁰.
70. Data ‘scraping’ is another common method which involves live scoring data being taken, or scraped, from a website or application.
71. Unofficial live scoring data collection and courtsiding are two concepts that are often conflated, leading to confusion about the distinction between the two. For the purposes of the Review, the term courtsiding is used to describe the practice by which individuals seek to establish a time advantage that provides an opportunity to capitalise on resulting odds discrepancies in a market that has yet to digest the new data, an advantage that is then used against betting operators and on betting exchanges⁶¹. References to unofficial live scoring data collection, on the other hand, relate primarily to those collecting live scoring data via the methods outlined above on behalf of data companies (that do not have an official live scoring data deal) or betting operators (that choose to collect live scoring data themselves rather than source their live scoring data from official providers of that data).

(3) MONETISATION OF LIVE SCORING DATA RIGHTS

72. The sale of official live scoring data is now common. It is typically purchased by companies specialising in the collection, analysis and onward sale of sports data. In tennis, examples of such companies include IMG and Sportradar.
73. Sports data companies generate revenue by supplying the official live scoring data they collect to betting operators and other gambling industry customers, enabling those entities to offer in-play betting markets on tennis matches. The live scoring data that is sold can be tournament specific or, alternatively, live scoring data can be provided as part of multi-tournament or even multi-sport bundles.
74. Betting operators and other gambling industry customers may prefer official live scoring data to unofficial live scoring data because it is provided quickly and accurately. The quality of unofficial live scoring data may vary and be unreliable.

⁵⁶ Statement of David Lampitt (Sportradar).

⁵⁷ Statement of David Lampitt (Sportradar).

⁵⁸ Statement of David Lampitt (Sportradar).

⁵⁹ Statement of David Lampitt (Sportradar).

⁶⁰ Statement of David Lampitt (Sportradar).

⁶¹ See Section E below for further discussion on the practice of courtsiding.

There is also an increased risk that the data will be manipulated by those seeking to gain an improper advantage from slow or unreliable data⁶².

(4) RELATIONSHIP BETWEEN LIVE SCORING DATA AND LIVE BROADCAST FEEDS

75. International Governing Bodies sell the live broadcast feeds to their events. This raises the profile of their events.
76. The broadcast often includes live statistical data about each player's performance, such as the number of aces, total unforced errors and first service points won. IBM works with each Grand Slam tournament organiser to collect this data for matches at their respective Grand Slams⁶³.
77. In addition to live broadcast feeds, the International Governing Bodies also sell live streaming rights. Live streaming rights are typically purchased by companies specialising in sports data or sports media, who then sell this feed on to betting operators. Betting operators may show the feed on the betting platforms on which they offer betting markets. Betting operators believe that bettors will generally place more bets if they are able to view the match live.
78. It is important for the live video feed and the live scoring data feed to be synchronised. Consequently, they are often sold to the same company so that it is able to package the two feeds together for onward sale to betting operators and other gambling industry customers.

(5) BETTING ON TENNIS PRIOR TO THE SALE OF OFFICIAL LIVE SCORING DATA

79. Prior to the sale of official live scoring data by the International Governing Bodies, betting operators could only offer in-play betting markets if: they entered into a live scoring data sale agreement with an individual tournament for the supply of its live scoring data; they purchased live scoring data from an unofficial source, they themselves sent scouts to collect live scoring data; the match was available on a live broadcast or the live scoring data were capable of being instantly 'scraped' from an online source⁶⁴. None of these routes were considered as effective or attractive as the sale of official live scoring data, due to the potential for delay and/or inaccuracy, or their limited nature.
80. The Panel has seen evidence of betting at all levels of tennis prior to the sale of official live scoring data, although the extent of that betting varied significantly:
 - 80.1 The Grand Slams were widely covered by the betting markets.
 - 80.2 At the Tour level, the evidence suggests that there was significant coverage. A document prepared for the ATP in 2011 stated that Betfair had recently announced that it had matched bets worth more than \$1.5m for 333 ATP and WTA matches. Further, as described in Chapter 7, in the period prior to the TIU being established the ATP had received a significant number of betting alerts.

⁶² The prevalence of this issue is likely to be limited. The business model of those supplying unofficial live scoring data largely relies on the quality of the unofficial live scoring data provided. Infiltration of their scouting network by individuals whose aim is to expose betting operators in the market via the time advantage gained by the practice of courtsiding will ultimately materially damage their business. As such, extensive efforts are made by unofficial live scoring data suppliers to create and maintain a reliable scouting network. Statement of David Lampitt (Sportradar).

⁶³ Statement of Mark Crawley (IBM).

⁶⁴ Statement of Murray Swartzberg (ATP).

80.3 The evidence received by the Panel suggests that, as early as 2003, betting operators set out to use ATP Challenger events to fill the time gaps in their offerings at times when there were no available Tour events on which to create betting markets⁶⁵. By 2011 the ATP Live Scoring Centre included live scoring for 53% of ATP Challengers, enabling data companies to scrape the data so it could be repackaged and sold to the betting industry.

80.4 The Panel has also received evidence that betting operators offered in-play betting markets on ITF matches before the ITF official live scoring data deal in 2012. The ITF informed the Panel that a number of tournaments in Turkey, Italy, Germany, France, and Sweden had individual live scoring data deals⁶⁶. Sportradar also told the Panel that it offered coverage on over 7,000 ITF Pro Circuit matches in 2011⁶⁷. This coverage was, at least in part, due to the individual live scoring data deals that Sportradar had in place with tournaments. Notwithstanding, the Panel has seen little empirical evidence that betting was widespread on the lowest levels of ITF tournaments before the ITF official live scoring data deal in 2012. As addressed in Chapter 7, the ITF had no record of receiving betting alerts prior to 2009.

