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# Integrity Issues in Tennis

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Independent  
Review  
of Integrity  
in Tennis

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1. The Independent Review Panel (the “Panel”) addresses below integrity issues that arise in the context of tennis and that fall within the factual ambit of this Independent Review of Integrity in Tennis (the “Review”)<sup>1</sup>. This covers match-fixing or spot-fixing for betting or other corrupt purposes, contriving the result of a match for other reasons, the use and provision of inside information<sup>2</sup>, betting by players and other participants, delay in entering or manipulation of the score by officials, actions of players and others that encourage or facilitate betting by others, sponsorship of players and others by betting operators, inappropriate provision of accreditation, sale of wildcards<sup>3</sup>, failure to report approaches and breaches of integrity by others, failure to cooperate and assist in investigations, association with those involved in gambling, and lastly the possibility of a residual category of actions that affect integrity but do not fall within the specific categories.
2. The Panel’s analysis below includes the harm to tennis caused by, and the particular susceptibility of tennis to, such conduct.

**Q 4.1** Are there other matters of factual investigation or evaluation in relation to the types of integrity issue addressed below that are relevant to the Review and that should be addressed in the body of the Final Report, and if so which, and why?

**Q 4.2** Are there any aspects of the Panels’ provisional conclusions in relation to those types of integrity issue that are incorrect, and if so which, and why?

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<sup>1</sup> See the introductory Chapter 1, Section C for the factual ambit of the Review.

<sup>2</sup> The term “inside information” is variously defined in different rules, but broadly refers to information that a person has by virtue of his or her position in relation to the competition, which is not in the public domain.

<sup>3</sup> Places in the main draw of an event may be reserved for “wildcards”. Wildcards are awarded to players at the discretion of the tournament organisers. Players awarded wildcards do not have to be sufficiently highly ranked, nor do they have to have played in the qualifying competition.

**A MATCH-FIXING FOR BETTING OR OTHER CORRUPT PURPOSES**

3. The paradigm breach of integrity by a player is where the player deliberately loses a match, or part of it<sup>4</sup>, for betting or for other corrupt purposes. The player may deliberately 'fix' or engineer the result of the match, or part of it, in order to enable himself, or others, to make a profit by betting on an outcome that is certain, or as near to certain as possible. The corrupt motivation may however be other than betting, such as an agreement between players to facilitate one winning and securing ranking points in return for paying the additional prize money earned to the loser.
4. Such match-fixing is the most serious breach of integrity, though clearly there may be gradations, depending on the precise facts.
5. The Tennis Anti-Corruption Program ("TACP") addresses match-fixing by providing that "*No Covered Person<sup>5</sup> shall, directly or indirectly*" do any of the following: "*contrive or attempt to contrive the outcome or any other aspect of any Event<sup>6</sup>*"; "*solicit or facilitate any Player to not use his or her best efforts in any Event<sup>7</sup>*"; "*solicit or accept any money, benefit or Consideration with the intention of negatively influencing a Player's best efforts in any Event<sup>8</sup>*"; or "*offer or provide any money, benefit or Consideration to any other Covered Person with the intention of negatively influencing a Player's best efforts in any Event<sup>9</sup>*". The first prohibition therefore covers a player acting so as, or attempting, to fix a match or part of it; the second covers others asking the player to do so or acting as an intermediary; and the third and fourth cover asking for or receiving and offering or paying a reward in return for a player do so, whether he or she does so or not.

**(1) HARM CAUSED TO TENNIS BY MATCH-FIXING**

6. Serious harm is caused to tennis by players making and acting on a decision deliberately to lose in order to fix a match, or part of it, for betting or other corrupt purposes<sup>10</sup>. Such conduct is deeply inimical to the nature of a professional tennis match as a genuine sporting contest between two individuals trying their best to win. It cheats other players, as it interferes with the proper functioning of the ranking system and artificially inflates the performance of the player who wins<sup>11</sup>. It cheats the public, tournament organisers, broadcasters, sponsors, and the sport as a whole, all of whom or which have invested in the match on the basis that it is a genuine contest. The public will not attend as spectators or watch broadcasts on television or on the internet, if they consider that what they are watching may not be a genuine contest. If the public loses interest, then with the public go broadcasters, sponsors and advertisers, and the commercial basis of the sport collapses. Such conduct also corrupts the players involved and places them, and other players, in an unsafe environment. It exposes players to approaches, it brings in criminal elements, and it exposes players, once they have succumbed to temptation, to blackmail. It distorts the betting market, depriving not only betting operators, but also some bettors, of their fair return. Such conduct discourages young athletes from taking up the sport, and causes the grass roots of the sport to wither.

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<sup>4</sup> Chapter 3, Section C(3) for discussion regarding the range of bets that can be made other than on the final outcome of the match.

<sup>5</sup> TACP (2018), Section B.6: available at <http://www.tennisintegrityunit.com/storage/app/media/TIU%20Documents/TACP.pdf> [accessed 9 April 2018].

<sup>6</sup> TACP (2018), Section D1.d.

<sup>7</sup> TACP (2018), Section D1.e.

<sup>8</sup> TACP (2018), Section D1.f.

<sup>9</sup> TACP (2018), Section D1.g.

<sup>10</sup> Council of Europe, Explanatory Report to the Council of Europe Convention on the Manipulation of Sports Competitions, Magglingen, CETS 215 (18 September 2014) page 2, paragraph 6, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800d383f> [accessed 9 April 2018]. See also Lewis and Taylor: Sport Law and Practice, 3rd Edition 2014 Bloomsbury, Chapter B2 Match-Fixing and Related Corruption in Sport, page 205, paragraph B2.1.

<sup>11</sup> In the particular context of 'sale' of a main draw place by a lucky loser, it has the more direct effect of depriving the second most highly ranked loser of a place: see Chapter 2, Section G(i).

7. Some may take the view that a low level of such behaviour is, while to be condemned, inevitable, and should not lead to the imposition of measures that interfere in the privacy and other rights of (often innocent) players, or that deprive the sport of much needed funds for grass roots development. This view draws on the proposition that if a player chooses to lose it is only that player and those who have taken the risk of betting or taking bets who suffer directly<sup>12</sup>. It also draws on the proposition that spectators<sup>13</sup> very rarely if ever realise when a match or part of it is being fixed, and are equally entertained. Where a player fixes only part of a match, it may well not even affect the result: indeed it can even be said to make the spectacle more exciting where, for example, the fix is to lose a set but to go on to win. This view also draws on the proposition that the behaviour is limited to a very small group or a ‘tiny minority’ that will always exist of players whose moral compass is misaligned, but that players whose moral compass is true will never succumb to temptation.
8. While recognising that this view may be held by some, and agreeing that measures in response to match-fixing must be proportionate, the Panel does not share it. First, it must be recognised that such behaviour is, or ought to be, regarded as criminal, and no sport should tolerate the least level of criminality. Second, in the opinion of the Panel, any toleration of match-fixing will only see it grow and fatally undermine the sport in the ways set out above. It is the case that by its nature, the behaviour is driven by strong economic and personal factors, is difficult to detect, and readily adapts to a changing environment. It will always exist to some extent, therefore. But if active steps are not taken to minimise that extent so far as reasonably possible, and if instead the behaviour is to any extent tolerated, the problem rapidly extends beyond a very small group of determinedly corrupt players to an ever-larger group of players where the motivation and perceived need to engage in the behaviour is more marginal<sup>14</sup>. Toleration and insufficient action to prevent and to punish corrupt behaviour alter players’ moral perceptions<sup>15</sup>. When that happens, the seriously adverse effects on the sport described above spiral out of control, and the behaviour does indeed constitute a “*cancer*” and a “*mortal danger*” to the sport and those involved in it, as it has been described<sup>16</sup>. This applies to spot-fixing as to match-fixing, as the public and those commercially involved in the sport should expect that both players contest the match fully and try their hardest.
9. In recognition of the extent of the harm to tennis caused by match-fixing, the sport itself expresses a “*zero tolerance*”<sup>17</sup> attitude to it. In the view of the Panel, this is the correct attitude to adopt.

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<sup>12</sup> Itself a misconceived proposition since other players are adversely affected by the distortion (sometimes deliberate) of the ranking system or by being deprived of a main draw place as the second best ranked loser. See Chapter 2, Section G(i).

<sup>13</sup> The view extends to the proposition that at the very lowest levels, where this behaviour may be more likely, there are no spectators to be disappointed, and no real commercialisation of the event.

<sup>14</sup> There is more plausibly a bell curve of susceptibility and moral preparedness to breach integrity rules, rather than a bright line.

<sup>15</sup> And toleration at lower levels of the sport, through which tomorrow’s stars pass, stores up for the future problems at all levels, because moral perceptions formed at those lower levels endure, as does the vulnerability of the once compromised to later corruption.

<sup>16</sup> Lewis and Taylor: Sport Law and Practice, 3rd Edition 2014 Bloomsbury, Chapter B2 Match-Fixing and Related Corruption in Sport, page 206, paragraph B2.1, footnotes 5 and 6 and the 22 June 2012 decision of the ECB Disciplinary Panel in ECB v Kaneria & Westfield, page 1 expressly approved on appeal in Kaneria v Westfield, ECB Appeal Panel decision dated July 2013, page 5.

<sup>17</sup> See the International Governing Bodies’ announcement of the Review, available at: <http://www.tennisintegrityunit.com/independent-reviews/statement-from-tennis-governing-bodies> [accessed 9 April 2018]. The TIU describes itself as “responsible for enforcing the sport’s zero-tolerance policy on betting-related corruption”, available at: <http://www.tennisintegrityunit.com/about-tiu/> [accessed 9 April 2018]. Compare the view of CAS in CAS 2010/A/2172 (Oriekhov v UEFA) dated 18 January 2011, paragraph 80, “It is... essential... for sporting regulators to demonstrate zero tolerance against all kinds of corruption and to impose sanctions sufficient to serve as an effective deterrent to people who might otherwise be tempted through greed or fear to consider involvement in such criminal activities”.

**(2) MATCH-FIXING FOR BETTING PURPOSES****Fixing to lose**

10. At its simplest, a match-fix involves a player deliberately losing the match. This might be attractive for those involved in corrupt betting if the loser was in fact expected to win, and so there were good odds on the other player. Such a fix might however be too obvious to escape notice, and a more discrete fix might be, for example: (a) to fix a match where the players were more equal in quality; (b) where the ranking system is less reflective of the true difference in quality on the particular surface; or (c) where the loser was in fact expected to lose, but there was still a sufficient margin in the odds to make a significant profit betting on the favourite in the knowledge that he or she would definitely win because his or her opponent would throw the match.
11. Some fixes to lose the match seek to affect the in-play odds. For example, a player may, if better than his or her opponent (or with the opponent's involvement) fix to win the first set, and perhaps to go up a break in the second, but then to lose the match overall<sup>18</sup>. This drives up the in-play odds of the other player, allowing bets on him or her to deliver sizeable returns when he or she turns the match around.

**Spot-fixing**

12. The fix to lose need not be in relation to the final outcome: one player may fix to lose a particular set, and the betting would be on that alone (or on the outcome at improved in-play odds), leaving the player to seek to win the other two sets (and thus not even suffer the adverse consequences of losing). Alternatively, two players may be involved in a fix for one player to lose the first set, the other to lose the second set, and then for the two of them to contest the final set, in effect reducing the match to one set of genuinely contested tennis.
13. Better odds may also be obtained by fixing the margin in sets by which a match, or the margin in games by which a particular set, will be lost.
14. Fixing sets is a form of spot-fixing. There may also be spot-fixing on a wide range of contingencies other than the ultimate result in a set or the margin in sets. A player may spot-fix to lose a particular game, a break of serve (perhaps at a particular time), a tie breaker, or a particular set.
15. There may be spot-fixes on specific contingencies, such as number of deuce games or double faults, or the spread of games in individual sets.
16. Spot-fixes may be concealed through the use of combination bets, such as accumulator or arbitrage bets.<sup>19</sup> An accumulator bet is a bet that combines multiple selections in to a single bet. The success of an accumulator bet is dependent on the success of each selection within a bettor's chosen combination. Arbitrage betting involves a bettor placing bets on every outcome of a contingency, at odds that guarantee a profit regardless of the outcome.
17. There may be opportunities for more complex match and spot-fixes depending on the context and the state of the betting markets.

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<sup>18</sup> Sometimes known as a 'set and break' fix.

<sup>19</sup> Chapter 3, Section C(3).

**Fixing without affecting the ultimate result of the match**

18. As is apparent from the above, it is possible to fix without affecting the ultimate result of who wins and who loses the match overall.
19. A fix to lose a set does not preclude the losing player going on to win the match. A popular fix is for a player, if better than his or her opponent (or with the opponent's involvement) to fix to lose the first set, and perhaps to go down a break in the second, but then to be able to go on to win the match. In this context, losing the first set makes it harder to win the match overall, but does not preclude it.
20. So too a spot-fix to lose a particular game or a particular break of serve, or to ensure a particular number of deuce games or double faults, may not affect the ultimate result.
21. The ultimate result of the match may equally be unaffected where a player who would in any event lose, does so by a particular margin agreed in advance with bettors. So, a player who has little prospect of winning a match could ensure that he or she does so, for example 6-1, 6-1, as opposed to by any other margin.
22. These fixes perhaps allow players to justify their actions to themselves on the basis that they either still sought to win the match overall or did not bring about a different ultimate outcome when they were bound to lose anyway.

**The individuals involved**

23. The one person always involved in a match-fix or spot-fix is the player carrying it out. He or she may have acted entirely alone, in order that he or she could himself or herself bet on the outcome that he or she then brings about (sometimes referred to as 'self-funded fixing').
24. More likely there will be another individual placing the bets, in order to do so in-play and so to react to moving odds. That person may range from a friend or relative of the player fixing the match, to professional gamblers with whom the player has had no contact and whom the player does not even know, but who have used an intermediary. In between those two ends of the spectrum, there may be groups of players who share with one another information about when they intend to lose, and so bet on one another or ask others to do so.
25. Unless the player is acting on his or her own initiative, someone will have induced him or her to fix<sup>20</sup>. That person might be the gambler himself who then goes on to bet on the basis of his knowledge that there will be a particular outcome. More likely the immediate inducer might be an intermediary<sup>21</sup>, and may be another player, or a member of the player's own, or another player's, support team or wider circle.

