

The Alternative: Reforming WADA's Governance for a new Anti-Doping Age

A more detailed version of the Paper launched on behalf of global athletes by Rio 2016 Para-Powerlifting Silver Medalist Ali Jawad

Context

Over the last three years, public confidence in the international anti-doping movement has rapidly declined as a result of the Russian doping crisis and what many believe to be the mishandling of the crisis by sporting and anti-doping authorities. This growing distrust in the anti-doping movement's ability to take decisive and strong action has manifested itself as a result of what is widely believed to be ineffectual WADA governance. The lack of WADA's independence and transparency are the two overriding concerns of the world's athlete community; concerns which have been highlighted through Athlete Surveys, at Conferences, and that were heightened by WADA's recent controversial and unpopular decision to vote for the reinstatement of the Russian Anti-Doping Agency (RUSADA) despite the country still not having fulfilled the two remaining conditions of WADA's *Roadmap to Compliance*.

While WADA has acknowledged that improvements could be made to its current governance structure (as evidenced by the establishment of the WADA Governance Review Committee), the current proposals and recommendations fall well short of what is required. In light of its poorly-received decision to go against its own Roadmap and vote for the reinstatement of Russia, WADA is fast losing the trust of the global athlete community, and consequently there is an urgent need for an alternative vision for WADA's governance. There is a need for far-reaching reform that puts the interests of athletes first: an athlete-led anti-doping revolution of sorts.

With concerns over doping at an all-time high, an unprecedented level of outrage over WADA's decision-making by athletes all across the world, and with a WADA Governance Review Committee meeting taking place on 22 October, the time for significant reform of the global anti-doping authority is now. There will never be a better chance to make the changes required for WADA to flourish and become a more independent, transparent and effective organisation that puts the athletes – and only the athletes – first.

Solution

Athletes believe the time is ripe for some new thinking for how WADA's governance should change if athlete and public trust in the global anti-doping watchdog is to return. That is why I am pleased to today publish this paper titled: *The Alternative: Reforming WADA Governance for a new Anti-Doping Age*. *The Alternative* is the culmination of a series of ideas and proposals made and considered over the past couple of years by members of the global athlete community. I hope *The Alternative*, which is being launched just 13 days before the next WADA Governance Review Committee, will stimulate wide-ranging public conversation surrounding WADA's governance crisis. *The Alternative* provides constructive and logical solutions to very current and real problems, which, athletes believe, will go a long way to solving the widespread public disillusionment and countering the perilously low

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levels of trust that athletes and the public currently have of WADA and the anti-doping system.

The Alternative highlights an enhanced decision-making structure for WADA that will provide more effective, decisive and independent decision-making. Crucially, the strength of this proposed new governance structure - many ideas of which stem from existing proposals made by the WADA Athlete Committee to the WADA Governance Review Committee - means WADA's decisions will, in future, be able to withstand athlete and public trust - something currently lacking in global anti-doping. Having gauged the views of athletes, this paper offers a "meeting of the minds" and is a sensible and pragmatic proposal that can gain the support of both the sports movement and public authorities. Athletes want to work with those bodies, and WADA, to do what's *right* for the future of anti-doping. We are *all* in this together - and we should *all* want to make the changes that are required for the future health of sport.

Furthermore, I would like to take this opportunity to call for the WADA Governance Review Committee Process and discussions, from today onwards, to be made public. The governance discussions are currently happening behind closed doors, which to us, as athletes, is totally unacceptable. At a time of extremely low levels of trust in anti-doping and sports governance, we must do everything we can to *restore trust*, not to erode it further. Today, on behalf of the athlete community, I am attempting to lead by example by making this proposal paper, *The Alternative*, public today, so that a proper and rigorous debate can be had and so that people are better informed.

What does *The Alternative* consist of?

1. WADA Foundation Board

The Foundation Board would remain WADA's highest decision-making body, and would be the ultimate locus of accountability for the the Agency's fulfilment of its responsibilities, its priorities, use of resources, transparency, integrity and legal compliance.