(6) HISTORICAL AND CURRENT OFFICIAL LIVE SCORING DATA AGREEMENTS

The ATP/WTA and Enetpulse/IMG (ATP/WTA Tours and ATP Challengers)

81. In 2010, the ATP began to consider collecting and distributing official live scoring data to betting operators⁶⁸. Murray Swartzberg (Senior Vice President – Information Technology, Digital and Social Media & Data Distribution) of the ATP told the Panel that *“the ATP and WTA’s intention behind selling the data was to clean up the existing betting market by providing official data to betting operators within one second of the umpire inputting the score into the system. This is known as the ‘one second market’”*⁶⁹.

82. As part of this process, Mr Swartzberg consulted Jeff Rees (Director of the TIU at this time) about the provision of official live scoring data to the betting market. Mr Swartzberg stated that *“in 2010 I had a conversation with Jeff Rees (Director of the Tennis Integrity Unit (TIU) at the time) about the provision of official data to the betting market. Mr Rees expressed his concern about the poor standard of data available to the betting operators caused by delays in the transmission of data and inaccurate recording of the data. He believed that the betting market could be stabilised by ensuring that data was provided to all betting operators at the same time”*⁷⁰.

83. Mr Rees stated that *“the TIU was on the fringes of this issue. Murray Swartzberg, a Senior Vice President at the WTA and ATP, did consult me on some aspects, and I attended one lawyer’s meeting about the issue in London, but by and large I felt the sale or otherwise was a matter for the tennis governing bodies”*⁷¹. Mr Rees added *“I did repeatedly make the point, however, that the data should ultimately be available to anyone who wished to purchase it — media, tennis fans, pundits and so forth — and not be exclusive to the betting industry. I also made the point to Murray Swartzberg that the data should only be sold to betting operators who had entered into an MOU with the TIU”*⁷².

⁶⁵ Richard Ings, ‘Report on Corruption Allegations in Men’s Tennis’ (June 2005), Section C, paragraphs 151 to 165.

⁶⁶ Statement of Kris Dent (ITF).

⁶⁷ Statement of David Lampitt (Sportradar).

⁶⁸ Statement of Murray Swartzberg (ATP).

⁶⁹ Statement of Murray Swartzberg (ATP).

⁷⁰ Statement of Murray Swartzberg (ATP).

⁷¹ Statement of Jeff Rees (formerly of the TIU).

⁷² Statement of Jeff Rees (formerly of the TIU).

84. As to the sale of live scoring data generally, Mr Rees stated *“I was personally uneasy about the whole issue, as others were. However, I had thought, along with others, that the sale of electronically-produced data to customers who would receive it virtually instantly, would reduce the numbers of courtsiders. This would have positive implications for reports of allegedly suspicious betting patterns. However, at the time of my retirement the courtsider industry seemed to be thriving. Clearly some courtsiders’ paymasters were not prepared to pay for official live data or, as I had always suspected, were gaining benefits from courtsiders other than just instant scoring data”*.
85. The ATP engaged external solicitors to prepare a report on the commercial exploitation of ATP data, which was presented to the ATP Board in February 2011. This advice included an overview of relevant considerations. In addition to identifying commercial opportunities, the advice assessed integrity considerations. In relation to the ATP’s engagement with Jeff Rees it stated *“from an integrity standpoint, the Tennis Integrity Unit see no positive benefit from the existence of an unofficial data market and have indicated that they would be supportive of an official data scheme that was underpinned by initiatives taken to remove unofficial data collectors and other entities connected to illegal gambling from the venues”*.
86. In May 2011, the ATP and WTA circulated a Request for Proposal for exclusive worldwide distribution rights for ATP and WTA official live scoring data, which were ultimately sold to Enetpulse in a joint 5-year agreement, effective from January 2012 until 31 December 2016. The agreement granted Enetpulse the exclusive right to supply ATP and WTA official live scoring data to betting operators and other gambling industry customers.
87. In December 2014, the agreement with Enetpulse was extended until 31 December 2020. The extension will reportedly⁷³ generate more than \$30million in revenue for the ATP/WTA.
88. Enetpulse was acquired by IMG in 2012. In January 2015, the contracting Enetpulse entity acquired by IMG was renamed IMG Gaming Data APS.
89. The agreement with Enetpulse incorporated a number of safeguards in order to *“convince the Board that they could sell the rights to the data whilst still safeguarding against corruption”*⁷⁴. These included: (a) that Enetpulse could only sell data to betting operators that are licensed and regulated; (b) ensuring that betting operators purchasing the ATP’s live scoring data comply with the terms of a TIU Memorandum of Understanding; and (c) that Enetpulse would provide software and tools to help validate the accuracy and integrity of the scoring by umpires⁷⁵.

THE ITF AND SPORTRADAR (PRO CIRCUIT, DAVIS CUP AND FED CUP)

90. In or around 2011, after the ATP had begun to consider the issue, Jan Menneken (former ITF Commercial Director) first raised with the ITF Board the possibility of selling live scoring data. The ITF informed the Panel that the Board was concerned at the time about the growth of courtsiding and other unauthorised live scoring data collectors and that, accordingly, the ITF Board wished to regulate and establish control over the ITF’s data and to ensure that the ITF derived commercial benefit from its data⁷⁶.

⁷³ Daniel Kaplan, ‘ATP, WTA renew Enetpulse live-scoring deal’ (22 September 2014), available at: <http://www.sportsbusinessdaily.com/Journal/Issues/2014/09/22/Leagues-and-Governing-Bodies/ATP-WTA-data.aspx> [accessed 9 April 2018].

⁷⁴ Statement of Murray Swartzberg (ATP).