**(3) MATCH-FIXING FOR OTHER CORRUPT PURPOSES****Fixing to win, or buying a match**

26. Match-fixing occurs for corrupt reasons other than betting. Because winning each professional match carries with it ranking points and prize money as a result of securing entry to the next round, a simple fix is for one player to agree to lose so that the other receives the ranking points from winning that round, perhaps in return for being paid the next round losing prize money or a further amount in addition. In this way, the 'buying' winning player secures the ranking points that he or she needs and the opportunity to secure more points in the next round, and the 'selling' losing player,

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<sup>20</sup> The player may have decided to lose, and then set out to find someone who would be prepared to pay him or her to do so.

<sup>21</sup> Where the player has acted on his or her own initiative, and then sought out someone who would be prepared to pay, that intermediary is sometimes referred to as a 'go to' man.

who may not need the ranking points at that time<sup>22</sup>, secures both the losing prize money in the original fixed round, but also the losing prize money in the next, if the buying player indeed goes on to lose. With the points so secured, the 'buying' player then secures access to better 'jobs' than might otherwise have been the case (at the expense of another player or players), and so can earn more than the initial outlay. If the 'selling' player does not need the ranking points, he or she is unaffected in terms of access to jobs, but earns more money than he or she otherwise would.

27. Agreement to lose in return for reward may also occur in the particular context of qualification where a main draw place is known to have come free due to a withdrawal, and a player participating in the last qualification round knows that he or she will secure that place even if he or she loses the last qualification match, as the highest ranked lucky loser<sup>23</sup>. In these circumstances, the lucky loser has in effect a place in the main draw to sell, while still being able to compete themselves. Lucky loser rules have been adapted as a consequence to remove the certainty of a particular player receiving a place<sup>24</sup>.
28. The absence of any betting in contexts such as these means that the conduct is all the more difficult to detect. However, on occasion one or other of the players, or someone in their circle with knowledge of the agreement, may take the opportunity to bet as well, or to pass the information on for reward<sup>25</sup>.

#### **Withdrawal for financial reward**

29. A variant is 'sale' of a place to a lucky loser by a player in the main draw, who agrees to withdraw in return for financial reward<sup>26</sup>. Again, this has been addressed by adaptation of the rules to remove certainty as to who receives a place. Where the place is under the control of individuals other than players, such as where a tournament organiser has discretion to issue wildcards, there may be other corruption in the form of sale of the place, dealt with below<sup>27</sup>.

#### **Fixing other than for financial reward**

30. On occasion, an existing friendship between players or contemplated later reciprocity may be sufficient for a player to deliberately lose so that the other player can secure the ranking points. This is a particular phenomenon in the context of lucky losers drawn in the last qualification round against a friend deliberately losing that match, or a player in the main draw withdrawing to help a friend in the lucky loser place. It may also arise where two players are under the same coach, and one is persuaded to assist the other.

#### **The individuals involved**

31. It is not only players who may involve themselves in such activity, and a winning player may not even know that his or her opponent has deliberately lost in return for financial reward. There are others, such as relatives, coaches and agents, who are invested in the success of a player, and who on occasion choose to obtain that success by paying his or her opponent.

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<sup>22</sup> Either because he or she already has enough points to maintain the level of access to 'jobs' required, or because he or she can rely on other events to supply points under the 'best of' ranking system.

<sup>23</sup> A "lucky loser" is a player who lost in the last round of qualification, but who nevertheless secures a place in the main draw when one becomes free due to a qualified player being unable to take it up for whatever reason. The first place to come free was until recently assigned to the highest ranked player to lose in the last round of qualification. Now the lucky loser will be randomly drawn from the highest-ranking players who did not qualify for the main draw. The number of highest ranking non-qualifiers from which the lucky loser is drawn will depend on the rules governing that event. See Chapter 2, Section G(1) for a description of the lucky loser system and Chapter 10, Part 1, Section A(7) and Richard Ings, 'Report on Corruption Allegations in Men's Professional Tennis' (June 2005), pages 22-23, paragraphs 115-125, Appendix: Key Documents.

<sup>24</sup> Chapter 2, Section G(1) for a description of the adaptation in the various rules.

<sup>25</sup> As happened in the Lindahl case, see Chapter 10, Part 3, Section C(5).

<sup>26</sup> Chapter 7, Section A(2) and Chapter 10, Part 3, Section B(6).

<sup>27</sup> Section I below, and Chapter 7, Section A(5).

**(4) PLAYERS' MOTIVATION FOR MATCH-FIXING**

32. As is apparent from the description above, the motivation for match-fixing is generally the preparedness and desire to make money, whether through the player himself or herself profiting from betting, or the player receiving money or some other benefit or reward to carry out the fix in order to allow others to profit from betting.
33. At that level, it might be easy to describe the motivation as greed, and those who act in this way as flawed and cynical individuals with a misaligned moral compass. While on many occasions that will be the case, it is important to bear in mind that aspects of the player incentive structure make some players more susceptible to the temptation of themselves betting on a certain outcome, or taking money to provide such an outcome so that others can profit.
34. A further issue is that the number of tournaments currently played in Europe grants players based in that region the opportunity to compete for ATP ranking points and develop, without incurring significant travelling expenses. Conversely, players in other regions have much more limited access to tournaments within their geographic region. For example, in 2017 around 58,000 matches were played in countries under the jurisdiction of Tennis Europe, whereas only around 5,000 matches were played in countries under the jurisdiction of Confederación Sudamericana de Tenis<sup>28</sup>. Players from these regions may be compelled to incur significant travel costs in order to access tournaments. This financial pressure can lead to players engaging in match-fixing in order to fund those costs.
35. Plainly this is not an excuse, but it is part of the explanation, as addressed further below in relation to the susceptibility of the sport to corruption<sup>29</sup>.
36. Much the same applies to the situation where players 'buy' and 'sell' points, or a place in a tournament, in a way unconnected to betting. While it might again be easy to describe the motivation of the 'selling' player as greed, it is again a function of low prize money relative to cost. As for the 'buying' player, his or her motivation is the desire to progress up the rankings and so to increase access to better 'jobs' offering greater financial reward and even more ranking points, and is as such also driven by the nature of the player incentive structure.
37. It is also important to bear in mind that the methods of those inducing players to match-fix are on occasion subtle and complex, and involve the nurturing over time of a relationship and the building up of obligations. Young players may take 'sponsorship' at the very early stages of their career to help them through the initial lean periods, only to find themselves beholden later in their career and asked to undertake, at least initially, low level match-fixes. However, once they have done so they are trapped in a cycle of corruption, and unable to extricate themselves<sup>30</sup>. In some geographical areas, a culture of betting and lower level corruption may arise amongst groups of players and others, which it may be hard to avoid joining and from which it may be even harder to break away<sup>31</sup>.
38. So too, it is also important to bear in mind that it is possible that a player may act out of fear for his own or his family's personal safety. While that circumstance might well arise once a player is trapped in the cycle of corruption, it may be less likely to occur when a player is first approached<sup>32</sup>.
39. Lastly, as described above, the reward may take another form. While reciprocity of later action is a form of reward that is not so far removed from financial reward, actions taken as a result of friendship are perhaps less reprehensible. They nevertheless do have similar adverse effects on the sport, and in particular cheat other players.

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<sup>28</sup> Chapter 13, Section B(11), Table 34: Referral Ratios based on tournament location in the period 2009 to 2017.

<sup>29</sup> Paragraphs 82-89 below.

<sup>30</sup> Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 12, paragraph 2.32, Appendix: Key Documents.

<sup>31</sup> Chapter 13, Section B(6).

<sup>32</sup> Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 12, paragraphs 2.31 and 2.3.2, Appendix: Key Documents.

**(5) ASPECTS THAT MAKE TENNIS SUSCEPTIBLE TO MATCH-FIXING**

40. Tennis is particularly susceptible to match-fixing and related breaches of integrity. This arises out of a combination of aspects of the game itself, the player incentive structure, the sale of official live scoring data, and the facilities and organisation at the locations where matches are played. These factors vary in significance across the different levels of the sport<sup>33</sup>, but are most marked at lower level tournaments where they combine<sup>34</sup> to present the highest risk of match-fixing and related breaches of integrity. The susceptibility of the sport to match-fixing and related breaches of integrity has greatly increased with the massive expansion in opportunities to bet on matches at the lower levels where, as set out above, these factors are most marked<sup>35</sup>.

**Susceptibility arising out of aspects of the game itself**

41. There are a number of aspects of the game itself that make it particularly susceptible to match-fixing:

41.1 Because tennis is an individual as opposed to a team sport, only one player need be involved to fix a match. The behaviour can therefore arise out of a single individual's own decision. Where corrupt individuals are involved, it is therefore easier, and cheaper, to bring about the necessary behaviour to fix. It is also easier to apply pressure to a single player, for example if he or she bets or has built up other obligations, than it would be to fix a team or sufficient members of a team. Much the same applies even in doubles, since one out of two players in a doubles team will generally be in a position to fix the result.

41.2 In addition, because the sport is an individual as opposed to a team sport, underperformance does not result in substitution or in non-selection for the next match by a coach. A player will always be on the court and in a position to affect what happens.

41.3 The individual nature of the sport also means that there is no countervailing incentive not to let one's teammates down.

41.4 There are many players and many matches: the identity of the player and the location or date of the match matter much less than that a match or part of it is fixed.

41.5 It is easy to affect the result. The scoring system means that there is often a small margin between winning and losing. A player can lose a game, service break, tie breaker or set, and then still win, but equally losing a break of serve twice in a match may be enough to lose it.

41.6 It is not easy to detect. It may often be hard to identify a deliberate error or miss, due to the small margin between a ball going in or out. So too, it may often be hard to identify that a player has failed to reach a ball that he or she ought to have reached.

41.7 There are a series of identifiable events in the course of each match: game, service break, and set to name only the principal ones. They, and the margin by which each may be won or lost, provide a large number of in-play

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**33** The "Lowest Level" events are made up of ITF men's \$15k and \$25k Pro Circuit events (known as "Futures") and women's \$15k and \$25k Pro Circuit events. "Mid-Level" events are made up of ATP Challenger and ITF women's Pro Circuit \$60k-\$100k and WTA \$125k events; "Tour Level" is made up of the ATP and WTA Tours; and "Grand Slam" level is made up of the four Grand Slams.

**34** In what has been graphically described by some as a "toxic mix", or as a "perfect storm". The problem is most marked at ITF Pro Circuit and ITF Futures events but is also significant at ATP Challenger events. See Chapter 13, Section B(1).

**35** Both the 2005 Ings Report and the 2008 Environmental Review were produced before official live scoring data was sold to ATP Challenger, ITF Pro Circuit and ITF Futures events, and at a point when betting markets had only just started to be offered on the former, and not yet on the latter to any significant degree. But during this period, betting operators or data suppliers appear to have started to unofficially scour or scrape the data in respect of Challenger events in order to provide betting opportunities at points in the season when there were no Tour Level events to create markets on: see Richard Ings, 'Report on Corruption Allegations in Men's Professional Tennis' (June 2005), pages 27-29, paragraphs 151-165, Appendix: Key Documents and Chapter 3, Section D(2). It is possible that at a localised level, there may have been some creation of betting markets on ITF events, but it was on any basis minimal. On the issue of official live scoring data deals generally, see Statement of David Lampitt (Sportradar AG), Statement of Kris Dent (ITF) and Statement of Juan Margets (formerly ITF).

opportunities to bet, in addition to the ultimate result of the match and the margin of the win. Equally they provide a large number of opportunities to fix.

41.8 In the case of many of those opportunities to fix, it is not necessary to lose the match as a whole; the prime example being where a good player can agree to lose the first set in the knowledge that he or she is good enough to go on to win the second and third.

42. These aspects, intrinsic as they are to the game itself rather than to the structure within which it is played professionally, apply across all levels of the sport.
43. An exception to that breadth of application is the relative ability to detect deliberate losing actions. At the lower levels, in contrast to the higher levels, matches are not video recorded or broadcast, there is no secondary live scoring data stream, the officials are less well qualified, there are in some instances no line officials, and there are no spectators. The match is in effect played solely under the eyes of the other player and the chair umpire, and cannot be examined afterwards. The chances of detection are consequently even less at the lower levels than at the higher levels.

#### **Susceptibility arising out of aspects of the player incentive structure**

44. Aspects of the player incentive structure<sup>36</sup> give rise to an increased susceptibility not only to match-fixing, but also to other breaches of integrity. In addition to the intended consequences of that structure, there are unintended ones.

#### ***Intended consequences of the player incentive structure***

45. The intended consequences of the player incentive structure are positive.
46. So far as players are concerned, first, success is broadly rewarded on an objective, graded and transparent scale. Players know in advance what is available from a particular performance at a particular event. The very best players earn very large amounts of money, providing a strong incentive to excel. Second, there is an objective and transparent route of progression for the very talented, based on their performance and not on the subjective evaluation of others. If a player wins at one level he or she secures points, and if enough points are secured, the player will be able to compete at higher level events offering more points, and so on. Third, for the very talented, that progression can be relatively rapid. Fourth, the opportunity to start on this route of progression is available at the lowest level all around the world, and there is no barrier to entry other than talent and a relatively low-level funding base, although of course matters are easier with more funds. The base of the pyramid is very broad, with a relatively large number of players securing a few ranking points, and effectively anyone who wants to do so has the initial opportunity to enter at the very lowest level.
47. So far as tournament organisers are concerned, there is an opportunity to stage an event at a cost level that is consistent with available funds, and to build that tournament up if it is successful. When the organiser is a national association or federation, there is the opportunity to create events that bring on the nation's young players. At the highest levels, the structure delivers the best players to tournaments, allowing them to generate substantial revenue, on occasion for reinvestment in the sport at grass roots level in a particular nation.
48. So far as the public is concerned, the structure delivers tennis events of the highest quality with what appears to be a sufficient frequency to satisfy demand. In other words, there does not appear to be a greater demand amongst the public to attend or to watch broadcasts of more tennis events than there are at present. Sponsorship and advertising demand follows public demand. If there were a greater public demand, then it appears certain that it would be met: the structure affords opportunity for growth. It however appears that the sector of the public that constitutes the relevant consumers,

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<sup>36</sup> Chapter 2, Section G in relation to the player incentive structure and Chapter 2, Section B in relation to the organisation of professional tennis.

while geographically and perhaps even demographically broad, is not deep and is interested only in tennis played at the higher levels. This then drives the revenue in the sport, which in turn drives the revenue available for distribution to players

### ***Unintended consequences of the player incentive structure***

49. However, there are unfortunately unintended consequences of the player incentive structure that are negative and that mean that some players<sup>37</sup> are more susceptible to corruption or related breaches of integrity in relation to some matches<sup>38</sup> than they otherwise would be, and more than in other sports.
50. The unintended consequences that the Panel perceives as being of particular importance are the following, each addressed below: (a) players' perception that they may be better served by losing a match; (b) players' failure to use best efforts; (c) players' perception that they must play even when too injured to do so; (d) difficulty for players in progressing from one level of competition to another; (e) the continued presence of players not talented enough to advance; and (f) nominally professional events that have inadequate facilities. After addressing those unintended consequences, the Panel examines the mechanisms by which they make the sport more susceptible to match-fixing and other breaches of integrity.

