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## Tougher rules on drugs in sport won't help detect more doping

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The new World Anti-Doping Code is around the corner, but it's not likely to help anyone. Nils Z

Professor Arnold Beckett, an English chemist and longstanding member of the International Olympic Committee (IOC), played a leading role in developing tests to detect drug misuse in sports during the 1960s. Yet by the 1980 Moscow Olympics, the steroid epidemic was uncontrollable. That year he said of the policy struggles: "This is a war, and the war must go on."

Beckett's influence waned and he passed away in 2010. Quite what he would make of the new World Anti-Doping Code is anyone's guess. He may simply have noticed that the "war" is still ongoing, no side has won, but each has ramped up its resources exponentially since his test for amphetamines was first rolled out for the 1965 cycling Tour of Britain.

### The new code

The new version of the code comes into effect on January 1, the third iteration after those of 2003 and 2009. It is the bible for anti-doping, written and implemented by the World Anti-Doping Agency (WADA) with the support of UNESCO, governments, the IOC and other international sports bodies. It continues the trend of enhanced and varied forms of power and tougher punishments.

The most significant change is that most athletes found to have used a banned drug, tampered with their sample, or helped others to dope, are likely to have a four-year ban; an increase from the current two years. This has huge consequences. In a profession where seconds count, where the minutiae of training techniques can be the difference between winning and losing, an absence of four years is likely to spell the end of the athlete's career.

Another significant change is that anti-doping agencies' powers to use forms of evidence beyond specimens to build a case have been enhanced. Permitting the use of whistle-blowers and partnerships with other investigative services such as the police, the media and even Interpol makes these agencies into powerful surveillance forces. Little wonder that the esteemed Danish professor of law, Eva Smith, recently wrote of her concern that anti-doping was going down a similar route to anti-terrorism.

## Strict liability

The new code does very little to protect innocent athletes who are sanctioned for innocuous or unintentional behaviour. When Alain Baxter used the wrong type of Vicks inhaler during the 2002 Salt Lake Olympics, he lost his medal and had a short ban. Should such an incident occur in 2015, it would probably conclude with a ban of between two and four years.



Skier Alain Baxter would have an even harder time under new regime. EPA

To appeal for a reduction, the athlete would need to risk several thousand pounds to take their case to arbitration. This discriminates against those in less wealthy sports, or who have achieved only moderate career winnings. And since the burden of proof lies with the accused, the chances of success in arbitration are slim.

This is a war in which the authorities want more power, and don't seem to mind some collateral damage. A case in point is that of the English hurdler Callum Priestley, who tested positive for clenbuterol that could have been in the food chain and was banned for two years. He retired from the sport aged 21. More such cases now look foreseeable.

Supporters of anti-doping will argue that enhanced powers are deterrents. In response, critics raise doubts over the human rights aspects. Athletes are already compelled to endure the indignities of urinating in front of a stranger to provide a sample for analysis. Many also have to provide blood samples. A sample of elite athletes need to file daily information about their whereabouts, much like newly released prisoners or convicted sex offenders. Those with medical problems need to provide all the details and their medicines. There is no

escape from the anti-doping gaze and pressure to self-regulate.

## Deterring who?

So is the deterrence effect demonstrable and justifiable? In recent years, the rate of detection has remained much the same, around 2% – meaning that 2% of those tested are found guilty of doping. Indeed in 2013 it reached 2.13%, slightly higher than in any previous year.

While increased deterrence is a vague possible outcome of increasing sanctions and surveillance, it is hard to imagine that it will bridge the gap between current detection rates and the reality of doping. Anti-doping policy leaders and researchers agree that 2% is a huge under-representation of the true extent of doping. Estimations of that figure vary depending on sport, country, and other factors, but globally it could be 10-20%.

The recent revelations from Russia suggest there to be significant doping sub-cultures that are not disturbed by the increasingly draconian powers of the World Anti-Doping Agency. There are still too many countries turning a blind eye to their athletes' behaviours, not conducting testing or providing sufficient education.

Deterrence is based on the fear of being caught. Athletes on a well-planned doping programme can still evade detection – think Lance Armstrong – especially in a context where anti-doping is not part of the cultural fabric of the sport. A four-year ban is a risk worth taking in such situations, especially if the motivation is a route out of poverty or where coaches and doctors are compelling athletes to dope.

There is an unintended form of inequity, where athletes operating in a highly regulated system are compelled to stay clean, knowing their competitors elsewhere are likely to be doping. And yet for those that get caught there are no second chances, no routes for redemption; the innocent are not protected in the zealous pursuit of those who are currently evading capture. In this unwinnable war, the means are not justified by the ends.

## A different approach

Perhaps a more preventative approach is feasible. Athletes could be more central to policy decisions, so they understand and internalise the rationale. Improved education that focuses on values might help many avoid the temptation to dope and create a positive message of pro-active clean sport.

At a global level, the main problem seems to be ensuring that all countries implement education and rigorous testing. There needs to be a more focused effort on identifying areas of risk and delivering a well organised policy and governance structure that is less focused on individuals and more on organisations. Sanctions might include excluding a country from the Olympics, for example. Such a strategy might allay fears of innocent victims and unnecessary personal surveillance, and might ensure that the pockets of doping sub-culture can be tackled effectively.



Callum Priestley: career over.  
EPA



Lance Armstrong

Doping

International Olympic Committee


World Anti-Doping Code

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