⁷⁵ Statement of Murray Swartzberg (ATP).

⁷⁶ Statement of Kris Dent (ITF).

91. The ITF informed the Panel that it already considered there to be significant betting at ITF events and that live scoring data was already being supplied to betting operators through individual agreements with national federations or by unauthorised data suppliers⁷⁷. The Panel has seen little empirical evidence that unauthorised live scoring data gathering was widespread on the lowest levels of ITF tournaments before the ITF official live scoring data deal in 2012.
92. The ITF Board resolved to gauge market interest in the sale of the ITF's live scoring data, so in August 2011 Mr Menneken instructed external solicitors to prepare a report for the ITF on the exploitation of live scoring data⁷⁸. The external solicitors instructed by the ITF had previously been instructed by the ATP to produce a report on the exploitation of the ATP's data.
93. The report prepared by the ITF's external solicitors covered a number of topics including: an overview of the sports data market and the opportunities for tennis in that market; collection and exploitation of ITF data; and operational risks, legal developments and ownership issues.
94. The report prepared by the external solicitors did not include a specific section dealing with integrity risks but addressed integrity measures briefly within a section titled "The Opportunities for Tennis".
95. Integrity issues were noted in the Executive Summary of the report. The report stated that *"there appears to be no overriding integrity reason to prohibit the ITF from supplying data to legal gambling operators"*. The report noted *"the Tennis Integrity Unit sees no positive benefit from the existence of an unofficial data market and would be keen to reduce the number of unofficial scouts at Tournaments, as their attendance can also lead to other integrity issues"*. This wording followed that which had been included in the report produced by the ATP and WTA, as quoted in paragraph 87 above. The report also stated that *"the refusal to supply official data to gambling operators would not actually prevent betting on tennis nor lessen the integrity risk"*⁷⁹.
96. From the evidence assessed by the Panel, it does not appear that the ITF consulted with the TIU as to the potential ramifications of the sale of official live scoring data. Mr Rees (Director of the TIU at this time) stated *"I do not recall anyone from the ITF speaking to me, certainly not formally, about the sale of their data"*⁸⁰.
97. The report prepared by the external solicitors and the proposition in general were discussed at several ITF Board meetings and the external solicitors were asked to prepare an invitation-to-tender document for dissemination to the market. Several companies expressed interest, and the live scoring data rights were ultimately sold to Sportradar⁸¹. The sale of the ITF's live scoring data rights to Sportradar was approved at the ITF Annual General Meeting in September 2011⁸².
98. The ITF entered in to its first official live scoring data agreement with Sportradar in 2012 for a term expiring in December 2016. This agreement granted Sportradar the exclusive right to, amongst other things, supply official live scoring data to betting operators and other gambling industry customers in countries where gambling is lawful.
99. A second agreement between the parties was signed in December 2015. This extended the partnership for a further four-year period (from 1 January 2017 until 31 December 2021). The second agreement will reportedly⁸³ generate US\$70m in revenue for the ITF.

⁷⁷ Response of the ITF to Notification given under paragraph 21 ToR.

⁷⁸ Statement of Kris Dent (ITF).

⁷⁹ Response of the ITF to Notification given under paragraph 21 ToR.

⁸⁰ Statement of Jeff Rees (formerly of the TIU).

⁸¹ Statement of Kris Dent (ITF).

⁸² Statement of Kris Dent (ITF).

⁸³ Scott Soshnick, 'Tennis Gamblers' Demand for Real-Time Betting Nets \$70 Million Deal for Second-Tier Circuit' (Bloomberg, 7 December 2015), available at: <https://www.bloomberg.com/news/articles/2015-12-07/tennis-gamblers-demand-for-real-time-betting-nets-itf-data-deal> [accessed 9 April 2018].

100. The Panel has not seen any evidence that the agreements between the ITF and Sportradar contain an equivalent safeguard as in the agreement between the ATP and Enetpulse/IMG ensuring that betting operators purchasing the ITF's live scoring data comply with the terms of a TIU Memorandum of Understanding.
101. The ITF informed the Panel that no betting operator to which ITF live scoring data has been supplied has ever failed to cooperate with the TIU on request⁸⁴. No additional evidence was provided to the Panel on this matter.

Grand Slams***AE LTC and IMG (The Championships, Wimbledon)***

102. AE LTC's agreement with IMG was entered in 2015 and runs until 2017. The agreement granted IMG the exclusive right to exploit live scoring data rights worldwide⁸⁵.

FFT and IMG (Roland-Garros)

103. FFT's agreement with IMG was entered in 2016 and runs until 2019. The agreement grants IMG both live scoring data and streaming rights for betting purposes.

Tennis Australia and Sportradar (Australian Open)

104. Tennis Australia's agreement with Sportradar was entered in 2016 and runs until 2019. The agreement granted Sportradar the exclusive right to distribute live scoring data rights worldwide.

USTA and IMG (US Open)

105. The USTA entered into an agreement with IMG in March 2011 in relation to broadcast rights to the 2013-2016 US Opens.
106. In June 2014, this agreement was amended to grant IMG the right to exclusively license live scoring data rights to any entity worldwide.
107. In March 2015, USTA entered in to a new agreement with IMG in relation to broadcast rights and live scoring data rights relating to the 2017-2025 US Opens.

(7) EVALUATION RELATING TO THE SALE OF OFFICIAL LIVE SCORING DATA

108. In the section below, the Panel evaluates the respective decisions taken by the International Governing Bodies to sell official live scoring data.
109. This section does not address the Panel's assessment as to how the International Governing Bodies should sell official live scoring data going forward. That assessment is set out in Chapter 14 and must be read in the context of the integrity problem presently faced by tennis (as addressed in Chapter 13).