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**37** The 2008 Environmental Review at paragraph 2.33, and as described in Chapter 8, Section B(2), stated that: "Identifying the category of player who may be vulnerable in respect of possible corrupt approaches is also important. We assess from our enquiries and experience of other sports that the following are vulnerable:

- young players starting out on their tennis careers who are not earning substantial money and yet have to support the cost of coaching, air fares, hotel bills, etc;
- players who have received substantial loans/financial support from sponsors in their early career stages, particularly when there is a doubt about the probity/motives of the sponsors;
- players nearing the end of their careers who wish to bolster their dwindling earnings;
- players who become disillusioned because they realise they do not have sufficient skills/commitment to reach the top.

These categories do not presume that a top player can never be vulnerable to corruption. Experience in other sports has shown some leading players can be tempted by what they see as easy money; again, once tempted, they are in for life".

See Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 12, paragraph 2.33, Appendix: Key Documents.

The 2005 Ings Report at paragraph 207, and as described in Chapter 7, Section A(4), stated that: "In the course of this inquiry, players and their support teams that were prepared to speak on the issue have outlined why they think that a culture of gambling and corruption has developed in men's professional tennis. Whilst the explanations and excuses have varied in emphasis they embrace some or all of the following:

- Lower ranked tennis players and their support personnel are unable to earn a living wage from the game. Gambling using inside information is used as a means to supplement low-income levels.
- Tennis players and their support personnel have relatively short and uncertain careers, often without contracts and some seek to supplement their official earnings with money from gambling or corruption.
- Tennis players compete in many matches each year where 'nothing is at stake' in terms of ranking or pride.
- Players and their support teams indicate that gambling on men's tennis is 'common practice' in the locker room. There is a culture of acceptance with even the player leadership turning a blind eye to such conduct.
- Whistle blowing and informing on malpractice would result in players being ostracized in the locker room. Remaining silent in the face of gambling or corruption by player peers was encouraged.
- There is no education on the issue of gambling and corruption for players. Players were just not aware of it being a serious threat issue to tennis. 'It is just a harmless bet'.
- There is no structure in place to receive confidential allegations about corruption.
- It was just too easy".

Richard Ings, 'Report on Corruption Allegations in Men's Professional Tennis' (June 2005), page 36, paragraph 207, Appendix: Key Documents.

**38** The 2008 Environmental Review at paragraphs 2.51 to 2.54, and as described in Chapter 8, Section B(2), concluded that matches that did not affect a player's ranking "are vulnerable to corrupt practice and present a threat to the integrity of tennis", and recommended "that officials examine these matches that players take part in over and above those necessary for achieving ranking points. If that study confirms that such matches are vulnerable to the integrity of tennis, then we recommend that careful consideration should be given to changing the ranking rules to make each match count". See Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 15, paragraphs 2.51-2.54, Appendix: Key Documents.

The 2005 Ings Report at paragraph 216, and as described in Chapter 7, Section A(4), stated that: "During the course of inquiries, by players and their support team members believed to be knowledgeable of such activities have suggested that corruptors are more likely to target some matches at some tournaments more than others.

- Matches where no ranking impact is at stake and where the player would receive a fine if he withdrew.
- 1st round matches. The investigation has noted that rarely if ever do non-1st round matches attract irregular betting patterns.
- Matches in ATP tournament week held the week of Special Events (i.e. Bundesliga tennis) where the player has a commitment to play in both events.
- Matches where mutual advantage can result from a pre-arranged outcome. For example, final round of qualifying when a lucky loser spot is already available in the main draw".

Richard Ings, 'Report on Corruption Allegations in Men's Professional Tennis' (June 2005), page 38, paragraph 216, Appendix: Key Documents.

***Players' perception that they may be better served by losing a match***

51. In the normal course in professional sport, players ought always to perceive that they are best served by winning the match in which they are at that moment playing. In most instances in tennis, this will be the case. It is however clear that in some instances, one or more of a combination of circumstances principally arising out of the structure of professional tennis and the incentive structure, lead some players to perceive that they would be better served by losing a particular match. The circumstances include but are not confined to the following.
52. The first is the scheduling of various levels of events in the professional tennis calendar, and players' own planned schedules based on it:
  - 52.1 Players' own schedules may involve playing in swift succession in a series of events, possibly located in different parts of the world. Those events vary significantly in the rewards that they offer, and in their accessibility. The pursuit of points and prize money leads many players to plan to play as often as they can, entering the best events that they are permitted to enter by the ranking system and draw sizes. Players have to gain as many ranking points as possible to advance in the sport, and the relatively low level of prize money relative to costs at the lower levels of the sport means that they cannot afford to have an idle week.
  - 52.2 Successive events may consequently be of significantly varying importance to a particular player, not only in terms of the varying ranking points, prize money, and possibly appearance fee on offer, but also in terms of the player's perception of his or her prospects of progress in either event, based on surface, location or draw in either.
  - 52.3 Progression in an event in week one, perceived to be of less importance, may prevent the particular player playing in an event in week two, perceived to be of more importance, due to the clash between the later stages of the week one event and the qualification competition of the week two event, and travelling time.
  - 52.4 Even if playing in both events might be possible, to do so in quick succession may preclude the player being able to play in the event in week two to the best of his or her ability. Taking into account travel time, and the required recuperation and preparation before playing in the event in week two, going far in the event in week one may effectively prevent, or be perceived as preventing, a player from playing to the best of his or her ability at the second event.
  - 52.5 Even where there might be sufficient time if a player were fit and fresh, progression in the event in week one may, or may be perceived to, risk injury or exacerbating injury, or deplete reserves of fitness and energy, harming the player's prospects of success in the event in week two. The player may need, or may perceive that he or she needs, more time for an injury to improve and to recuperate, to play to the best of his or her ability at the second event.
  - 52.6 The fact that many players plan to play many events, successively, without time to recuperate in between, and without returning home, exacerbates matters. Large numbers of players play with some level of chronic injury, which they seek to manage. Many players play so many events that they become physically and mentally exhausted, for example, towards the end of a long series of events.
  - 52.7 The surface, location or draw, or other conditions in the event in week one may be, or may be perceived to be, adverse to the player. The player may consider either that he or she cannot realistically beat the immediate opponent, or that even if he or she could do so, he or she would not in any event progress much further in the event in week one. Conversely, the player's prospects may be, or may be perceived to be, better in the event in week two.

53. Second, the likelihood of this perception arising is increased by a number of other elements in the internal scheduling of matches at professional tennis events:
- 53.1 Tennis events are susceptible to the weather. If there is a significant rain delay and the tournament matches cannot be played when planned, the result is that many earlier round matches are concentrated towards the end of the week, and it may even be necessary for players to play more than one singles match in a day, however undesirable this is. In these circumstances, continuing in the event in week one becomes even less attractive when weighed against proper preparation for the event in week two.
  - 53.2 Many singles players enter the doubles competition as well, in order not only to gain more competitive court time, but also to seek to earn more prize money, a function of the low level of prize money relative to costs at the lower end of the sport. If a player is out of the singles but still in the doubles competition, late in week one, competing for a very small amount of money, continuing in the event in week one becomes even less attractive when weighed against proper preparation for the event in week two.
54. Third, the ranking points systems do not offer a sufficient, or indeed on occasion any, brake on a player perceiving that he or she is better served by losing a particular match:
- 54.1 Indeed, on the contrary, the fact that players play across levels means that they may well actively perceive that losing today's match in week one with a certain number of points available, will actually mean that they gain more ranking points in week one, and that the total over the two weeks will be more than if they had won the match in week one.
  - 54.2 But even where that is not the case, losing the match in week one may not actually impact a player's ranking, because the systems only count a player's 18 (ATP)<sup>39</sup> or 16 (WTA)<sup>40</sup> best performances<sup>41</sup> in a rolling 52-week period. It is therefore possible to lose a match without any adverse consequence: all that is lost is the opportunity to have recorded a good performance that would count in the top 18 or 16, instead of another. But where the perception is that a better performance will be secured in week two, that is not perceived as a lost opportunity of any significance at all.
  - 54.3 In other words, 'not every match counts', and this inevitably affects player behaviour.

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<sup>39</sup> Chapter 2, Section G(3).

<sup>40</sup> Chapter 2, Section G(3).

<sup>41</sup> Subject to any mandatory tournaments an eligible player is required to play.

55. Fourth, if a player perceives that he or she no longer wishes to be at the event in week one, he or she may also perceive that there is no viable alternative to losing a match in order to leave the competition:
- 55.1 After a certain date, a player cannot withdraw without paying a withdrawal penalty for doing so. The player may perceive that as unattractive in the light of the low amount of prize money available at the lower end of the sport. Furthermore, up until 2017, if a player withdrew in advance, the prize money for losing the round would not be paid, making withdrawal doubly less financially attractive. For the 2018 season, players who withdraw from the main draw singles competition at an ATP World Tour event or ATP Challenger event prior to his or her first match will receive first round prize money (second round in the case of a bye) if certain conditions are met<sup>42</sup>. The same does not apply at other levels however.
- 55.2 A player could feign injury. But if the player does that, he or she will have to satisfy the medical staff at the next event that he or she has recovered from the injury and is fit to play. Furthermore, again, apart from ATP players in the 2017 season, if the player withdraws through injury in advance, the prize money for losing the round will not be paid.
56. Fifth, the low level of prize money relative to the player's costs further compounds the situation. Not only does the pursuit of sufficient revenue through prize money dictate behaviour, but so too does the need to minimise the player's expenditure. If a player stays on in week one when the player perceives he or she is better off resting or moving on in the pursuit of greater prize money, then the player may also perceive that he or she is better off avoiding the additional costs of food, accommodation and possibly coaching assistance, involved in remaining at the event in week one.
57. Sixth, for those players for whom appearance fees are available, the perception may arise that once enough has been done to secure the appearance fee, or a substantial proportion of it, there is little point in remaining at the event in week one.
58. Seventh, leaving an event in week one early may even allow some players to earn money at a 'money match' or exhibition, and still play at the event in week two
59. Eighth, a variety of personal reasons may fuel the perception, ranging from a desire to go home through tiredness and disaffection, to a preparedness to see an opponent who is a friend win ranking points.
60. While most of the circumstances set out above turn on the need to maximise ranking points and prize money at the lower levels of the sport, and are confined to those levels, not all are. Even higher ranked players competing at the higher levels may perceive that they need, for example, to protect or avoid an injury and to secure rest time before an upcoming Tour Level event or Grand Slam, and that they would not be best served by going far in a less important event immediately before.
61. That the perception should arise cannot necessarily be laid at the door of the player who forms it. The perception is a function of the factors that create it, and a player cannot voluntarily reach a different perception than that which he or she is driven logically by those factors.
62. In contrast, how a player responds to the perception, if it arises, is a matter for the player. A player's response to the perception will vary with the character of the player, and the intensity of the circumstances described above:

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<sup>42</sup> The ATP Official Rulebook, 2018, Section III, Part 3.08 (A)(3), available at: <http://www.atpworldtour.com/en/corporate/rulebook> [accessed 9 April 2018]. The Grand Slam Board has also introduced very similar rules, see Official Grand Slam Rule Book, 2018, Article I, Section J(1), available at: <http://www.itftennis.com/officiating/rulebooks/grand-slams.aspx> [accessed 9 April 2018].

- 62.1 The natural sporting instinct and desire of most players ensures that they still go out and try to win. Most players try to win the prize money and ranking points before them, and leave the future to sort itself out.
- 62.2 Some players however succumb to the pressures brought about by the incentive structure, and fail to use their best efforts to win the match. A player may not play as hard or as well as he or she could if not using his or her best efforts. The player may not run as hard as he or she could to return marginal balls, or may take greater risks than sensible in going for shots.
- 62.3 Some players take in advance, and act on, an active decision deliberately to lose or to retire from the match. A player may deliberately lose particular points and so the match, so that he or she is knocked out of the event. The player may deliberately serve a double fault, or deliberately push a shot long or into the net, or deliberately not reach a shot to return it. A player may feign or exaggerate injury and retire from the match, and so from the event. Such decisions and their execution are regarded by some as a legitimate method of controlling their own schedule and maximising their earnings from the professional sport.
63. An expression in common usage in this context is ‘tanking’. The difficulty with this expression is that it is used by different people to mean different things, and it on any basis covers a wide range of possible actions and contexts. The Panel therefore seeks to avoid using it in the Interim Report of the Independent Review of Integrity in Tennis and this Record of Evidence and Analysis.

***Failure to use best efforts***

64. The Codes of Conduct of the International Governing Bodies of professional tennis (the “International Governing Bodies<sup>43</sup>”) require a player to use best efforts<sup>44</sup>. That rule exists because the creation of an exciting and vibrant sporting competition with the outcome based on the winner’s sporting performance on the day, depends on both players trying their hardest to win. It covers a wide range of actions, and may not even be confined to a situation where a player does not use best efforts to win the match.
65. Taking in advance and acting on a deliberate decision to lose or to retire is at the least a failure to use best efforts, and, in the Panel’s opinion, a distinct breach of integrity, addressed in Section B below.
66. As also addressed in Section B below, that decision must however be distinguished (though it may often be difficult to do so) from the circumstances where a player ceases during the course of a match due to tiredness, disillusion or injury, or perhaps the elements of the player incentive structure described above, to use best efforts to win contrary to the sport’s Codes of Conduct.
67. And again as addressed in Section B below, both of the above must in turn be distinguished (though again it may often be difficult to do so) from the following, which often will not constitute even a failure to use best efforts:
- 67.1 The circumstances where a player prioritises certain events over others, plans his or her season so as to peak physically and mentally at a critical moment, conserves energy or avoids injury, and so is perhaps less concerned if he or she progresses only a short way in a particular event, than he or she would be if the same happened in another event.
- 67.2 The circumstances where a player picks up or exacerbates a genuine injury during the course of a match, but instead of retiring continues to play in a way that protects the injury and avoids making it worse. Such a player is continuing to use best efforts to win, but within the new parameters set by the genuine injury.