The Foundation Board would be comprised of representation from government, sport, and also National Anti-Doping Organizations (NADOs). The Board would elect the President and Vice President, each of whom should be independent* from the Sports Movement and Government (given the proximity of the next WADA Presidency election, we propose that this new "independent President" process is implemented during the next President's term - i.e. anytime from January 2020 onwards). In addition, the Foundation Board would elect an independent Executive Board which oversees the operations and activities of WADA's management.

As has been the case in the past, each member will be appointed according to geographical, gender and cultural diversity, for a period of no more than 3 years. The Foundation Board members would have staggered terms, in order to avoid 100% of the members completing their terms at the same time. There would be term limits, and no person would be permitted to be a member of the Foundation Board for more than 9 consecutive years.

Suggested roles and responsibilities for The Foundation Board:

1. Consider, and wield responsibility for approving, the budget, the financial accounts;

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2. Select the auditor and approve the annual statements;
3. Provide funders with accountability for the use of resources;
4. Ensure the independence of WADA Executive board and its transparency in the conduct of its affairs;
5. Maintain its minutes and other essential business reports;
6. Elect the independent President and Vice President (once the next President is in position);
7. Elect the other independent members of the Executive Board from the nomination from governance and nomination committee;
8. Monitor the Executive Board for its fulfilment of WADA's purposes;
9. Ensure quality and inclusiveness in governance (including broad performance objectives for Executive Board);
10. Review Executive Board presentation on their decisions regarding Compliance Review Committee recommendations;
11. Promulgate the rules for its own activities;
12. Decide changes to the Code, proposed by the Executive Board;
13. Amend the statutes and the charter of each of the standing committees;
14. Set the long-term, overarching vision and strategic plan;
15. Provide a forum for stakeholder representation;
16. Set the policies governing WADA's relations with external partners, including but not limited to: governments and states; the IOC and IPC; National Anti-Doping Organizations (NADOs); Regional Anti- Doping Organizations (RADOs); sport federations; athlete organizations UNESCO and other international agencies;
17. Approve operational policies and guidance to which WADA Executive Board and management should adhere to;
18. Approve what it means to be independent to WADA;
19. Other responsibilities specified by Swiss law and regulations and strive for highest level of sound governance.

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2. WADA Executive Committee

The Executive Committee would be the primary body responsible for the oversight of WADA's Director General, and for exercising governance over the Agency in fulfilment of the policies and priorities approved by the Foundation Board. The Executive Committee would strive to work in the interest of clean sport, and put clean athletes - and only clean athletes - first.

Elected entirely by the WADA Foundation Board, the 15-person Executive Committee would include 12 members entirely independent from the worlds of government or sport, comprising experts from across broader society (including the aforementioned independent President and Vice President); and 3 athlete members (athletes who are retired and not involved in any position in the world of sport - e.g. not on the IOC Athletes Commission or other athlete groups that could lead to a conflict of interest).

Membership of the Committee would be composed according to geographic, gender and cultural diversity. Each member would be elected to the Executive Committee for 3 years, and would have staggered terms to avoid 100% of members concluding their terms at the same time. There would be term limits, and no person would be permitted to be a member of the Executive Committee for more than 9 consecutive years.

Suggested roles and responsibilities for The Foundation Board:

1. Conduct all governance functions and decisions specifically reserved to the Executive Board and report on activities to the Foundation Board;
2. Approve the Operational Plan in accordance with the strategic plan which is approved by the Foundation Board;
3. Present budget and financial accounts to the Foundation Board for approval including audited financial plan;
4. Oversight of all international anti-doping Policy, and monitoring institutional compliance to those policies;
5. Propose amendments to the World Anti-Doping Code, for decision by the Foundation Board;
6. Take decisions on compliance and sanctions, after receiving recommendations from the Compliance Review Committee;
7. Create and monitor Standing Committees and ad hoc committees, and receive and act on advice from them;
8. Oversight over Investigative Unit and act on independent report from the investigative unit;
9. Hire and hold an annual review of the Director General;

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10. Monitor WADA's achievement of its operational plan, including approval and monitoring of institutional performance metrics;
11. Act through the provision of independent expertise – as distinct from constituency representation – by Committee members;
12. Ensure that WADA publishes an annual report on WADA activities, on WADA's financial status, and on WADA's achievement of its mandate;
13. Respect the distinction between governance and management, remanding management functions to the Director General;
14. Maintain the independence of WADA's decision-making;
15. Ensure WADA's compliance with Swiss and other applicable laws and strive for best governance practice.

