



## INTERNATIONAL CYCLING UNION

President

USADA  
Mr. William Bock III  
General Counsel  
5555 Tech Center Drive  
Suite 200  
Colorado Springs, CO 80919  
USA

*Sent by email only:*  
[lmcmillan@kgrlaw.com](mailto:lmcmillan@kgrlaw.com); [wbock@kgrlaw.com](mailto:wbock@kgrlaw.com)

Aigle, 9 August 2012  
Ref: Presidency

Dear Mr Bock,

**Re : your letter dated August 8, 2012**

I refer to your letter of 8 August.

Please note that UCI works for clean cycling and is doing all it can to fight doping. There is no conflict of interest here as the UCI is the most interested party in that the sport of cycling is as clean as possible. UCI's anti-doping programme is second to none and even WADA has admitted that.

We also find it important that current cycling is clean and in this respect we regret that USADA probably allowed riders that admitted doping to participate in the Tour de France, even if the facts that they allegedly testified upon date from many years ago.

Anyway the protection of the rights of clean athletes does not justify that the rules of anti-doping, including those on jurisdiction and fair trial, are not respected, on the contrary.

There is however a political problem in that anyone who questions some aspects of the fight against doping or criticizes actions or statements of WADA or another ADO or asks for respect for the own rules is immediately depicted as lenient on doping or accused of obstruction.

I just want to refer to UCI's intention which is to submit the file for results management assessment to a neutral body and with the respondents being given a copy of the file and being able to have their say. This is an open, neutral, transparent and fair way of dealing with the case rather than USADA making the most serious public accusations and condemnations while hiding the file.

### USADA's jurisdiction

It is not enough for USADA to state in its rules that it has jurisdiction in order to have such jurisdiction indeed. That will depend on the acceptance of jurisdiction by those on which USADA claims authority. It will also depend on the wording of the scope of jurisdiction, including in relation with the nature of the alleged facts, and also on the period during which these facts occurred (for example, is there jurisdiction for facts prior to the introduction of the rule that provides for jurisdiction?)

In this case it was USA Cycling that requested USADA to investigate. USA Cycling copied UCI on that request and did not copy USOC. UCI asked USADA to confirm whether it would investigate indeed. This shows clearly that USADA was acting under the UCI system and not under the USOC system. This USADA confirms in its letter of 12 June 2012 to the respondents where on pages 12 and 13 USADA states that its results management authority is based upon UCI's Anti-Doping Rules, in particular article 10. There is no reference to the USADA Protocol. However the authority of USADA under article 10 is not an independent authority but depends on the authority of the UCI. In the UCI system it is normal that USADA investigates on behalf of USA Cycling and therefore on behalf of UCI but it does not mean that USADA has the authority to initiate disciplinary proceedings. The conclusion or the results management and the initiation of disciplinary proceedings remain the authority of the UCI.

By invoking ADR as the basis of its authority USADA must accept the limits of its role under ADR.

If USADA does not accept that, the UCI is entitled to request USADA not to proceed on the basis of these rules.

### UCI rules and the Code

To the extent that UCI rules would run counter to the Code they still would apply but there would be an issue of Code-compliance with the Code. The Code does not overrule ADO rules.

I refer to my letter of today to WADA of which you will find a copy enclosed and where it is explained that the UCI rules were declared Code-compliant.

On the other hand USADA in its letter of 12 June to the respondents bases its results management authority exactly on article 10 ADR, which USADA claims now to be invalid. Is USADA confirming that it has no authority then?

However where there is a conflict between the rules of an IF and the rules of a NADO and the Code would provide no solution for this conflict, it is quite natural to use the precedence of the IF rules as confirmed by CAS. As explained before the Code contains applications of this principle which is another reason to apply it in this case.

### UCI rules and USADA rules

The rulings of article 15 of the Code aim precisely at establishing exclusive competences: who shall be responsible for results management and hearings in cases where samples are

involved and in cases where no samples are involved? The aim of this rule is to declare a single ADO as responsible for the case.

The UCI has applied article 15.3 of the Code in its rules. Article 15.3 is not one of the articles that has to be incorporated verbatim. Nothing prevents UCI from specifying what has to be understood with “discover the violation” and it is exactly that article 10 of the UCI rules that USADA has invoked in its letter of 12 June. As already said, article 10 was declared Code-compliant by WADA.