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<sup>43</sup> The ITF, the ATP, the WTA and at that time the Grand Slam Committee (later to become the Grand Slam Board) made up of the four Grand Slams.

<sup>44</sup> The Official Grand Slam Rulebook, 2018, Article III, Section E; The ATP Official Rulebook, 2018, Section VIII, Part 8.03 (M)(4)(h); The WTA Official Rulebook, 2018, Section XVI, Part D (4)(a) (x), available at: <http://www.wtatennis.com/wta-rules> [accessed 9 April 2018]. The ITF Pro Circuit Regulations, 2018, Code of Conduct, Article IV, Part M, available at: <http://www.itftennis.com/procircuit/about-pro-circuit/rules-regulations.aspx> [accessed 9 April 2018].

67.3 The circumstances where a player suffers a genuine collapse in concentration or self-confidence. Tennis is as set out above, a 'head game', and at the highest levels winning may often be largely attributable to one player playing so as to 'get inside the other's head'.

67.4 Tactical decisions during the course of a match not to, for example, chase a set that is effectively lost, but rather to conserve effort for the next set, in order to win the match. Such tactical decisions cannot obviously be categorised as a failure to use best efforts to win: on the contrary such decisions are aimed at winning the match through the best application and distribution of effort. This may of course raise particular issues for bettors in the context of spot betting on points or games or sets, or spread betting on margins, and a deliberate loss of a game or set for corrupt reasons connected with gambling would constitute spot-fixing just as much as a deliberate loss of a match for such reasons would constitute match-fixing.

***Players' perception that they must play even when too injured to do so***

68. A separate but related unintended consequence of the incentive structure is that players may perceive that they must play even when so injured that they are incapable of competing or even playing.

69. In most instances where a player is so injured as to be incapable of competing or even playing, he or she will not play for fear of further exacerbating the injury, and because there is no prospect of winning. However, it is clear that in some instances, one or more of a combination of circumstances arising principally out of the structure of professional tennis and the incentive structure, lead players to perceive that they would in fact be better served by playing despite their level of injury. The circumstances include but are not confined to the following.

70. The first is the fact that prize money is paid for losing a round, not winning it:

70.1 Accordingly, a player with a place in the first round of a main draw will earn the prize money for that round even if he or she takes the court and is either forced to retire swiftly, or cannot compete. So too will a player with a place in the first round of a qualification competition.

70.2 At some events, as is evident from the tables of prize money<sup>45</sup>, very significant sums are paid for losing the main draw first round: for example, at Grand Slams, the amounts are A\$50,000, €35,000, £35,000, and US\$50,000; at ATP Masters 1000 events, the amounts are between US\$13,690 and about US\$22,125; and at WTA Premier Mandatory events, they are between US\$13,690 and US\$17,453. What is more, significant sums are even paid at some events for losing the first round of qualification: at Grand Slams, the amounts are A\$6,250, €5,000/€3,500, £4,375, and US\$8,000; at ATP Masters 1000 events, the amounts are between about US\$1,500 and US\$1,825; and at WTA Premier Mandatory events, the amounts are between US\$2,085 and about US\$2,650. Even at the upper ATP Challenger levels, over US\$1,000 is paid on losing the main draw first round.<sup>46</sup>

70.3 In an environment where prize money is low relative to costs, losing out on first round prize money (main draw prize money in particular) may have a significant negative financial impact on the player.

71. Second, so too at least in singles, ATP and WTA ranking points are earned from losing in the first round at Grand Slams and the largest Tour Level events, as is evident from the tables of ranking points<sup>47</sup>.

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<sup>45</sup> Chapter 2, Appendix 1.

<sup>46</sup> As stated at paragraph 55.1 above, The ATP and The Grand Slam Board have however sought to address this issue by, as of 2018, adopting rules that give players who have withdrawn because of injury some portion of the prize money.

<sup>47</sup> Chapter 2, Appendix 1.

72. Third, the player's entitlement to the place in the first round of the main draw or qualification draw arises from their ranking:
- 72.1 A player who works hard all year to build up their ranking, reaps the reward in the form of their entitlement to compete in events that provide greater reward.
- 72.2 Some players may perceive that those rewards, even limited to what is available in the first round, are their entitlement.
73. Fourth, for those players where appearance fees are available, the fee or part of it may be payable just on appearance.
74. As such, the circumstances in which a player perceives that he or she must play even when incapable of doing so, largely arise where the player is participating at one of the Tour Level events, where the first-round financial rewards are sufficiently great to encourage the behaviour.
75. The consequence is that a player may take the court and then either retire swiftly, or purport to play while actually incapable of doing so, or at least of competing. A player taking the court when he or she is unfit to play not only risks the player's health, but also precludes the match from constituting a genuine sporting contest, and consequently the rules of the sport prohibit this<sup>48</sup>. Further, a player acting in this way denies a place to a lucky loser.
76. Taking in advance and acting on a deliberate decision to take the court but then to retire due to an injury that renders the player incapable of playing or competing is, in the Panel's opinion, a distinct breach of integrity.
77. To be distinguished from this is a player carrying a minor injury but nevertheless seeking to play through it, but then succumbing and having to retire. At some level or another, many professional players are playing through some sort of injury that falls short of an injury that renders them incapable of playing.

***Difficulty in progressing from one level of competition to another***

78. While the very talented player will progress relatively quickly from the ITF level to Tour Level, there is a perception among some that there is 'bottle neck' at the top of the ITF level or ATP Challenger level, through which it is hard for many players to pass on to Tour Level. This is attributed to the relatively low number of points that can be secured for playing well lower down the ladder, and the relatively high number of points that can be secured even though a player is not winning many matches higher up the ladder. The perception among some is that once players attain a higher ranking and so can enter more Tour Level events, they have a degree of 'buoyancy' that means that it is hard for possibly better players lower down to replace them.

***The continued presence of players not talented enough to advance***

79. The intended consequences of reward for performance on an objective scale with a transparent route of progression based on performance, have some unwelcome corollaries:
- 79.1 While the talented advance, the less talented do not. The incentive structure allows players to reach a certain level, still earning enough points to maintain their access to tournaments at that level, but never earning enough points to advance.
- 79.2 The breadth and frequency of opportunities, intended to facilitate entry of emerging players, also allow players who will ultimately not advance, nevertheless to keep trying to do so.
- 79.3 So too, the system allows for the gradual descent through it of formerly successful players.

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<sup>48</sup> Paragraph 110 below.

- 79.4 This creates a cohort of so called ‘journeyman’ players who earn just enough to get by, or to do so with outside financial assistance, and who like the lifestyle of a professional tennis player.
- 79.5 It creates a cohort of players who earn very little, but are funded by others to keep chasing a dream with little prospects of converting it into a reality.
- 79.6 It creates a cohort of players nearing the end of their careers, who see their income rapidly declining in relation to what it had been before.
80. These circumstances have the result that the same prize money and ranking points have to be shared by more players, slowing the progress of the rising stars through the lower levels of the sport. It also creates jaundiced and disillusioned players.

***Inadequate facilities at nominally professional events***

81. The intended consequence of a wide number of opportunities for players around the world to seek to start progressing up the ladder, has a further unwelcome corollary. The proliferation of small tournaments at the lowest levels, with low funding, inevitably means that many are played at venues with inadequate facilities, where in particular it is not possible effectively to implement an accreditation policy.

***Mechanisms by which the unintended consequences of the player incentive structure make the sport more susceptible to match-fixing and other breaches of integrity***

82. Part of the explanation (though not excuse) for some players succumbing to temptation to match-fix or to breach integrity in other related ways lies in the aspects of the player incentive structure described above, including the system of access to ‘jobs’, the tennis calendar and scheduling, the ranking points system, the level of prize money relative to cost, appearance fees and corollary penalties for withdrawal.
83. These elements operate on different players in varying ways and to varying extents, but individually or in combination they greatly increase the sport’s susceptibility to match-fixing and related breaches of integrity.
84. Players who are not breaking even or who are making a loss from the sport<sup>49</sup>, and who can lose a match or part of it without affecting their rankings, will be more likely to bet on themselves to do so in order to make enough money to continue playing<sup>50</sup>, and are more vulnerable to the advances of corruptors, than are players who are making money at the sport. The motivation may not be greed, but rather dealing with impecuniosity. At the higher levels of the professional sport, the Grand Slams and Tour Level, the rewards are relatively high<sup>51</sup>. To throw a match at one of these events would generally be disadvantageous in terms of lost prize money and ranking points, absent a very considerable financial inducement, and players are less likely to find themselves in financial difficulties. At this level, while more money could be obtained, in particular, by agreeing to a fix that does not involve losing the match, the need to do so is less, as players can afford to continue playing. At the lower levels of the sport, the ATP Challenger and the ITF Pro Circuit, however, the rewards are low and costs are relatively high, and so the temptation and perceived need to bet or to agree to fix is higher. The only perceived alternative for some is to stop playing. Players may justify such actions to themselves on the basis that the sport is not providing them with a sufficient living despite their hard work, and so they are ‘entitled’ to supplement their earnings as they can.

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<sup>49</sup> And who are not funded by a national federation, a sponsor or family members.

<sup>50</sup> At the lowest level, players may bet on themselves to lose simply to fund a flight home from a tournament abroad. Once that small step is taken, it is a smaller step to preparedness to undertake more comprehensive revenue generation, initially self-funded. And it is then a smaller step to a preparedness to generate revenue from fixing for others.

<sup>51</sup> Chapter 2, Appendix 1 for details of the prize money and ranking points available at Grand Slams level and Tour Level.

85. The low level of prize money relative to cost has the further effect that young players may seek funding from their families, or from sponsors who may be wealthy individuals. Some of the latter, and even to an extent some of the former, may seek to offset the cost by earning money by betting. A few may move from betting on their players to win, to betting on them to lose a match on the basis of inside information or, on occasion, on the basis of an agreement to lose the match or part of it. The player's obligation or perceived indebtedness to the funder may make it difficult to resist requests to act in this way.
86. Players who perceive that they would be better served by losing a match, and have taken a decision deliberately to lose for their own reasons unrelated to betting, are then more susceptible to the possibility of earning a little extra money on the side, whether by betting themselves, or by taking payment to bring about an outcome that facilitates betting. Players may justify their actions to themselves on the basis that they are doing nothing wrong, because they would not have won the match anyway. Where a player's moral compass has already become skewed enough that he or she is prepared to decide in advance deliberately to lose for his or her own reasons, it is a much smaller step to take to a preparedness to bet or to fix.
87. Less talented players who become stuck at the lower levels, without any prospect of advancing, and former high ranked players who are descending through the rankings at the end of their career may become disillusioned as well as financially insecure, making them more susceptible to betting and to entertain approaches to fix. Such players may seek to make as much as possible while they can, before they are forced to give up. Again, such players may justify such actions to themselves on the basis that the sport has not provided them with a sufficient living despite their hard work, and so they are 'entitled' to supplement their earnings as they can.
88. The phenomenon of players playing when too injured to compete, in order to earn substantial losing prize money for example in the first round of a Grand Slam, again creates a situation where the outcome is known in advance, and the opportunity to fix arises, for example via the provision of inside information regarding the injury or by agreeing in advance the margin of loss or the set scores.
89. Lastly, in the particular context of fixing to win, the difficulty in earning sufficient points to progress up the rankings described above, means that some players are more likely to succumb to the temptation of seeking to persuade another player to agree to lose than they otherwise would be. Low prize money relative to cost, and the fact that 'not all matches count', and the other factors set out above, mean that the other player may be more susceptible to be so persuaded, and may even make the initial suggestion him or herself.

**Susceptibility arising out of aspects of the provision of official live scoring data**

90. As described in Chapter 3, the provision of official live scoring data<sup>52</sup> derived from chair umpires instantly entering the score, allows betting operators to offer in-play betting markets where previously they would have been confined to offering pre-match markets, unless they sent unofficial scouts<sup>53</sup> to the event to report the score to them, or the score was available on a live broadcast or otherwise capable of being instantly 'scraped' from the internet. In-play markets are of greater interest to betting operators, and bettors, because they can see the match progress and so the odds change, the outcome is more immediate, and a wider range of bets can be offered and taken<sup>54</sup>. The provision of official live scoring data where it would not otherwise be available has resulted in a massive increase in the number of matches on which betting markets are offered, in particular at the lower levels<sup>55</sup>.
91. At its simplest, the more betting opportunities there are, the more opportunities to fix there are, and the more potentially corrupt or corruptible players there are.

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<sup>52</sup> "Official live scoring data" means that which is 'sold' by IGBs to data supply companies (and then on to betting operators) on an official basis (i.e. pursuant to a contractual relationship between the IGB and the data supply company). "Unofficial live scoring data" – means that which is obtained other than pursuant to an official live scoring data agreement. This includes data obtained by unofficial scouts at venues, from broadcast streams and 'scraped' from online sources.

<sup>53</sup> A "scout" is an individual who collects scoring data on an 'unofficial' basis at the venue by utilising their own data collection technology.

<sup>54</sup> Chapter 3, Section D(1).

<sup>55</sup> Chapter 13, Section A(1).