ATP/WTA

110. The ATP and WTA were the first of the International Governing Bodies to decide to sell official live scoring data. In the present assessment of the Panel the steps taken by the ATP and WTA in relation to this decision were appropriate. In particular:

⁸⁴ Response of the ITF to Notification given under paragraph 21 ToR.

⁸⁵ Excluding the United States of America.

- 110.1 They engaged with the TIU in making their decision to sell their live scoring data.
- 110.2 The legal advice specifically addressed relevant integrity considerations.
- 110.3 As set out above, the situation faced appears to have involved a significant level of unofficial live scoring data gathering not only in relation to Tour events, but also at ATP Challengers and their WTA equivalents.

ITF

111. It presently appears to the Panel that the process through which the ITF decided to sell official live scoring data was deficient, particularly when compared with that of the ATP/WTA.
112. According to the evidence of Kris Dent, the ITF Board had concerns about the growth of scouting and the presence of other unauthorised data collectors, but it does not appear to the Panel that any assessment or analysis was undertaken as to the extent that scouting was actually impacting ITF events. As set out above, the Panel has seen little empirical evidence that betting, or unofficial live scoring data gathering, was widespread on the lowest levels of ITF tournaments before the ITF data deal in 2012.
113. The ITF acted appropriately in engaging external solicitors to assist in preparing a report. However, the report produced for the ITF did not sufficiently consider integrity and operational risks, including the likely result of greater betting on lower levels of tennis.
114. Whilst the report considered integrity measures in a general fashion (including existing anti-corruption measures and consideration of the benefits of direct engagement with the betting market via TIU MoUs), it did not in the Panel's view sufficiently address the potential impact that the sale of official live scoring data would have on the lowest level of professional tennis; namely, the proliferation of gambling on this level of tennis and what impact this could have on the workload of the TIU.
115. In light of the report's failure to consider these essential points, the Panel's view is that the report prepared for the ITF cannot be said to have addressed the benefits and risks of such data exploitation in a balanced and thorough manner.
116. ITF events account for tens of thousands of matches each calendar year. The standard of play and the quality of tournament facilities vary widely. It does not presently appear to the Panel that proper consideration was given as to whether it would be appropriate to sell official live scoring data to matches at all levels and for all matches, or whether, for example, official live scoring data should only be sold to particular events that met certain criteria. Instead it presently appears to the Panel that the decision was only ever binary; whether to sell ITF live scoring data or not, without the potential integrity consequences being given meaningful consideration.
117. Further, as set out above, from the evidence assessed by the Panel, it does not presently appear that the ITF consulted with the TIU as to the potential ramifications of the sale of its live scoring data, unlike the ATP. In the Panel's present assessment, the ITF should have done so. The ITF's approach precluded a meaningful discussion as to the integrity issues that could stem from selling live scoring data to the lowest level of professional tennis. It also precluded the formulation of appropriate protective measures designed to combat the integrity issues that should have been outlined in the report.
118. It was appropriate for the ITF Board to make the final decision on the sale of official live scoring data due to the significance of the decision. However, given the inadequacy of the report and the absence of consultation with the TIU, the ITF Board made its decision without a complete picture as to the impact the sale of official live scoring data may have on its events and the sport generally.

119. The ITF told the Panel that in providing a single regulated source of live scoring data, the ITF's agreement with Sportradar discouraged unauthorised live scoring data collectors and provided a mechanism by which the ITF could actively monitor and enforce integrity protection⁸⁶.
120. The ITF informed the Panel that the supply of official live scoring data serves a dual purpose:
- 120.1 That official live scoring data sales generate an increasingly valuable revenue stream⁸⁷. The ITF stated that 80% of the revenue it derives from its data agreements has been, or will be, distributed to national federations for purposes of reinvestment to the sport⁸⁸. In this regard, the ITF considers this revenue important to the long-term sustainability and development of the recreational and professional game⁸⁹.
- 120.2 That it protects the integrity of the sport. The ITF's position is that unofficial live scoring data collection leads to the creation of unregulated betting markets⁹⁰.
121. While the generation of revenue is desirable, it does not seem to the Panel that it can be at the expense of a significant increase in integrity issues, the possibility of which should have been properly and fully examined and weighed in the balance against the increase in revenue. And while official live scoring data sale may be desirable where there is already significant unofficial live scoring data gathering or a demonstrable prospect of it, it seem to the Panel that the extent and prospect of it at the ITF lowest levels should have been properly and fully examined.
122. The growth of betting alerts at the ITF lowest levels is addressed in Chapter 13. The ITF informed the Panel that any impact on the workload of the TIU as a result of the first official live scoring data agreement could not have been anticipated with any reasonable degree of accuracy, because of the lack of any pre-existing integrity monitoring and protection⁹¹. While the ITF contends that it could not have known that its sale of official live scoring data for thousands of matches would significantly increase the TIU's workload, in the Panel's present view, the ITF should have anticipated this impact or at least should have undertaken further assessment of the potential ramifications from its data sale agreements, including asking for the TIU's input which it did not do. Certainly by the time the ITF renewed its agreement with Sportradar in December 2015, there was already ample reason for concern about the impact of the ITF's data sales on tennis integrity⁹².

GRAND SLAMS

123. Grand Slam matches attract considerable interest from the betting market. In the present view of the Panel, betting and in-play betting would exist on the Grand Slams irrespective of whether the Grand Slams elected to sell official live scoring data. It was therefore appropriate for the Grand Slams to enter into contracts to sell that data, so to regulate the market.

⁸⁶ Response of the ITF to Notification given under paragraph 21 ToR.

⁸⁷ ITF Corporate Submission, paragraph 6 - Appendix: Key Documents.

⁸⁸ Statement of David Haggerty (ITF).