3. WADA Governance and Nominations Committee

An all-new WADA Governance and Nominations Committee would manage an annual self-assessment process for the Foundation Board and Executive Committee; select an external Audit / Consulting firm that would review the working dynamics of WADA's new governance structure and make recommendations of improvements; and would manage an Anonymous Athlete Annual Review of WADA, thereby ensuring that the athlete voice is finally heard and acted upon.

The Foundation Board would appoint a minimum of 5 independent, qualified Directors to be members of the WADA Governance and Nominations Committee to serve a term of 3 years, along with a minimum of 2 athletes from the WADA Athlete Committee. There would be staggered terms to avoid 100% of members concluding their terms at the same time; and term limits so no person can be on the Committee more than 9 years consecutively. WADA Governance and Nomination Committee members would not be able to be members of the Foundation Board or Executive Committee. New members would be elected by the Foundation Board on the recommendation of the WADA Governance and Nomination Committee.

Suggested roles and responsibilities for The Foundation Board:
(the all-new WADA Governance and Nominations Committee would be responsible for assisting the Board in fulfilling its oversight responsibilities in relation to)

1. Nomination of independent members of the Executive Committee;
2. The size, composition and structure of the Board and its committees;
3. Legal and regulatory compliance;
4. The Corporation's overall approach to corporate governance;
5. Orientation and continuing education for directors;

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6. Any additional matters delegated to the Committee by the Foundation Board.

Duties

(the WADA Governance and Nomination Committee would also be responsible for performing the following duties, along with any other duties that is delegated to the Committee by the Foundation Board)

(a) Director Qualifications

The WADA Governance and Nomination Committee would establish a process to consider the preferred experience and qualifications for members to be nominated for the WADA Executive Board which will reflect, among other things: competencies; skills and personal qualities that should be sought in, and possessed by, candidates, and that the Foundation Board considers necessary for it, as a whole, to possess, in order to fulfill the Executive Committee's mandate.

The Committee would also consider past and present anti-doping work; government/United Nations/International Humanitarian experience; programming and medical background; marketing and communication experience; legal/accounting/finance background; relationships with key WADA stakeholders such as athletes, National Anti-Doping Organizations (NADOs), corporations and the Olympic and international federations; the international and functional diversity of the Board; International experience including non-profit experience and other relevant expertise to fulfill WADA's mandate.

It would review areas of expertise and other factors relevant to the overall composition of the Board; and no responsibilities that would materially interfere with or be incompatible with Board membership. In making its recommendations, the Committee would also consider the competencies and skills that each new nominee would be expected to bring to the Boardroom and the continuity of competencies, skills and personal qualities that the Executive Committee should possess. The Committee would actively cultivate candidates for Executive Committee membership who possess relevant program knowledge.

(b) Candidates for Executive Board Membership

The WADA Governance and Nomination Committee would develop and supervise a standard and transparent nomination process. At least annually, the WADA Governance and Nomination Committee would review a matrix of Board members' competencies, skills, personal qualities and experience to determine the resources and expertise necessary for optimal Executive Committee composition. With the matrix in mind, the Committee would solicit interest of potential Board members and maintain a list of potential members and a summary of their qualifications for membership. Members of the Committee would meet individually or collectively with potential members to determine WADA's mandate and the expectations of members of the Executive Committee. The Committee would recommend to the Foundation Board a list of candidates for nomination for election to the Executive Committee at the Corporation's annual meeting of Foundation Board members. In addition, as the need arises, it would identify and recommend to the Foundation Board new candidates for Executive Committee membership.