92. This effect is however compounded where the matches in respect of which the official live scoring data is sold are matches involving players who are more susceptible to corruption than players involved in other matches. The sale of official live scoring data to all ATP Challenger events (some 10,000 matches<sup>56</sup>) and then to the ITF Pro Circuit and ITF Futures events (some 60,000 matches<sup>57</sup>) has not only meant that very many more matches can be made the subject of betting markets, but also that the pool of players on whose matches betting markets can be offered, has been expanded to include precisely those players that are most susceptible to corruption or other breach of integrity.
93. The mechanism for the provision of official live scoring data, coupled with the facility to make instant communications and the growth of in-play markets, also makes the sport more susceptible because it facilitates practices which could be considered corrupt.
94. First, as described in Chapter 3, the delay between a point ending on court and the umpire entering the score may be exploited by courtsiders<sup>58</sup> at the event either betting themselves over a hand held electronic device or communicating the result of the point to another to enable them to bet, in each instance with knowledge not yet shared by the betting operator or betting exchange counterparty. While betting on the next point or next game might not be particularly lucrative due to betting operator limits, the point may be of sufficient importance to affect the odds on the outcome of the set or match, for example if a significant break of serve is won, and fore-knowledge of that shift in odds may provide a sophisticated bettor the opportunity to make a significant reward. While this does not involve corruption by any player or official, it is arguably cheating. The absence of in-play betting markets prior to the provision of official live scoring data, meant that there was no opportunity to courtside other than at those higher-level matches that were scouted or broadcast live or otherwise capable of being instantly 'scraped'. At those high-level matches courtsiding did occur and was easier before official live scoring data of those matches became more readily available to betting operators.
95. Second, the mechanism makes chair umpires more susceptible to corruption<sup>59</sup>. At its simplest, they may be persuaded to agree to delay entering the score to increase the time available to be exploited by a courtsider. Or they may themselves bet on a hand held electronic device before entering the score. Or they may communicate the score to others so that they can bet, and ensure a sufficient delay for them to do so. Or they may enter fictitious elements into the scoring in accordance with a pre-agreed plan, which do not affect the actual result or even the margins in sets or games, for example by adding in or taking away deuces or misreporting the score of a game. None of this could be done before the provision of official live scoring data based on the score entered by the umpire.
96. Some of the same factors that make players more susceptible to corruption, equally make chair umpires more susceptible. Perhaps the most important of these factors are:
- 96.1 The ease with which the umpire's conduct can be carried out without detection. This factor varies significantly from level to level. At the higher levels, a delay in entering the score will be noticed immediately because it will be reflected in a delay in the score coming up on the electronic scoreboard, there will be line officials and other officials there, the match will be video recorded and possibly broadcast, and there will be spectators there. At the highest levels, there are secondary or even tertiary live scoring data streams for broadcast and internet purposes,

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<sup>56</sup> In 2016, 10,213.

<sup>57</sup> In 2016, 59,496.

<sup>58</sup> 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 data collection. Unofficial 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 exchanges. References to unofficial data collection, on the other hand, relate primarily to those collecting data via the methods outlined above on behalf of data companies (that do not have an official data deal) or betting operators (that choose to collect data themselves rather than source their data from official providers of that data). See Chapter 3(E) for further discussion on the practice of courtsiding.

<sup>59</sup> Paragraph 134 below. See also Chapter 10, Part 5, Section A(10) and Chapter 13, Section D for decided disciplinary cases in relation to corrupt chair umpires.

which can be used to check the umpires' performance. At the lower levels in contrast, fewer or none of these characteristics are present, and just as a player may feel that he or she can take deliberate losing actions without fear of observation, so too a chair umpire may feel that he or she can delay or misrepresent the score without fear of observation.

96.2 The better remunerated, the more qualified, and the more invested in the officiating system the chair umpire is, the less likely he or she is to succumb to temptation to act corruptly in this way. This factor too varies significantly from level to level. Whereas chair umpires at the higher levels are well remunerated, well qualified and beneficiaries of the officiating system<sup>60</sup>, chair umpires at the lower levels are paid much less, are not required to have the same level of qualification, and may feel that the officiating system is opaque and that it is difficult to rise up through it. This can all lead to disillusion and increased susceptibility to corruption.

#### **Susceptibility arising out of aspects of facilities and organisation at events**

97. There are a number of aspects of the facilities and organisation at the locations where events are held that make the sport more susceptible to corruption and that vary in significance from level to level.
98. As is apparent from the discussion above, the absence or diminished presence at the lower levels of officials beyond the chair umpire, of spectators, of video recording or broadcast, of secondary live scoring data streams and even of an electronic scoreboard at some levels, mean that players and chair umpires may feel that they can engage in corrupt conduct without fear of observation.
99. Further, the level of qualification and experience of the officials (and in particular the chair umpires) affect the likelihood of player corruption or a related breach of integrity on the court occurring in the first place, it being identified, and of any action being taken. The more experienced and better qualified the chair umpire, the less likely a player is to take a risk, and the more likely the official is to notice and act on improper conduct. Since chair umpires at the lower levels have correspondingly less experience and lower qualifications than at the higher levels<sup>61</sup>, this is a further reason why such conduct occurs more at the lower levels than higher up. This issue extends beyond the chair umpire to the other officials, in particular the supervisor<sup>62</sup>. At the lower levels, the few officials available present at an event are already overstretched, and have little capacity to ensure that there are no breaches of integrity.
100. The physical environment in which matches are played at the lower levels also makes the sport more susceptible to corruption. At the higher levels, events are staged at venues that have control over entry, and that issue a ticket in return for payment. Spectators are effectively segregated from the players. In contrast at the lower levels, events take place at venues that may be public or have no method of controlling entry<sup>63</sup>. Other venues at the lower level include private clubs, where members have access, and many of which have no effective control over access by others. At the lower levels, most events have more limited (if any) security staff than at the higher levels<sup>64</sup>. There is also much less or no segregation of the players from others at the event, and there is nothing to prevent people from approaching players and even talking to them when they are on court, not only when practising but also when competing. Where there is no such control over entry and limited or no segregation, it is easy for would be fixers or those seeking inside information for betting purposes to secure access to players and such information and for bettors to attend events and to bet with impunity on hand held electronic devices while there. There may even be bettors at events who seek to intimidate or

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<sup>60</sup> Chapter 2, Section C(6) for a description of the remuneration and required qualification level of officials at specific events.

<sup>61</sup> Chapter 2, Section C(6).

<sup>62</sup> Chapter 2, Section C(6). While the supervisor even at the lowest of Tour Level events must be a gold badge holder, there is considerable variation in the level of experience of supervisors at the different levels of events.

<sup>63</sup> For example, some ITF Pro Circuit and Futures events take place in public parks.

<sup>64</sup> Chapter 13, Section B(1).

castigate players if they do not play well, or play too well, when measured against the bets the bettor has placed.

101. In addition, at the higher levels accreditation systems<sup>65</sup> are operated that aim to ensure that unsuitable individuals are not able to secure access to player areas, such as the player restaurant or player lounge, still less the locker room or rest areas. People applying for accreditation are only accredited for the areas appropriate to their role, and those deciding whether to issue accreditation consult the 'no credentials list'<sup>66</sup> and do not issue accreditation to individuals on it. Those individuals range from those who have been disciplined for corruption offences to courtsiders who have been identified. This goes some way to making the player environment a safer one both physically and mentally, and to limiting corrupt approaches and the leakage of inside information. In contrast at the lower levels, or some of them, accreditation systems are not operated at all<sup>67</sup>, and there may not even be any segregated areas (still less, secure) areas at all for players: for example, at private clubs, the members are likely to have access to the same locker room as the players. There is little or no effective control in respect of access to players or inside information, making the sport at these levels more susceptible to corruption.

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<sup>65</sup> Chapter 2, Section E(1).

<sup>66</sup> Chapter 2, Section E(2).

<sup>67</sup> Chapter 13, Section B(1).

**B CONTRIVING THE RESULT OF A MATCH FOR OTHER REASONS**

102. As described above, it is an unintended consequence of the player incentive structure and the organisation of professional tennis that in some circumstances players perceive that they would be better served by losing a match that they are about to play, and some players consequently take in advance and act on a deliberate decision to lose or to retire that is unconnected with betting or any other corrupt purpose. A further unintended consequence of the player incentive structure is that some players feel constrained to play when unfit to compete or even to play, but decide in advance either simply to go through the motions and lose, or retire, again unconnected with betting or any other corrupt purpose. A number of the factors that make the sport particularly susceptible to match-fixing set out above also therefore make it susceptible to players contriving the result for other reasons. Preparedness to contrive the result for other reasons may lead on to preparedness to match-fix.
103. Acting on such prior decisions to lose a match or to retire for reasons other than betting or other corrupt purposes, is itself inconsistent with the nature of competitive sport and a distinct serious breach of integrity, albeit of a different quality than match-fixing in the sense described above, as well as a breach of the requirement to use best efforts in the International Governing Bodies' Codes of Conduct.
104. While the TACP provides that "*No Covered Person*<sup>68</sup> shall, directly or indirectly contrive or attempt to contrive the outcome or any other aspect of any Event"<sup>69</sup>, that language has not been construed or applied by the TIU as prohibiting a player from contriving a match for reasons unrelated to betting or other corrupt purposes<sup>70</sup>.

**(1) HARM CAUSED TO TENNIS BY CONTRIVING THE RESULT FOR OTHER REASONS**

105. Acting on a prior decision to lose a match or to retire for reasons other than betting or other corrupt purposes involves the same or similar actions on the court as does a prior decision to match-fix. In both instances, the player either misses shots or fails to reach his or her opponent's shots, and in both instances the result is contrived and not a genuine contest. This is the case not only where a player has decided deliberately to lose, or to retire when not genuinely injured, but also where a player who is so injured as to be incapable of competing or even playing has decided nevertheless to take the court but then to go through the motions and lose or retire. In the latter case, the player may not in fact be deliberately missing shots or failing to reach his or her opponents' shots because he or she is incapable of doing so. However, the result is equally contrived, and there is equally no genuine contest.
106. Significant harm is therefore caused to tennis by players making and acting on such decisions. Like match-fixing, such conduct undermines the defining characteristic of the sport as a genuine sporting contest between players doing their best to win, and so cheats other players, the public, tournament organisers, broadcasters, sponsors, and the sport as a whole. The perception that contests may not be genuine will erode public interest in, and therefore the commercial basis for, the professional sport. And again, such conduct discourages young athletes from taking up the sport, and causes the grass roots of the sport to wither.

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<sup>68</sup> TACP (2018), Section B.6.

<sup>69</sup> TACP (2018), Section D.1.d.

<sup>70</sup> Chapter 10, Part 2, Section C(1).

107. In addition, toleration of the behaviour not only makes the behaviour itself more likely to take place, but also makes other more serious breaches of integrity by the player or others more likely to take place, for amongst others the following reasons:
- 107.1 The preparedness of players to make and act on such decisions pollutes the atmosphere or culture of the sport, converting it from one where everyone always tries his or her best to win to one of cynicism and self-interest<sup>71</sup>, creating a breeding ground for other breaches of integrity.
- 107.2 More narrowly, the behaviour makes it a shorter step for some players to take to embark on the commission of progressively more serious breaches of integrity.
- 107.3 If a player has already decided that it is in his or her best interests to lose a match for reasons unconnected with betting, he or she may be tempted to make small amounts of additional money to finance his or her continuing to play, by betting on him or herself to lose, or by asking a friend or relative to bet on his or her behalf<sup>72</sup>. A player for whom the player incentive structure has failed to provide enough money to cover costs, may feel that he or she is doing nothing (or not much) wrong in betting on a result because the player incentive structure has effectively created the preordained outcome – not the players involved in the match<sup>73</sup>. Such a player would (or might) not, initially at least, have considered deliberately losing in order to bet on him or herself to lose. However, once the line of betting on a preordained outcome is crossed, the true reason for deciding to lose on the next occasion becomes less clear. The next step of the player losing in order to bet on that outcome may be so small as to be imperceptible, and the player may easily deceive him or herself as to the true reason for his or her actions.
- 107.4 The player may also inform another player in his or her social group of his or her intention to lose a match for reasons other than betting, with the result, intended or unintended, that the second player bets on the first to lose, again in order to finance him or her continuing to play. Again, the second player may feel that he or she is doing nothing (or not much) wrong if the first player intended to lose anyway, and the second player is not betting on him or herself to lose but on the first player to do so. The foundations are laid for reciprocal arrangements between players to tell each other when they are going to lose for their own reasons, so that all can bet in order to finance their continuing to play.
- 107.5 Such decisions in advance create inside information that would not otherwise exist. Those connected with the player, or others who find out the information through the inadvertence or deliberate action of the player or those connected with him or her, may be tempted to act on it or to pass it on for betting purposes<sup>74</sup>. A player's family may be tempted to ease the burden of financing the player by betting on him or her to lose when they learn that he or she has decided to do so for reasons unconnected with betting. A player's 'sponsor' or agent may learn of the player's intention and bet in order to recover some of the initial outlay made. A coach may be tempted to make some additional money on the basis of the information. Each may pass the information on to others, inadvertently, or deliberately for reward or otherwise. The foundations are laid for the family or sponsor or agent or coach, or others, actively to seek out information as to when a player intends to lose for reasons unconnected with betting, so that they may bet. Beyond that, the foundations are also laid for those people actively to encourage the behaviour by the player, and beyond that for them actively to encourage the player to lose deliberately so they can bet on that outcome.

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<sup>71</sup> Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 14, paragraph 2.44.

<sup>72</sup> Richard Ings, 'Report on Corruption Allegations in Men's Professional Tennis' (June 2005), page 36, paragraph 203, Appendix: Key Documents.

<sup>73</sup> Richard Ings, 'Report on Corruption Allegations in Men's Professional Tennis' (June 2005), page 36, paragraph 207, Appendix: Key Documents.

<sup>74</sup> Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 14, paragraph 2.46; Richard Ings, 'Report on Corruption Allegations in Men's Professional Tennis' (June 2005), page 38, paragraph 217, Appendix: Key Documents.

107.6 Others may independently but correctly conclude that such a decision will have been made by a particular player on a particular occasion, and bet on that basis. Those others may draw on their knowledge of the player, and the combination of circumstances faced, to reach the same conclusion as the player that he would be better served by losing the match, and to assess that the particular player will have decided deliberately to lose. Absent the player's past decisions to deliberately lose, there would be no basis for such an assessment.

107.7 However, the information is obtained, the match is deliberately lost and that outcome is bet upon in the knowledge that it will be lost, producing the same results on the betting market as if the match had been fixed for betting or other corrupt purposes.

107.8 In this environment, the further step of a player agreeing for reward deliberately to lose to allow others to bet on that outcome is again a smaller one than it would otherwise have been, if the player had never embarked on the course of deliberately losing matches for other reasons.

## **(2) THE DISTINCTION BETWEEN A PLAYER CONTRIVING THE RESULT AND OTHERWISE FAILING TO USE BEST EFFORTS**

108. A player's failure to use best efforts on the court (and the use of the term 'tanking') covers a wide range of circumstances<sup>75</sup>.