⁸⁹ Statement of Dr Stuart Miller (ITF).

⁹⁰ ITF Corporate Submission, paragraph 6 - Appendix: Key Documents.

⁹¹ Response of the ITF to Notification given under paragraph 21 ToR.

⁹² See Chapter 10 Part 2, Section E(f) for the Panel's evaluation of the impact of the sale of official live scoring data by the ITF on the TIU's resources. See Chapter 13, Section A(f) for analysis of the increase in betting alerts received by the TIU in relation to ITF matches.

E COURTSIDING

124. A courtsider is an individual viewing a match at the venue who uses mobile technology to transmit play-by-play scoring information to a third party as quickly as possible. For the purposes of the Review, the practice of courtsiding shall be distinguished from that of unofficial live scoring data collection⁹³.
125. Courtsiding is considered to be particularly straightforward and effective in tennis as the courtsider need only consider two contingencies for each point.
126. Before event organisers took steps to crack down on courtsiding, the individual usually sat in the crowd, entering the data into a laptop computer that transmitted the data to a third party. Once steps were taken to stop this practice the data were transmitted by more clandestine means, extending ultimately to concealed buttons in clothing and other concealed transmission devices.
127. The purpose of courtsiding is to collect and transmit play-by-play scoring information as quickly as possible, so that the recipients of the data can establish a time advantage that will allow them to exploit any resulting odds discrepancies in the betting markets. This time advantage can be so great that the bettor knows the outcome of a contingency before the betting operator has stopped taking bets on that contingency (such as a service game having been broken).
128. Data companies (and by association, the tennis governing bodies) make efforts to ensure that the official live scoring data stream is transmitted as quickly as possible to reduce courtsiding opportunities. Many betting operators now introduce a delay (usually of a few seconds) when a bet is placed on a live market to ensure that the bettor cannot exploit any advantage that may have been gained through courtsiding.
129. Courtsiding is not match-fixing. No steps are taken to alter the outcome of any point, set or match. The provision of information through courtsiding is not per se illegal, though the event's terms of admission to the venue may prohibit it contractually. If, however, a bet is placed on an event that has already taken place, local laws may render that illegal.
130. While efforts have been made to secure appropriate criminal legislation for sports integrity issues, current legislation does not yet criminalise the practice of courtsiding. However, extensive steps are taken, at least at the Grand Slam and Tour levels, to prevent courtsiding (and unofficial live scoring data collection). These steps include employing dedicated individuals tasked with spotting the perpetrators in the crowd and ejecting them from the venue⁹⁴. Implementation of such measures is often a contractual obligation imposed upon the relevant International Governing Body as part of an official live scoring data agreement.
131. Such steps are taken principally to protect the value of the official live scoring data stream that the data company has paid to secure, and they focus primarily on unofficial live scoring data collection rather than courtsiding, though the measures will impact both practices in the same way.
132. Courtsiding is an integrity issue for betting markets, rather than a threat by itself to the integrity of tennis. Courtsiders typically have little interest in the outcome of a match.

⁹³ Section D, paragraph 75 above.

⁹⁴ Statement of Matthew Drew (Perform).

F UNUSUAL AND SUSPICIOUS BETTING PATTERNS

133. An unusual betting pattern is commonly accepted by the betting industry to be a movement in the market that cannot obviously be explained, or a bet that is out of the ordinary. An unusual betting pattern may become, and subsequently be referred to, as a suspicious betting pattern if, after investigation, there is either a reason to consider the circumstances suspicious, or if the unusual circumstances cannot be attributed to innocent causes.
134. ESSA defines the two concepts as follows⁹⁵: “A betting pattern is deemed unusual or suspicious when it involves unexpected activity with atypical bet sizes or volumes that continue – even after significant price corrections have been made in order to deter such activity in the market. A betting pattern is only confirmed as suspicious after ESSA has made detailed enquiries with all of its members to eliminate any prospect that the unusual patterns could be for legitimate reasons, such as pricing the market incorrectly”⁹⁶.

(1) UNUSUAL BETTING PATTERNS

135. There is no common agreed exact definition of what constitutes an unusual betting pattern. Whilst there is a significant amount of common ground within the betting and integrity communities, the circumstances that lead to a particular betting pattern being identified as unusual will vary. Each betting operator will have a slightly different approach and different internal processes in place.
136. Common examples of why a betting pattern may be identified as unusual include one or more of the following:
- 136.1 The volume of bets or the amount staked being higher than similar events in the past.
 - 136.2 Significant bets, or a significant number of bets, that are contrary to a players’ rank or form (such as a number of large bets being placed on an outsider).
 - 136.3 Repeated bets being placed despite the odds shortening significantly. In other words, bets being placed apparently without the bettor having due regard to the price being offered.
 - 136.4 Circumstances where a number of betting accounts that are linked (often by IP address or geography) place the same bets at similar times or place bets on markets that are not common or popular (such as a player to win a particular point).
 - 136.5 Markets in which there is a greater than usual preponderance of winning bets.
 - 136.6 Circumstances where an individual places a bet that does not match his or her usual betting activity (such as a bet that is significantly larger).
 - 136.7 Activity involving recently opened accounts (such as where a new account is opened and the first bet is large).
 - 136.8 Repeatedly placing a bet with the maximum allowed stake (such as bets up to the cap set by the betting operator for a particular market).

⁹⁵ ESSA, ‘ESSA Q1 2016 Integrity Report’, available at: <http://www.eu-ssa.org/wp-content/uploads/ESSA-Q1-2016-Integrity-Report.pdf> [accessed 9 April 2018].