(c) Board Size, Composition and Structure

The Committee would examine the size of the Executive Committee and recommend to the Foundation Board a size that facilitates effective decision-making. The Committee would

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review the overall composition of the Executive Committee, taking into consideration such factors as character, integrity, judgment, business experience and specific areas of expertise of each member, and make recommendations to the Board as it determines appropriate. The Committee would evaluate whether the necessary and appropriate committees exist to support the work of the Board and would make recommendations to the Foundation Board for the reorganization of responsibilities among committees, the creation of additional committees or subcommittees, or the elimination of committees as it determines appropriate.

(d) Appointments to Board Committees

The Committee would recommend to the Foundation Board those members it considers qualified for appointment to each Board committee. It may appoint additional committee members who are not members of the Foundation Board or Executive Committee. Where a vacancy occurs at any time in the membership of any Board committee, the Committee would recommend to the Board a director to fill such a vacancy.

(e) Compliance and Legal Matters

The Committee would confirm that processes are in place for WADA to address and comply with all applicable legal, regulatory, occupational health and safety and other compliance matters. The Committee would also review legal issues arising from the operations of WADA, both nationally and internationally.

(f) Approach to Governance

The Committee would review WADA's overall approach to governance and make recommendations to the Foundation Board in this regard. Among other things, the Committee would develop and recommend to the Board, WADA's corporate governance guidelines and recommend any amendments to the Foundation Board

(g) Review and develop Committee charters

The Committee would develop charters for any new committees established by the Foundation Board, and review the charters of each existing standing committee and recommend any amendments to the Foundation Board. It would review the position description for individual members and recommend any amendments to the Foundation Board; the committee would be available as a forum for addressing the concerns of individual members; and work with the Director General and other members of management to foster a healthy corporate governance culture within the Corporation.

(h) Orientation and Continuing Education for Directors

The Committee would confirm that procedures are in place and resources are made available to provide new members with a comprehensive orientation to both the Foundation Board and Executive Committee members and their responsibilities and duties as directors, including the designation of a mentor for each new member, and to provide other members with appropriate continuing education opportunities.

(i) Performance Assessments

The Committee would annually review the effectiveness of the Foundation Board and Executive Committee in fulfilling its responsibilities and duties. The Committee would also annually review the effectiveness of all committees in fulfilling their responsibilities and duties as set out in their respective charters. The Committee would also make recommendations to the Foundation Board for appropriate action. In addition, the

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Committee would consider the performance of individual members prior to their nomination for re-election to the Executive Committee.

Meetings

The Committee would meet at least quarterly and schedule further meetings as necessary.

Reporting

The Committee would regularly report to the Foundation Board on all significant matters it has addressed and with respect to such other matters that are within its responsibilities. These reports would be public.

Review

The Committee would review this Charter at least annually and submit it to the Foundation Board for approval together with such amendments, as it deems necessary and appropriate.

Chair

Each third year, the Foundation Board would elect one member to be Chair of the Committee, by a majority vote of members. A candidate who has started serving on the Committee can be elected chair and then this person will start their new three year term with this election. No Chair can sit more than two terms (a total of 6 years).

Removal and Vacancies

Any member of the Committee may be removed and replaced at any time by the Foundation Board by a two-third (66%) majority of its Foundation Board members, and would automatically cease to be a member as soon as he or she ceases to meet the qualifications set out above. The Foundation Board would fill vacancies on the Committee by appointment from among qualified members on the recommendation of the Committee. If a vacancy exists on the Committee, the remaining members may exercise all their powers so long as a quorum remains in office.

Conclusion

It is athletes' view that the future of WADA, and the future of clean sport, rests on WADA's ability to adopt this new model. At this critical time for WADA's credibility and its future existence, I encourage the representatives of WADA's Governance Review Committee and, subsequently, its current Executive Committee and Foundation Board, to engage positively with, and not obstruct, this athlete-backed proposal.

I, and I am sure many other athletes, look forward to discussing this with the powers-that-be in the coming weeks and months as we work towards reforming the World Anti-Doping Agency's Governance for this new Anti-Doping Age; and delivering the anti-doping reform that sport so desperately and urgently needs.

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