109. As set out in Chapter 1, the factual ambit of this Review is confined to the situation where a professional tennis player does not try to win a match, or part of it. Plainly however, the circumstances where this happens, and the player's motivation, vary significantly. While some circumstances do involve a breach of integrity that falls (or should fall) to be dealt with by the TIU under the TACP, some do not. Those that do involve breaches of integrity of varying seriousness. Those that do not may still constitute breaches of the obligation to use best efforts contained in the International Governing Bodies' Codes of Conduct.

110. The starting point, therefore, as identified in Section A above, is that there are some behaviours that, although they may not involve a particular player using the maximum effort he or she can reasonably be expected to exert at a particular moment in a match, nevertheless may not constitute even a failure to use best efforts contrary to the International Governing Bodies' Codes of Conduct, still less a breach of integrity at the level to be dealt with by the TIU under the TACP:

110.1 First, the maximum effort that can reasonably be expected of a player will not be the same at different points in the season, or at different points within a period of events on a particular surface. Players have to build up their strength and performance on a surface progressively to reach the peak of their match fitness, and cannot be expected to play continually at that level. As part of that build-up, players have to prioritise certain events over others and plan their seasons so as to peak physically and mentally at what they have assessed to be the critical event for them. That process may inevitably involve a player conserving energy or avoiding injury during the build-up, so as not to prejudice performance at the critical moment. But such players are not trying to lose. Nor are they not trying to win or not using best efforts, properly understood. They are trying to win, and using best efforts, within the confines of the level of performance they have reached, and without risking exhaustion or injury. It is true that a player playing in an event that he or she regards as preparatory for a more important event, may be less concerned if he or she progresses only a short way in the preparatory event. But that is different in intention and execution from setting out to lose, not trying to win, or not using best efforts.

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<sup>75</sup> Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 13, paragraph 2.40, Appendix: Key Documents. The Panel agrees that there is a spectrum, but differs slightly in what behaviour falls where on that spectrum, on the appropriate classification of it, and on how it falls to be dealt with.

- 110.2 Second, a player may pick up or exacerbate an existing injury during a match, and many players often play with some level of chronic injury or with an injury that is gradually on the mend. In such circumstances, the maximum effort that can reasonably be expected of a player will not be the same as when the player is fully fit. The injury itself inhibits performance, and the player competes so as not to exacerbate it. But again, such players are not trying to lose; nor are they not trying to win or not using best efforts. They are trying to win, and using best efforts, within the confines of the performance they are capable of in the light of their injury.
- 110.3 Third, a player may lose concentration or self-confidence. Players are not robots, and may not in a particular instance be able to overcome such a psychological set-back. While such players might not be exerting maximum effort, they too might be seeking to win, and to use best efforts, within the confines of the performance they are capable of giving in the light of their mental state.
- 110.4 Fourth, there are legitimate tactical decisions within the context of a match. For example, if a player has gone a break up in a set, it may be a legitimate choice not to chase after a further break, and rather to conserve energy to ensure that service games are held. Equally, a player may legitimately decide to ease off in a set that is likely to be lost, in order to increase the chances of ultimate success. In each instance, the player is not trying to lose the match or even part of it and the player is still trying and using best efforts to win the match, although he or she might be characterised as not trying to win a particular part of it.
111. These behaviours are ones that may indeed be legitimately described as ‘a part of the game’, in the sense that they are inherent in the sport and the way that it is organised, and do not (absent anything else<sup>76</sup>) involve players not trying to win, or not using best efforts, properly understood.
112. The first level of problematic behaviour arises where a player ceases during the course of a match to try to win, or to use best efforts to do so, for example because the player incentive structure and the organisation of professional tennis have put great demands on the player physically and mentally. At the end of a long series of events, a player may become tired and disillusioned. He or she may well want to go home. If a match begins poorly, the player may succumb to that tiredness and disillusion, and cease to use best efforts to win. The player may go for marginal shots, and stop trying to reach his or her opponent’s shots. It is not so much that the player is not trying to win, as that he or she has ceased to care. In addition, a player may due to poor form, or chronic injury, or lack of confidence, begin to perceive that a match is not winnable, and so cease during the course of a match to use best efforts to win. The player gives up. It is possible in such circumstances, that the player begins during the course of the match actively to try to lose to accelerate matters. In some instances, these behaviours may be extreme and visible to all.
113. In the view of the Panel these behaviours, while perhaps on occasion understandable, do constitute (absent anything else) a failure to use best efforts contrary to the International Governing Bodies’ Codes of Conduct. Professional tennis players owe an obligation, under those rules and to the stakeholders in the sport, always to use their best efforts. They are paid to play tennis to the best of their ability and capacity, and they have a responsibility to do so within the rules. It is not open to them to treat their matches as if they were playing recreationally, whatever the underlying reasons. While these behaviours may be ‘a part of the game’ in the sense that they happen, they should not be part of the professional sport.

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<sup>76</sup> Each case will be different, and the assessment of whether there has been a failure to use best efforts will be fact driven.

114. The next level of behaviour is where a player contrives the result of the match for reasons other than betting or other corrupt purposes by making and acting on a decision in advance deliberately to lose or retire. As set out above:
- 114.1 The player may make and act on such a decision due to the player's perception that he or she will be better served by losing, or due to other personal reasons.
- 114.2 The player may take the court in the knowledge that he or she is too injured to compete or even play, having decided in advance either simply to go through the motions and lose, or retire.
115. The next two types of behaviour each involve a player making and acting on a decision to lose a match or part of it for corrupt purposes.
116. First, players may make in advance and act on such a decision for non-betting but still corrupt purposes, such as to allow their opponent to win ranking points in return for a share in the additional prize money earned. Again, this involves a failure to use best efforts that if identified can be dealt with at least in the first instance as on court offences and aggravated offences under the International Governing Bodies' Codes of Conduct, but which is already properly also capable of being dealt with by the TIU under the TACP. Depending on the facts, losing deliberately for reward and to advance another player's interests may in some instances be more serious than some instances of losing for betting related reasons. For example, being paid to lose a match to allow another player to gain ranking points, which will adversely affect a third player, may be regarded as more serious than a player losing a set for betting purposes but going on to win. In any event, it may well be that a player who is prepared to lose a match for reward and to advance another player's interests may also bet himself, and communicate the preordained result to others to enable them to bet<sup>77</sup>.
117. Second, at the far end of the range of circumstances, a player may make and act on a decision in advance to deliberately lose a match or part of it for betting purposes. Again, this involves a failure to use best efforts that if identified can be dealt with at least in the first place as on court offences and aggravated offences under the International Governing Bodies' Codes of Conduct, but which is also capable of being dealt with by the TIU under the TACP.

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<sup>77</sup> As happened in the Lindahl case, see Chapter 10, Part 3, Section C(5).

**C USE AND PROVISION OF INSIDE INFORMATION**

118. Betting turns on the betting operator's setting of odds that reflect its calculation of the likelihood of a particular contingency arising, and the bettor's perception of those odds against his or her own calculation of that likelihood. If the odds are too long, the bettor will be less likely to risk his or her money. Integral then to the setting of the odds and to the bettor's preparedness to bet, is the information that each has as to the likely outcome. Information that is public is available to both of them, and can be factored into both their calculations. If on the other hand, either of them can obtain information that is not public, or inside information<sup>78</sup>, from the player or his or her circle or someone else who has obtained it, that information is of great value to the holder in their calculations because it is unknown to the other.
119. The quality of that inside information varies between, as described above, high quality information as to a preordained result because a player has decided to lose a match for his or her own reasons, which leads to very high bettor confidence, to low quality inside information. For example, as to the general fitness or mental state of a player, which is merely additional information to be factored into the calculation of risk, and on which it would be unwise to place too much reliance. In between, there is inside information which, while not indicating that a result is preordained, indicates in context that a particular outcome is much more likely than it would otherwise be assessed to be: an example might be if one of two players otherwise regarded as comparable in ability on the surface and in form was known to have sustained an injury shortly before the match. Because using such inside information to bet or providing such inside information to others offers players or other participants an opportunity to make money, such behaviour is again one to which tennis is particularly susceptible for many of the same reasons why the sport is particularly susceptible to match-fixing, as set out above.
120. The use and provision to others of such information by players or others covered by the rules constitutes a serious breach of integrity, albeit again of a different quality to match-fixing in the sense described above.
121. The TACP currently provides that no Covered Person shall:
- 121.1 directly or indirectly, solicit or accept any money, benefit or Consideration, for the provision of any Inside Information; or
- 121.2 directly or indirectly, offer or provide any money, benefit or Consideration to any other Covered Person for the provision of any Inside Information<sup>79</sup>.
122. For purposes of these rules, the TACP defines "*Inside Information*" as "*information about the likely participation or likely performance of a Player in an Event or concerning the weather, court conditions, status, outcome or any other aspect of an Event which is known by a Covered Person and is not information in the public domain*"<sup>80</sup>.
123. The use and provision of inside information by players and others covered by the rules is harmful to tennis because it facilitates cheating at betting, harms the reputation of the sport by throwing in doubt the genuineness of the players' performance against the expectations of those not sharing the information, exposes players and others to pressures from those seeking inside information, and may lead to other breaches of integrity by players and others<sup>81</sup>. A Covered Person<sup>82</sup> who uses inside information breaches the prohibition on betting, and cheats at betting. In addition, a player

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<sup>78</sup> In 2014, the Council of Europe adopted the Convention on the Manipulation of Sports Competitions (CETS N° 215) which at Article 2.7 states that: "Inside information means information relating to any competition that a person possesses by virtue of his or her position in relation to a sport or competition, excluding any information already published or common knowledge, easily accessible to interested members of the public or disclosed in accordance with the rules and regulations governing the relevant competition." See Chapter 5, Section A(3).

<sup>79</sup> TACP (2018), Section D.1.h-i.

<sup>80</sup> TACP (2018), Section B.14.

<sup>81</sup> The authors of the Environmental Review concluded that "the scourge of all sporting events in respect of integrity issues is the possible misuse of 'inside information' for cheating at betting". See Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 19, paragraph 2.84 and Recommendation 10, Appendix: Key Documents and as described in Chapter 8, Section B(2). In Executive Summary paragraph 6, the authors identified "misuse of inside information for corrupt betting purposes" as one of the "5 principal threats to the integrity of professional tennis" identified by the Environmental Review. The Ings Report identified that "the most important factor driving the threat of corruption in men's professional tennis is the liquidity of the betting market and the opportunity to capitalize on that liquidity through inside information on player intentions to under perform". See Richard Ings, 'Report on Corruption Allegations in Men's Professional Tennis' (June 2005), page 38, paragraph 217, Appendix: Key Documents and as described in Chapter 7, Section A(4). See also the 2005 Ings Report at paragraphs 16, 19, 25, 139, 150, 207, 218, 244 and 250.

<sup>82</sup> TACP (2018), Sections B.6, as addressed in Chapter 10, Part 1, Section B(2).

or other Covered Person who first provides inside information as to injury or form may be more readily persuaded to provide higher quality information if the player plans to lose for his or her own reasons, or the player may indeed be more readily persuaded to lose for betting purposes.

124. Some may take the view in this context that from a sport's standpoint the provision of inside information is a problem for the betting markets and not a problem for the sport, and does not form a legitimate basis for rules that inhibit players' and others' freedom to communicate what they want to whom they want. This view draws on the proposition that it is irrelevant to the integrity of the outcome of matches if some people have more information about what may or may not happen, and bet on the basis of that additional information. It also draws on the proposition that only betting operators and bettors who are incautious enough to presume that everyone has the same information suffer when it emerges that that is not the case. In addition, this view also draws on the proposition that information is readily available from numerous sources other than players and others covered by the rules and that it is not possible to identify, or legitimate to presume, that it has in fact originated from the player him or herself or those in his or her support team.
125. While again recognising that this view may be held by some, and agreeing that measures in response to the use and provision of inside information must be proportionate, and also agreeing that it is essential to protect players' and others' interests in being able to have normal conversations with one another and with others, the Panel does not share it.
- 125.1 First, it must be recognised that betting with inside information is cheating at betting, and no sport should tolerate the facilitation of cheating. While those affected immediately are bettors and betting operators, that effect cannot be simply disregarded.
- 125.2 Second, in the opinion of the Panel, the view disregards the knock-on effects on the sport of damage to reputation, the encouragement of further breaches of integrity, and the exposure of players and others to the attentions of those seeking information. The conclusion of the Panel is that such knock-on effects are significant because inside information is integral to corrupt betting activity.
- 125.3 Third, the proposition that the information might come from another source is no basis for removing the prohibition on passing of information: again, there is benefit in setting the norm with which the rule-compliant will comply, and difficulty in enforcement is no justification for removal of the prohibition.
126. Inside information can also leak out to betting operators and bettors inadvertently without its being provided by any player, participant in tennis, or other person caught within the definition of Covered Person<sup>83</sup>. This may happen where someone is able illegitimately to observe a player's state of health or form, or to overhear a legitimate conversation, or otherwise to obtain inside information by subterfuge. One of the principal causes for such inadvertent leakage is inadequate facilities and organisation at events and, in particular, accreditation systems and arrangements for control of access to players, which should be tightened<sup>84</sup>. The unintended consequence of the player incentive structure that there are inadequate facilities and organisation at nominally professional tennis events is addressed above<sup>85</sup>, and the inappropriate provision of accreditation is addressed below<sup>86</sup>.

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<sup>83</sup> TACP (2018), Sections B.6, as addressed in Chapter 10, Part 1, Section B(2).

<sup>84</sup> This was also identified in the 2008 Environmental Review and in the 2005 Ings Report. Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 16, paragraph 2.58 and page 19, paragraph 2.83 and Recommendations 8 and 9, Appendix: Key Documents and as described in Chapter 8, Section B(2). The authors concluded that "access to players, officials and tournaments is a constant source of potential problems for the integrity of tennis, particularly in respect of inside information". In particular, "at lesser events, the risk of unauthorised persons gaining 'inside information' on a player's fitness/physical condition is increased because access provisions are less stringent". In Executive Summary paragraph 6, the authors identified "accreditation abuse and violation of credentials" as one of the "5 principal threats to the integrity of professional tennis" arising from the Environmental Review. The 2005 Ings Report identified that "it has been well established that gambling interests accessing player areas at tournaments is an invitation to corrupt conduct. The purpose of such gambling interests being at the tournament is to gain inside information from competing players to either assist in setting odds or to identify arbitrage-betting opportunities" and that "what is clear to this inquiry is that persons with an interest in gambling are attempting to gain inside knowledge of such player intentions with an aim to making windfall-betting profits": see Richard Ings, 'Report on Corruption Allegations in Men's Professional Tennis' (June 2005), page 26, paragraph 139 and page 38, paragraph 218, Appendix: Key Documents and as described in Chapter 7, Section A(4). See also the 2005 Ings report paragraphs 150 and 244, and Recommendation 7, as dealt with in paragraphs 248 to 250.