⁹⁶ In addition to the definitions outlined by ESSA, the Macolin Convention defines the two concepts as follows: (a) “irregular sports betting” shall mean any sports betting activity inconsistent with usual or anticipated patterns of the market in question or related to betting on sports competition whose course has unusual characteristics and; (b) “suspicious sports betting” shall mean any sports betting activity which, according to reliable and consistent evidence, appears to be linked to a manipulation of the sports competition on which it is offered.

137. Betting operators use a number of different resources to identify unusual betting patterns, including:
- 137.1 Data relating to a customer's betting history. This information is used to build a profile and to gain an understanding of what type and size of bet the individual in question is likely to place.
 - 137.2 Historic data indicating how similar markets have been traded in the past.
 - 137.3 Live monitoring tools and computer software that uses and analyses the data to identify unusual betting patterns. For betting operators who do not have this resource internally, there are companies that offer this service to betting operators.
 - 137.4 The judgment and experience of traders or betting analysts.
 - 137.5 Movements in the wider betting market (such as movements in the prices being offered by other betting operators or exchanges).
 - 137.6 Live monitoring of the sports event in question to determine whether there is, for example, a player injury that has not been reflected in the current odds.

(2) SUSPICIOUS BETTING PATTERNS

138. Once an unusual betting pattern has been identified, it is reviewed to determine whether it is considered suspicious. The nature and extent of the unusual betting pattern is examined against any relevant information available to a betting operator in an attempt to evaluate whether its status should be elevated from "unusual" to "suspicious". The following are examples of considerations that may be taken into account:
- 138.1 Determining the level of bettor confidence in the outcome. This will include an evaluation of the amount risked and the price offered. For example, placing large sums on odds that have shortened significantly is a prime example of the bettor being confident in the outcome regardless of the return.
 - 138.2 The timing of the bet and whether the timing of the bet is significant when compared to the events on the court. For example, very specific successful bets on specific events during the course of play may suggest a predetermined outcome.
 - 138.3 If there has been previous unusual or suspicious betting on matches involving particular players or at particular tournaments.
 - 138.4 If the unusual betting pattern relates to an account, location or pattern that has previously been identified as unusual or suspicious.
139. Again, the way in which a betting operator conducts this evaluation differs depending on the betting operator in question. The following are common steps or processes:
- 139.1 Typically, if the pattern has been identified by a computer it will first be reviewed by a human trader or analyst.
 - 139.2 Often, the alert will then be reviewed by a more senior member of the trading team before a third party, such as the TIU or ESSA, is notified.
 - 139.3 A betting operator may involve an integrity team (either in-house or external) in determining whether the alert is suspicious.
 - 139.4 In making the decision, it may be relevant whether other betting operators have identified similar patterns. The sharing of information among betting operators is facilitated by platforms such as ESSA.

(3) EXPLAINING UNUSUAL BETTING PATTERNS

140. Unusual betting patterns may be caused by reasons unrelated to a breach of integrity that can be identified following the investigation referred to above. These causes may include:⁹⁷
- 140.1 The betting market has not been priced correctly, leading to a higher volume of bets than expected as bettors take advantage of the price. This could be due, for example, to human error or a lack of knowledge of a trader, or due to a problem with the data feed on which the market odds are based.
 - 140.2 An error by a bettor who mistakenly places a bet that does not match his typical betting profile.
 - 140.3 A flurry of bets placed by a number of individuals following the lead of another individual they consider to be sophisticated or a tip in the media.
 - 140.4 A number of individuals being better informed than the betting operators about such factors as the players' current form, surface preference or injury status. This may lead to a higher volume of bets than expected as bettors take advantage of this opportunity.
 - 140.5 A player playing unexpectedly poorly due, for example, to injury or personal problems.
 - 140.6 The inadvertent leak of inside information as to form or injury.
141. In addition to these possible innocent explanations, unusual betting patterns can arise from circumstances other than match-fixing, such as individuals having quicker access to information or scoring data, through courtsiding, and exploiting this advantage, thereby causing greater losses than expected on a particular market.
142. The examples given above are all causes that may come to light after an investigation of the circumstances. The mere fact of an unusual betting pattern does not, in isolation, establish that a match has been fixed or that a related integrity issue has arisen.

(4) ESCALATION FROM UNUSUAL TO SUSPICIOUS

143. If an innocent cause cannot be identified a betting pattern may then be characterised as suspicious. Even then, a suspicious betting pattern is not generally conclusive evidence of match-fixing or a related breach of integrity, and it does not establish the nature of the potential wrongdoing. The following are examples of behaviour that could have caused the suspicious betting pattern:
- 143.1 The deliberate communication of inside information as to form or injury, possibly for reward. This information may then be used by bettors and result in unusual betting patterns because they have bet with greater confidence than usual;
 - 143.2 A prior decision by a player to lose or to retire for reasons other than financial reward. A player may, for example, decide to lose a match due to scheduling concerns, wanting to travel home from a tournament abroad or because he or she has lost in the singles and does not wish to continue competing in the doubles. This information may then be used by bettors who predict, or know of, such circumstances, again resulting in unusual betting patterns because they have bet with greater confidence than usual; and/or
 - 143.3 Finally, and most seriously, circumstances where the player agreed to fix a match in return for financial reward.

⁹⁷ Carl Bialik, 'Why Betting Data Alone Can't Identify Match Fixers In Tennis', (FiveThirtyEight, 21 January 2016) available at: <http://fivethirtyeight.com/features/why-betting-data-alone-cant-identify-match-fixers-in-tennis/> [accessed 9 April 2018].