Whether article 10 extends the possibilities for UCI to be considered as the “discovering ADO” depends precisely on how one interprets article 15.3. Article 15.3 provides no guidance for that, article 10 of the UCI rules does. Such possibility is explicitly allowed by the Code that provides for flexibility in the rules of the ADO’s on the subject (see Introduction to the Code). Also non-analytical violations in cycling are within the “relevant sphere of responsibility” of the UCI according to article 23.2.1 of the Code: it is therefore the responsibility of the UCI to adopt policies, statutes, rules and regulations on the subject.

So this is quite the contrary of a “never never land”. Precise rules serve the purpose of justice. And there is nothing nonsensical in the UCI being unable to determine whether an anti-doping violation has occurred: that decision is for the hearing body to take. As to the evidence that was discovered to allege that a violation occurred, you refuse to share it with UCI. Anyway the mail of Floyd Landis is sufficient to allocate jurisdiction which in this case corresponds with the jurisdiction for cases involving samples.

You must also not forget that UCI asked different national federations to investigate in the case and because USA Cycling had already made such request to USADA, UCI asked USADA to confirm that it was conducting the investigation, which USADA did.

This system also shows that UCI is not excluding other ADOs or refuses to collaborate with ADOs: in various countries UCI member federations delegate anti-doping tasks to the ADO and the UCI has always accepted that provided UCI rules are applied.

In this case it is rather USADA that refuses to collaborate by refusing to communicate the file to UCI and refusing UCI to exercise its results management authority.

I don’t agree with your statement that the organization that conducted the investigation is in the best position to evaluate the evidence and ensure justice prevails. It is better that the investigation and its results are assessed by another body.

Evidence prior to the mail of Mr Landis

Where you say that UCI knows nothing about what the witnesses declared to USADA, you are right, but that is because you refuse to tell us. So I cannot comment upon your statement that USADA discovered the violation(s) before the e-mail of Mr Landis dated 30 April 2010.

In this respect you will note that through USA Cycling UCI has asked USADA to investigate in the sayings of Mr Landis.

It is correct that the UCI sued Mr Landis but then for the fact that he accused the UCI of having concealed a positive test, which is not true. The UCI did not sue Mr Landis for what he said on the subject of other persons.

In the latter case Mr Landis has until now avoided the summons to be served upon him.

### Samples

It is rather sad that you try to use what has been said during an interview without knowing the questions in advance. When I gave that interview people more qualified than I am in issues of jurisdiction – and as you may understand have assisted me in our correspondence – were looking into same. I wouldn't think that statements made during an interview and unprepared can be considered as binding in technical matters as these. You will tell me that I had better said nothing and I wouldn't disagree.

Whatever I may have been saying during an interview you cannot deny that samples are involved in the case.

The letter of 12 June 2012 to the respondents alleges: "Dr Saugy stated that Lance Armstrong's urine sample results from the 2001 Tour of Switzerland were indicative of EPO use" and "Lance Armstrong's doping is further evidenced by the data from blood collections obtained by the UCI".

In addition you ask for the laboratory documentation packages pertaining to the blood samples.

So it is clear that samples are involved indeed.

In fact the ADO's have an interest in using this criterion whenever possible as it is easier to determine who took a sample than to determine – at least under article 15.3 of the Code, not or less under article 10 of UCI's rules – who discovered a non-analytical violation.

### Notification of Drs del Moral and Ferrari and of Mr Marti

We take note of your explanations.

Our concern is in respect with procedural issues indeed.

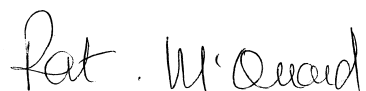
The main concern remains however that the persons concerned were not provided with the file and could not meaningfully take position before an independent body assessing the weight of the evidence and, where applicable, the issue of the statute of limitations (see also our letter of today to WADA). This cannot be repaired by a AAA hearing if the respondent concerned is acquitted.

Conclusion

I respectfully disagree with your conclusion.

You know that the UCI wants an independent body assessing the file in all transparency and with the respondents having the opportunity to see the file and take position before a decision to open disciplinary proceedings is taken. This is not an obstruction, but a step forward compared with the USADA procedure.

Yours sincerely,

A handwritten signature in black ink that reads "Pat McQuaid". The signature is written in a cursive, flowing style.

Pat McQuaid  
President

Cc: Mr Steve Johnson, USA Cycling  
Mr David Howman, Director General WADA  
Mr Oliver Niggli, Legal Director WADA  
Mr Mike Morgan, counsel to Mr J. Bruyneel  
Mr Mark Levinstein, counsel to Mr L. Armstrong