<sup>85</sup> Paragraph 81 above.

<sup>86</sup> Paragraph 146 below.

**D BETTING BY PLAYERS AND OTHER PARTICIPANTS**

127. Players and other participants in tennis, like any member of the public and even in jurisdictions where betting is restricted, have little difficulty in accessing betting operators' websites, or betting shops, in order to place a bet on tennis even if prohibited by the rules of the sport from doing so. The nature of the systems in place at betting operators is that there is little difficulty in establishing an account through which to bet in a way that does not lead to identification of the player: while some betting operators impose measures to identify their account holders, such as requirements to provide credit card details, contact details, and identification, an account can self-evidently be opened in the name of a friend or family member, through which the player bets. Bets can be broadly divided into four classes: bets other than on sports, such as poker and casino betting, bets on sports other than tennis, bets on other tennis players' matches, and bets on the tennis player's own matches. As set out above, because betting offers players or other participants an opportunity to make money, it makes tennis susceptible for many of the same reasons why the sport is particularly susceptible to match-fixing<sup>87</sup>.
128. The TACP provides that "*No Covered Person*<sup>88</sup> shall, directly or indirectly, wager or attempt to wager on the outcome or any other aspect of any Event or any other tennis competition"<sup>89</sup>.
129. Betting on tennis and, in particular, betting by a player on his own matches, is a serious breach of integrity, albeit of a different quality to match-fixing in the sense described above<sup>90</sup>. It is much less clear that betting on other sports, still less other types of bets, can be regarded as a breach of integrity.
130. A player betting on his or her own matches, and on the matches of others, is harmful to tennis because it: (a) facilitates cheating at betting, in that inside information may have been used; (b) harms the reputation of the sport by throwing in doubt the genuineness of the player's performance as he or she stands to profit from an outcome that is under his or her own control, or the control of someone he or she knows; (c) exposes players to pressures from those knowing the player is betting; and (d) may lead progressively to other breaches of integrity by the player and others. In particular, if players can bet on themselves, the temptation to ensure that the outcome matches the bet may be too great to resist, which may lead on to more systematic match fixing or spot fixing.
131. Some may however take the view that so long as a player does not bet on him or herself to lose, he or she should be able to bet on his or her own matches, and should certainly be able to bet on the tennis matches of others, or at least of others at different events or different levels. This view draws on the proposition that a player betting on him or herself to win will only enhance the genuineness of the contest. It also draws on the proposition that betting on the tennis matches of others plays no role in the outcome of those matches, and that a low ranked player will have no inside information in relation to a top ranked player, and rather is just bringing his or her expertise to bear in a manner open to any other bettor. Indeed, some may regard the ability to bet on tennis and so earn money to finance continued involvement in the sport as permissible and an inevitable consequence of the difficulty at the lower level in making enough money to continue playing. The view also draws on the proposition that such bets are 'harmless' and that to prevent players from enjoying a freedom open to others in this context is disproportionate.
132. While again recognising that this view may be held by some, and agreeing that measures in response to betting must be proportionate, the Panel does not share it. First, the view ignores the significance of the perception created by a player betting whether on his or her own matches or those of another tennis player, that something irregular may well

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<sup>87</sup> Paragraph 32 above.

<sup>88</sup> TACP (2018), Section B.6, as addressed in Chapter 10, Part 1, Section B(2).

<sup>89</sup> TACP (2018), Section D.1.a, as addressed in Chapter 10, Part 1, Section B(2).

<sup>90</sup> Paragraph 26 above.

be occurring. Second, it also ignores the significance of players who bet on their own sport being exposed to corrupting forces. The only way to address that perception sufficiently so as to protect the reputation of the sport, and to prevent cheating at betting through the use of inside information, exposure to pressure from others, and the progressive move to future breaches, is to prohibit any betting by players on tennis. It is impossible to tell whether players have inside information in relation to any particular match, and the perception will likely be that they have such information if they are choosing to bet. Third, a limited prohibition only on betting on oneself to lose in no way addresses either spot-fixes, or the use of inside information. Fourth, similarly, a limited prohibition only on betting on oneself to lose in no way deals with the phenomenon of groups of players sharing with each other their intentions and other inside information in relation to particular matches. Fifth, it is more practicable (though still difficult) to police and enforce a complete prohibition on any betting on tennis, than on particular types of bet (which would be in practice unworkable). Sixth, a complete prohibition removes temptation from taking the apparently only small step to making a bet to lose, for example when a player is facing a much more highly ranked opponent and sees nothing wrong in making a bet that reflects the imbalance.

133. Betting on tennis by other participants in tennis causes similar harm to tennis:

133.1 In relation to those caught by the definition<sup>91</sup> of a Related Person<sup>92</sup>, the perception will again be that they have benefitted from inside information, or if for example a coach bets on his or her own player, that the genuineness of the outcome is in doubt. Furthermore, the reality, or the perception, may be that such a person is betting on behalf of the player.

133.2 In relation to Tournament Support Personnel<sup>93</sup>, the perception will again be that they have benefitted from inside information. Furthermore, at least some Tournament Support Personnel may in theory at least have been in a position to affect the likely outcome of a match, through the draw or schedule of matches.

133.3 In relation to officials, the 2018 TACP now specifically names them as falling within the definition of Covered Persons. Further, the Code of Conduct for Officials<sup>94</sup> not only prohibits officials from betting on tennis, but also requires them to comply with the TACP. If officials were allowed to bet on tennis, there would again be a perception that they have benefitted from inside information, and also a perception though perhaps not the reality that they can through their decisions on court affect the outcome of a match<sup>95</sup>. More particularly, due to the chair umpire's role in entering the scoring data that is provided live to betting operators, the chair umpire is in a position to delay or falsify the entering of the score facilitating cheating at betting as described below<sup>96</sup>.

<sup>91</sup> Chapter 15, Section A(3).

<sup>92</sup> TACP (2018), Section B.22, as addressed Chapter 10, Part 1, Section B(2).

<sup>93</sup> TACP (2018), Section B.27: "any tournament director, Officials, owner, operator, employee, agent, contractor or any similarly situated person and ATP, ITF and WTA staff providing services at any Event and any other person who receives accreditation at an Event at the request of Tournament Support Personnel."

<sup>94</sup> ITF, Duties and Procedures for Officials, 2017, Part II, Section U, Article A(11). This code applies to all officials working at ATP, Grand Slam, ITF and WTA events <http://www.itftennis.com/officiating/officials/on-court-officials.aspx> [accessed 9 April 2018].

<sup>95</sup> For these reasons, the Environmental Review concluded that "although there were mixed views expressed on such persons wagering/betting on tennis and about the extent of any such ban during our consultation process, we feel that the risk posed by a wide range of 'insiders' who may misuse 'inside information' for corrupt betting purposes is such that a ban is necessary to demonstrate and reinforce the preventative strategy necessary to deal with this threat": see Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 11, paragraph 2.24 and Recommendation 6, Appendix: Key Documents and as described in Chapter 8, Section B(2).

<sup>96</sup> Paragraph 134 below.

**E DELAY IN ENTERING OR MANIPULATION OF THE SCORE BY OFFICIALS**

134. As already mentioned above in relation to the susceptibility of tennis to breaches of integrity, a novel form of corruption that has emerged more recently<sup>97</sup> is chair umpires delaying entering or manipulating the score<sup>98</sup>. As a result of their delaying entering the score, a courtsider<sup>99</sup> may be afforded a longer period during which to bet before the betting operator knows what has happened. Alternatively, the chair umpire can him or herself use the delay to bet or to communicate the position to others before entering the score. A chair umpire may also manipulate the score by entering fictitious elements into the scoring in accordance with a pre-agreed plan, which do not affect the actual result or even the margins in sets or games, for example by adding in or taking away deuces or misreporting the points score in a game<sup>100</sup>.
135. The novel nature of this behaviour, and the former lack of clarity as to whether the TACP itself extended to officials, means that there is not a clear and express prohibition of it in the TACP. That said, it was arguable that the definition of Tournament Support Personnel was wide enough to encompass officials for the reasons set out above, and officials now have expressly to undertake to comply with the TACP<sup>101</sup>. It is equally arguable (though perhaps more tenuously) that the prohibition on “*facilitating*” a person to bet addressed below<sup>102</sup>, or the prohibition on “*contriving... any aspect*” of an event addressed above<sup>103</sup>, cover the behaviour. Furthermore, in that the score is arguably not public until entered, its earlier provision to another may breach the prohibitions in relation to inside information<sup>104</sup>. In addition, it may also be a “*benefit*” obtained from Tournament Support Personnel for reward.
136. While these actions do not affect the outcome of tennis matches, they harm tennis because they facilitate cheating at betting, they damage the reputation of the sport, and they expose officials to pressure.
137. Just as in the context of the use and provision of inside information, some may take the view in this context that from a sport’s standpoint such delays and manipulation of the score without affecting the actual result is a problem for the betting markets and those who operate on them and not a problem for the sport.
138. The difficulty with this view when translated to the situation of officials is that there can be no sensible objection to a prohibition on officials deliberately delaying entering or manipulating the score: there is no countervailing right of an official that is infringed. And again, it must be recognised that such actions involve cheating at betting, and no sport should tolerate the facilitation of cheating. Equally, again, while those affected immediately are bettors and betting operators, that effect cannot be simply disregarded. So too, to tolerate such actions would be very damaging to the reputation of the sport.

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<sup>97</sup> And since the Environmental Review. The behaviour is a function of the live scoring system and sale of official live scoring data introduced in the last five years.

<sup>98</sup> Chapter 10, Part 5, Section A(10) and Chapter 13, Section D for decided disciplinary cases in relation to corrupt chair umpires.

<sup>99</sup> Chapter 3, Section E.

<sup>100</sup> Chapter 13, Section D.

<sup>101</sup> Paragraph 133.3 above.

<sup>102</sup> Paragraph 161 below.

<sup>103</sup> Paragraph 104 above.

<sup>104</sup> Paragraphs 118-126 above.

**F ACTIONS OF PLAYERS AND OTHERS THAT ENCOURAGE OR FACILITATE BETTING BY OTHERS**

139. A particular phenomenon that has arisen in the light of the increase in betting on tennis and the widespread operation of websites and other social media by players and other participants, is that betting operators have been willing to pay players and other participants to take steps that encourage or facilitate betting by others.
140. As a consequence, the TACP provides that “No Covered Person<sup>105</sup> shall, directly or indirectly, solicit or facilitate any other person to wager on the outcome or any other aspect of any Event or any other tennis competition. For the avoidance of doubt, to solicit or facilitate to wager shall include, but not be limited to: display of live tennis betting odds on a Covered Person website; writing articles for a tennis betting publication or website; conducting personal appearances for a tennis betting company; and appearing in commercials encouraging others to bet on tennis”<sup>106</sup>.
141. Harm arises to tennis in three ways. First, it is inappropriate that players and some other participants should be closely involved with betting operators, because while many such betting operators are reputable and would not utilise the arrangement to bring pressure to bear on players or participants, some are not, and might. At best, there remains a perception that pressure might be brought to bear. Second, in some instances, such as tipping columns, the implication is that advantageous information is being provided. If the column is not generally published but is only available to a few (such as account holders), the information could be regarded as inside information. Third, it is generally undesirable and harmful to the reputation of tennis that players and some other participants should be encouraging or facilitating others to do what they themselves are specifically prohibited from doing.
142. Some may take the view that such a prohibition goes too far, because the behaviour does not affect the outcome of events, and because of a perception that the same restriction does not apply to event organisers or the International Governing Bodies, which is inconsistent. Again, the Panel can see why the view might be held, but does not share it. The risk of pressure, even if in many circumstances slight, must be avoided.

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<sup>105</sup> TACP (2018), Section B.6, as addressed in Chapter 10, Part 1, Section B(2).

<sup>106</sup> TACP (2018), Section D.1.b, as addressed in Chapter 10, Part 1, Section B(2). See also TACP (2018) Section D.1.k, which provides that “no Covered Person may be employed or otherwise engaged by a company which accepts wagers on Events”.

**G SPONSORSHIP OF PLAYERS AND OTHERS BY BETTING OPERATORS**

143. A behaviour similar and possibly overlapping with the encouragement or facilitation of betting is the acceptance of sponsorship by players and others from betting operators.
144. Consequently, the TACP provides that “*No Covered Person*<sup>107</sup> *may be employed or otherwise engaged by a company which accepts wagers on Events*”<sup>108</sup>.
145. Harm arises to tennis in two ways, again similar to some of those that arise in relation to facilitation and encouragement of betting. First, the possibility or appearance of pressure arises. Second, it is generally undesirable and harmful to the reputation of tennis that players and some other participants should be closely involved with an industry the existence of which raises the possibility of match-fixing.

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<sup>107</sup> TACP (2018), Section B.6, as addressed in as addressed in Chapter 10, Part 1, Section B(2).

<sup>108</sup> TACP (2018), Section D.1.k, as addressed in Chapter 10, Part 1, Section B(2). See also TACP (2018), Section D.1.b which prohibits some of the actions that might form part of a sponsorship arrangement.

**H INAPPROPRIATE PROVISION OF ACCREDITATION**

146. The importance of accreditation to those wishing to bring pressure to bear on players or to obtain inside information means that they may seek to obtain it from players or others in return for reward, or otherwise<sup>109</sup>, as already referred to above in the context of the use and provision of inside information.
147. As a consequence, the TACP provides that “*No Covered Person*<sup>110</sup> shall, directly or indirectly, solicit or accept any money, benefit or Consideration for the provision of an accreditation to an Event (i) for the purpose of facilitating a commission of a Corruption Offense; or (ii) which leads, directly or indirectly, to the commission of a Corruption Offense”<sup>111</sup>.
148. The harm to tennis from such sale of accreditation to those who wish, or go on, to commit a breach of integrity is self-evident.