(5) BETTING OPERATOR RESPONSES TO SUSPICIOUS BETTING PATTERNS

144. Each betting operator deals with suspicious betting patterns in a different way, although there is substantial common ground. One or more of the following are common reactions where a betting pattern has been identified as suspicious or where there are integrity concerns:
- 144.1 The market may be suspended with no further bets accepted by the betting operator.
 - 144.2 Existing bets may be voided and winnings not paid.
 - 144.3 The betting accounts in question may be closed, suspended, or monitored by the betting operator.
 - 144.4 Betting operator traders may be aware that there are concerns about particular players or tournaments and may either not offer a market at all or apply restrictions. For example, limits may be placed on how much can be bet on a given market; such restrictions can apply either to individual gamblers or to the whole market. This approach is commonly used by betting operators to manage their exposure and commercial risk.
 - 144.5 The betting operator may choose to report the suspicious betting pattern to an interested party such as the TIU, ESSA, the relevant regulator and/or law enforcement agencies. In some cases this is done pursuant to a Memorandum of Understanding that the betting operator has in place with the third party in question. Equally, the betting operator may choose not to report.
145. The reporting of betting patterns can be affected by the betting operator's perceived interests and tolerance level. Thus:
- 145.1 There may be under-reporting. There are instances when suspicious betting patterns do not meet reporting thresholds that would trigger reporting by law or to the relevant regulator. In such circumstances, betting operators may report to ESSA instead⁹⁸. However, not every betting operator is a member of ESSA.
 - 145.2 There may be over-reporting. A betting operator with a low tolerance level might develop a predisposition against particular players or groups of players that it regards as questionable; once a player has been the subject of a report, another may be more likely to follow. Due to the varying processes of identifying unusual and suspicious betting activity, operators will have different thresholds as to the level of activity that is reportable.
 - 145.3 There may be instances where some betting operators are prepared to tolerate some betting by suspect accounts, including because of the additional information such betting provides the operator.
 - 145.4 There are of course, suspicious betting patterns that are simply not detected. Despite the great advances in technology and knowledge, it can be challenging to identify wrongdoing if fixers understand the risk management processes of their chosen betting operator (or indeed monitoring service) and are keen to avoid detection.
 - 145.5 Finally, because suspicious betting activity on the illegal betting markets is often extremely difficult to detect due to the high liquidity of the markets, it will rarely be reported.
146. Betting operators have varying levels of commitment to tackling integrity issues.⁹⁹ That said, the majority of established betting operators recognise that it is in the betting industry's interest to report and monitor suspicious betting activity—because they ultimately suffer financial losses due to such activity and the impact such activity has on the liquidity of the betting markets—and to work with regulators and law enforcement to tackle integrity issues.

⁹⁸ Statement of Bill South (William Hill).

⁹⁹ Statement of Richard Watson (UK Gambling Commission).

G REPORTING OBLIGATIONS OF BETTING OPERATORS

147. An important part of the regulatory framework imposed on betting operators offering sports betting is the obligations placed upon them to report suspicious betting patterns to third parties, such as the TIU, gambling regulators and/or law enforcement agencies. Betting operators have access to information about betting and bettors that can play a valuable role in taking effective action against those guilty of match-fixing.
148. There are three key elements to consider under this heading:
- 148.1 The first is the regulatory framework where the betting operator is licensed.
- 148.2 The second is data protection. In many jurisdictions national law regulates how personal data are shared among and between parties.
- 148.3 The third is contractual obligations. It is common for betting operators to have agreements in place with sports governing bodies that include various reporting obligations.
149. The way in which these three elements interact often dictates what a betting operator is obliged to report. The examples of the United Kingdom and Gibraltar are outlined below to illustrate how these elements can interact.

United Kingdom

150. At 9 April 2018, the relevant statutory provisions are the Gambling Act 2005 and the Data Protection Act 1998. The Data Protection Act 1998 will be replaced in the UK by the General Data Protection Regulation.
151. The Gambling Act 2005 is subject to the Data Protection Act 1998¹⁰⁰. The Data Protection Act 1998 permits betting operators to disclose personal data of bettors only in certain circumstances, including where the individual has “given his consent”¹⁰¹, where it is necessary for the “administration of justice”¹⁰² or where it is in pursuit of a “legitimate interest”¹⁰³.
152. By agreeing to the betting operator’s Terms and Conditions (which a customer is obliged to do before placing a bet), the customer typically gives consent for the purposes of the Data Protection Act 1998¹⁰⁴. In addition, the Memoranda of Understanding between betting operators and the TIU typically provide that data are provided by the betting operator in pursuit of a legitimate interest.

¹⁰⁰ Gambling Act 2005 s352.

¹⁰¹ Data Protection Act 1998 sch 2 para 1. The Data Protection Act does not define consent. The European Data Protection Directive (which the Data Protection Act gives effect to) defines an individual’s consent as: “any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed”. The Information Commissioners Office (ICO) website contains a “guide to data protection”, which states that “this suggests that the individual’s consent should be absolutely clear. It should cover the specific processing details; the type of information (or even the specific information); the purposes of the processing; and any special aspects that may affect the individual, such as any disclosures that may be made.”

¹⁰² Data Protection Act 1998 sch 2 para 5(a).

¹⁰³ Data Protection Act 1998 sch 2 para 6(f).

¹⁰⁴ Ladbroke’s Terms and Conditions permit it to process personal data in accordance with its Privacy Policy (paragraph 21.2) and to share personal information with “...sporting bodies and other bodies...in order to investigate...sports integrity issues” (paragraph 21.3). Its Privacy Policy states that Ladbrokes may share information for the purposes of “...protecting sports / games bodies, sporting bodies...” (paragraph 2.1). The policies are dated 28 February 2018 and 3 October 2011, respectively.

Chapter 03

153. The next step is to consider what a betting operator is obliged to report. Where a betting operator is licensed pursuant to the terms of the Gambling Act, the Gambling Commission may specify conditions to be attached to the betting operator's licence¹⁰⁵. One such condition is to require the reporting of suspicious offences, including an obligation:
- 153.1 to provide the Gambling Commission with any information from whatever source that (a) may relate to the commission of an offence under the Gambling Act 2005 or (b) may lead the Gambling Commission to order that a bet is void¹⁰⁶; and
- 153.2 to provide the relevant sport's governing body with "sufficient information to conduct an effective investigation" if the licensee suspects that it has any information from whatever source that may relate to "a breach of a rule on betting applied by that sport governing body"¹⁰⁷. It is worth noting that this obligation or variations of it have been in place since 2007.
154. In addition to this statutory obligation, most betting operators have a Memorandum of Understanding with the TIU that places an additional obligation on them to provide information¹⁰⁸. These agreements typically take the same form and, in summary, oblige the betting operator to provide the TIU with betting related information to assist the TIU in conducting investigations into possible breaches of the rules governing tennis.

Gibraltar

155. In Gibraltar, the relevant statutory provisions are the Gambling Act 2005 and the Data Protection Act 2004.
156. The exceptions under the Data Protection Act 2004 are materially the same as those in the United Kingdom, although the exception relating to consent is worded slightly differently and provides that the individual must have "unambiguously given his consent"¹⁰⁹. Typically, permission is addressed in the betting operator's terms and conditions¹¹⁰. However, the Gibraltar Gambling Division takes the position that requiring a bettor to agree to standard terms and conditions is not sufficient to meet the test for consent set out in either the Gambling Act 2005 or the Data Protection Act 2004¹¹¹. In these circumstances, the betting operator must rely on one of the other two exceptions, namely that disclosure is either necessary for the "administration of justice" or is in pursuit of a "legitimate interest".
157. The position under the Gibraltar Gambling Act 2005 is materially different from British law; it states that information about bettors must be kept confidential unless the disclosure (a) is "approved in writing by the participant" or (b) is "required in order to comply with a provision made by or under this or any other Act or is related to an official investigation"¹¹². Unlike in the United Kingdom, the regulatory framework does not place a positive obligation on a betting operator to disclose information in certain circumstances, but instead states that the information must be kept confidential, save for certain exceptions.

¹⁰⁵ Gambling Act 2005 s75.

¹⁰⁶ Gambling Commission, 'Licence conditions and codes of practice' (January 2018), License Condition 15.1.2 para 1.

¹⁰⁷ Gambling Act 2005 s88. Gambling Commission, 'Licence conditions and codes of practice' (January 2018), License Condition 15.1.2 para 2. The relevant sport governing bodies listed in the Gambling Act 2005 (part 3, sch 6) includes the Lawn Tennis Association. A Gambling Commission consultation document dated 9 November 2016 proposed that the TIU be added to the list of governing bodies in the Gambling Act 2005. To date, the TIU has not been added.

¹⁰⁸ In addition, the Memorandum of Understanding between the TIU and the betting operators generally deal with the Data Protection Act as well and state that the provision of data (i) is necessary for the legitimate interests pursued by one or more of the parties (which are not overridden by the interests or fundamental rights and freedoms of the individuals to whom the information relates); and (ii) in the case of the sharing of information relating to alleged criminal offences and/or special categories of data (as defined in the Data Protection Directive), is (a) in accordance with any explicit consent obtained from individuals to whom the information relates; and/or (b) is in the substantial public interest, is necessary for the prevention, detection or investigation of any unlawful act and must necessarily be carried out without the explicit consent of the individual to whom the information relates so as not to prejudice those purposes.

¹⁰⁹ Data Protection Act 2004 s7(1)(a).

¹¹⁰ William Hill's Terms and Conditions permit it to process personal data for the purposes set out in its Privacy Policy (paragraph 23.4.1). Its Privacy Policy states that William Hill collects personal information in order to act "to protect the interests of sports governing bodies or other qualified bodies" (paragraph 3.2.9). This version is dated 20 October 2017.

¹¹¹ Statement of Phill Brear (Gibraltar Gambling Division).

¹¹² Gambling Act 2005 s30.

158. The Gambling Commissioner's Code of Practice suggests that an official investigation is limited to "where an external court or law enforcement agency seeks access to personal information about a customer on the basis it is required in connection with the investigation of a criminal offence"¹¹³.
159. A betting operator licensed in Gibraltar is therefore permitted to share data with the TIU in the circumstances set out above, but is not obliged to as far as national law is concerned.
160. The Gambling Commissioner requires the TIU, and any other sports governing bodies to make any requests for personal information through the Gambling Commissioner and their team, rather than directly to the betting operator in question¹¹⁴. The Memorandum of Understanding in place between the Gibraltar Gambling Commissioner and the TIU provides that information can be shared between those parties where there are any reasonable suspicions of irregular betting activity in respect of events to which the Tennis Anti-Corruption Programme rules apply.

¹¹³ Gibraltar Gambling Commissioner, 'Code of Practice for the Gambling Industry – The Generic Code – v1.0.2012', para 10.3. The full reference is as follows: "The Commissioner is mindful that advice on data protection rests with the data protection commissioner and it would be inappropriate to attempt to replicate his advice in this document. However, certain gambling specific matters have been raised that are worthy of general guidance. Where an external court or law enforcement agency seeks access to personal information about a customer on the basis it is required in connection with the investigation of a criminal offence, the licence holder should exercise considerable care before any such data is released. The requesting party is also likely to be bound by data protection or a duty of confidentiality and may not be able to disclose the full reasons for requesting the data." Whilst the reference is made in the context of data protection, it gives an indication of what is considered to be an official investigation.

¹¹⁴ Statement of Phill Brear (Gibraltar Gambling Division).