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<sup>109</sup> Ben Gunn and Jeff Rees, ‘Environmental Review of Integrity in Professional Tennis’ (May 2008), pages 16-19, paragraphs 2.58 to 2.83 and Recommendations 8 and 9, Appendix: Key Documents and as described in Chapter 8, Section B(2). In Executive Summary paragraph 6, the authors identified “accreditation abuse and violation of credentials” as one of the “5 principal threats to the integrity of professional tennis” arising from the Environmental Review. See also Richard Ings, ‘Report on Corruption Allegations in Men’s Professional Tennis’ (June 2005), pages 26-27, paragraphs 136-150 and Recommendations 6 and 7 Appendix: Key Documents and as described in Chapter 7, Section A(4).

<sup>110</sup> TACP (2018), Section B.6, as addressed in Chapter 10, Part 1, Section B(2).

<sup>111</sup> TACP (2018), Section D.1.c, as addressed in Chapter 10, Part 1, Section B(2).

**I SALE OF WILDCARDS**

149. A separate form of corrupt activity that has arisen, which relates not to the outcome or course of matches but to participation in them in the first place, is the sale of main draw places reserved for wildcards.
150. Consequently, the prohibition in the TACP that “*No Covered Person<sup>112</sup> shall, directly or indirectly, offer or provide any money, benefit or Consideration to any Tournament Support Personnel in exchange for any information or benefit relating to a tournament<sup>113</sup>*”, extends beyond Covered Persons offering or providing reward for information, to their doing so for “*benefit relating to a tournament*” which includes the provision of a wildcard.
151. The harm to tennis is evident: to the detriment of another player, perhaps better qualified, a place in the main draw of an event at which the player will secure ranking points and prize money, has been sold. This undermines the ranking point system and favours ‘better off’ players or those with extraneous funding at the expense of others. Furthermore, the practice affords access to matches to players potentially intending to match-fix or to bet, and affords access to the locker room to potential corruptors of other players.

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<sup>112</sup> TACP (2018), Section B.6, as addressed in Chapter 10, Part 1, Section B(2).

<sup>113</sup> TACP (2018), Section D.1.j, as addressed in Chapter 10, Part 1, Section B(2).

**J FAILURE TO REPORT APPROACHES AND BREACHES OF INTEGRITY BY OTHERS**

152. Fundamental to any system for the prevention of match-fixing and other breaches of integrity is the willingness of those with knowledge of approaches to fix, or of actual fixes, or of other breaches of integrity, to report them<sup>114</sup>. The detection and disciplinary prosecution of such behaviour, as described in Chapter 5<sup>115</sup>, is inherently difficult absent such witness evidence. Only with such reports can the authorities gather sufficient intelligence about those seeking to corrupt others, and take effective action against those who have been corrupted or engaged in other breaches of integrity. If the proper culture and atmosphere is present in a sport, it could be taken as a given that such reports will be made. Where it is not present, or is disregarded, it however becomes a breach of integrity in itself to fail to report approaches to fix, or actual fixes, or of other breaches of integrity.
153. Unfortunately, there is<sup>116</sup>, and has long been<sup>117</sup>, a wide spectrum of circumstances in which players and others subject to the rules do not report approaches and breaches of integrity by others. Some do not know of the rule requiring reporting, or at least of the potential for sanction for breach of it. Some regard the process as too complex or too much trouble. Some perceive that by reporting they may put themselves in difficulties or at least inconvenience with the authorities, and be subjected to questioning and treated as suspects. Some are scared of the perceived consequences for their safety from those involved in corrupt activity. Some are concerned that their report would not be treated in confidence. Some do not wish to 'betray' fellow players which might lead to damage to their reputation amongst players, and some perceive that there is no point in reporting because it will make no difference.

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<sup>114</sup> As it was put in paragraph 113 of the Environmental Review and as described in Chapter 8, Section B(2), "as with other sports, monitoring and enhancing the integrity of professional tennis is not just an issue for the Regulators. It is the responsibility of everyone who takes part in it and is a stakeholder in the sport, as well as the commercial and betting industries linked with it". See Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 5, paragraph 1.13, Appendix: Key Documents.

<sup>115</sup> Chapter 5, Sections B-E.

<sup>116</sup> Chapter 10, Part 2, Section C(2).

<sup>117</sup> The Ings Report concluded in 2005 that, at least in relation to betting by players and the reporting of approaches, there were "a climate of silence and apathy" and a "culture of acceptance" and "a blind eye turned" in this context amongst players, and even some player representatives, and that "informing on malpractice would result in players being ostracized in the locker room... remaining silent in the face of gambling or corruption by player peers was encouraged". The Ings Report therefore recommended that "the rules should contain a positive requirement on players and tournaments to report suspicions of corruption". See also Richard Ings, 'Report on Corruption Allegations in Men's Professional Tennis' (June 2005), pages 8-10, paragraph 42-55 and page 36, paragraph 207 and page 45, paragraphs 267-269, Recommendation 20 Appendix: Key Documents and as described in Chapter 7, Section A(4). See also Ings Report paragraphs 212, 227 to 229 and 232. The Environmental Review reported that "although some players said they would inform the appropriate authorities about any approach to themselves, there was almost a unanimous view that they would not do so if they knew/suspected another player had been approached. We understand the proposed uniform [Tennis Anti-Corruption Program] will impose an obligation on players to inform the tennis authorities whenever they are aware of suspected corrupt practices... The reasons given for adopting that attitude were concern about their personal safety from would be corrupters... concern about the confidentiality of any approach made by them to the tennis authorities... and a general feeling that informing on other players was breach of the trust/bond that exists between players": see Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), pages 11-12, paragraphs 2.28 to 2.29, Appendix: Key Documents and as described in Chapter 8, Section B(2).

154. The TACP imposes a separate and extensive “*reporting obligation*” on players<sup>118</sup>, who are also made responsible for any offence committed with their knowledge<sup>119</sup>. Related Persons and Tournament Support Personnel are also subject to a reporting obligation<sup>120</sup>. Breach of the reporting obligation is in itself defined as an offence under the TACP<sup>121</sup>.
155. The harm to tennis is evident: the maintenance of a culture of acceptance as described above is not only detrimental to the effectiveness of the system to tackle the breaches of integrity, but also fosters those very breaches.

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**118** TACP (2018), Section D.2.a.:

“i. In the event any Player is approached by any person who offers or provides any type of money, benefit or Consideration to a Player to (i) influence the outcome or any other aspect of any Event, or (ii) provide Inside Information, it shall be the Player’s obligation to report such incident to the TIU as soon as possible.

ii. In the event any Player knows or suspects that any other Covered Person or other individual has committed a Corruption Offense, it shall be the Player’s obligation to report such knowledge or suspicion to the TIU as soon as possible.

iii. If any Player knows or suspects that any Covered Person has been involved in an incident described in Section D.2.b. below, a Player shall be obligated to report such knowledge or suspicion to the TIU as soon as possible.

iv. A Player shall have a continuing obligation to report any new knowledge or suspicion regarding any Corruption Offense, even if the Player’s prior knowledge or suspicion has already been reported.”

**119** TACP (2018), Section E.1: “Each Player shall be responsible for any Corruption Offense committed by any Covered Person if such Player either (i) had knowledge of a Corruption Offense and failed to report such knowledge pursuant to the reporting obligations set forth in Section D.2. above or (ii) assisted the commission of a Corruption Offense. In such event, the AHO shall have the right to impose sanctions on the Player to the same extent as if the Player had committed the Corruption Offense.”

**120** TACP (2018), Section D.2.b.:

“i. In the event any Related Person or Tournament Support Person is approached by any person who offers or provides any type of money, benefit or Consideration to a Related Person or Tournament Support Person to (i) influence or attempt to influence the outcome of any aspect of any Event, or (ii) provide Inside Information, it shall be the Related Person’s or Tournament Support Person’s obligation to report such incident to the TIU as soon as possible.

ii. In the event any Related Person or Tournament Support Person knows or suspects that any Covered Person or other individual has committed a Corruption Offense, it shall be the Related Person’s or Tournament Support Person’s obligation to report such knowledge or suspicion to the TIU as soon as possible.”

**121** TACP (2018), Section D.2.c.: “For the avoidance of doubt, a failure by any Covered Person to comply with (i) the reporting obligations set out in Section D.2; and/or (ii) the duty to cooperate under Section F.2 shall constitute a Corruption Offense for all purposes of the Program”.

**K FAILURE TO COOPERATE AND TO ASSIST IN INVESTIGATION**

156. Equally fundamental to any system for the prevention of match-fixing and other breaches of integrity, and for similar reasons, is an obligation on players and others to cooperate and assist in any investigations, including by the giving of evidence and by not withholding information, and by not destroying or tampering with such evidence or information. Again, the detection and disciplinary prosecution of such behaviour, as described in Chapters 5<sup>122</sup> and 10<sup>123</sup>, is inherently difficult absent such cooperation. Failure to cooperate and provide assistance it is a breach of integrity in itself<sup>124</sup>.
157. Consequently, the TACP contains a provision requiring such cooperation<sup>125</sup> and a provision by which the right to object to the provision of information is waived<sup>126</sup>. Breach of the obligation to cooperate is in itself defined as an offence under the TACP<sup>127</sup>.
158. The harm to tennis is evident: the refusal of cooperation is again not only detrimental to the effectiveness of the system to tackle the breaches of integrity, but also fosters those very breaches.

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<sup>122</sup> Chapter 5, Section C(1).

<sup>123</sup> Chapter 10, Part 1, Section B(2).

<sup>124</sup> 2008 Environmental Review concluded that "the experience of other sports has revealed the importance of a player, or other person bound by a sporting regulation, being obliged to assist with a disciplinary enquiry. We acknowledge the legal principle of not being forced to incriminate oneself but we see a distinction between that principle in respect of criminal offences and a sportsman/woman's obligation reasonably to assist in a disciplinary enquiry. We strongly support the proposal on this issue in the uniform [Tennis Anti-Corruption Program]": Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 34, paragraph 3.95, Appendix: Key Documents and described in Chapter 8, Section B(2).

<sup>125</sup> TACP (2018), Section F.2.b: "All Covered Persons must cooperate fully with investigations conducted by the TIU including giving evidence at hearings, if requested. No Covered Person shall (i) tamper with, damage, disable, destroy or otherwise alter any evidence or other information related to any Corruption Offense or (ii) solicit or facilitate any other person to tamper with, damage, disable, destroy or otherwise alter any evidence or other information related to any Corruption Offense."

<sup>126</sup> TACP (2018), Section F.2.d: "By participating in any Event, or accepting accreditation at any Event, or by completing IPIN registration and/or player agreement forms a Covered Person contractually agrees to waive and forfeit any rights, defenses, and privileges provided by any law in any jurisdiction to withhold information or delay provision of information requested by the TIU or the AHO."

<sup>127</sup> TACP (2018), Section D.2.c: "For the avoidance of doubt, a failure by any Covered Person to comply with (i) the reporting obligations set out in Section D.2; and/or (ii) the duty to cooperate under Section F.2 shall constitute a Corruption Offense for all purposes of the Program".

**L ASSOCIATION WITH THOSE INVOLVED IN GAMBLING OR EXCLUDED PERSONS**

159. As addressed in Chapter 7<sup>128</sup>, prior to the adoption of the uniform TACP, the WTA rules included a general prohibition on association with those involved in gambling.
160. Other sports have the power in their rules to classify<sup>129</sup> persons, even though they are not covered by the rules, as excluded persons, and then to prohibit those covered by the rules from associating with them. The association becomes a breach of integrity in itself.
161. The TACP contains no such provision, rather it only prohibits actions encouraging or facilitating betting and sponsorship by betting operators, dealt with above. It is to be noted, as addressed in Chapter 7<sup>130</sup>, that the International Governing Bodies' Codes of Conduct also include general prohibitions on conduct contrary to the integrity of tennis, but these have not been regarded as extending to this situation.
162. The harm to tennis from such associations is that experience has revealed that they are often the first step on the way to other more serious breaches of integrity. A prohibition on association, as a breach of integrity in itself, allows a potentially more serious problem to be nipped in the bud. An ability to classify persons outside the each of the rules as excluded, and then not only to prevent them receiving accreditation or becoming involved in tennis, but also to prevent those caught by the rules from associating with them, effectively extends the ambit of the rules to tackle adverse conduct by them through measures applicable to those that are covered. Associations of this type are also harmful to tennis in that they harm the reputation of the sport.

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**128** Chapter 7, Section C(1).

**129** Sometimes referred to as 'warning off'.

**130** Chapter 7, Section C(2).

**M OTHER BREACHES OF INTEGRITY**

163. As addressed in Chapter 7<sup>131</sup>, and referred to above, the International Governing Bodies' Codes of Conduct also include, or have in the past included, general prohibitions on conduct contrary to the integrity of tennis. It is possible that a breach of integrity in relation to gambling or other corruption, or losing for other reasons, might arise that did not fall happily under any of the breaches defined in the rules. The harm to tennis from a breach falling between two stools in the rules is evident. Some sports operate a catch all provision to cater for this eventuality. It in effect makes all conduct that can be shown to affect integrity of the sport, a breach of integrity.
164. A further specific area impacting on integrity is the sheer level of abuse<sup>132</sup> received by players from disappointed gamblers, in particular over the internet, but also at events. This is obviously to be condemned, and addressed by the International Governing Bodies, as they are doing through their security measures and internet protection programmes.
165. Lastly, as set out in the Introduction<sup>133</sup>, there are other actions that fall within the broad concept of a breach of integrity, but which fall outside the ambit of this Independent Review of Integrity in Tennis, which is confined to the situation where a professional tennis player does not try to win a match, or part of it.

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<sup>131</sup> Chapter 7, Section C(2).

<sup>132</sup> An additional area that was dealt with in the Environmental Review, and identified by its authors as one of the 5 principal threats to integrity was abuse of players by trainers and parents: see Ben Gunn and Jeff Rees, 'Environmental Review of Integrity in Professional Tennis' (May 2008), page 1, paragraph 6 and pages 20-21, paragraphs 2.99-2.109, Appendix: Key Documents. This falls outside the parameters of the Review.

<sup>133</sup> Chapter 1, Section C.